

# How the Trump administration is rigging a mining deal in northern Minnesota

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**News**



The White House is doing its best to help a Chilean billionaire whose proposed mine threatens to pollute the Boundary Waters.  
Greg Gjerdingen

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, Interior Department notes and memoranda from 1965 and 1966 provide extraordinary insight into the discussions that led federal officials to issue the two mineral leases now the subject of a lawsuit by opponents of the proposed Twin Metals copper-nickel mine near Ely.

They also provide a devastating rebuttal to an attempt by pro-industry operatives, embedded within the Trump administration, to rewrite history in an ongoing effort to raid some of the nation's most valuable and pristine public lands, all to benefit a handful of foreign billionaire investors.

In a well-functioning democracy, the memos obtained by plaintiffs in the Twin Metals case would be game, set, and match in any legal battle over whether the Trump administration acted lawfully when it temporarily reinstated the Twin Metals mineral leases back in May. The administration took yet another step down that road last Thursday, announcing that it was planning to formally reissue the leases in the new year.

Yet in a federal judiciary that is rapidly being transformed with the appointment of Trump-friendly ideologues, the notion of the courts as a fair arbiter is increasingly in question.

It now appears virtually certain that disgraced Trump Interior Secretary Ryan Zinke, who resigned earlier this month under a slew of ethics investigations, acted beyond his legal authority when he temporarily reinstated the Twin Metals leases, which had been lawfully rescinded by the Obama administration in 2016.

The Obama administration decision did not prevent Twin Metals from reapplying for new mineral leases, but doing so would have required a full environmental review process, including public comment, which would have been led by the Forest Service.

It also would have required the U.S. Forest Service to give its consent to mining, which was certainly up in the air even under the Trump administration. The agency had quite thoroughly documented the scientific and economic reasons behind its 2016 decision not to consent to the mineral leasing. There are dozens of scientific studies that suggest that the proposed mine poses a serious risk to the Boundary Waters, and economic studies that argue the local economy would be better off without the mine.

While the Trump White House has shown a willingness to ignore the scientific findings of its own agencies, the Forest Service would have had a difficult time defending a purely political decision in the courts. For it to walk back all of its previously-stated concerns would be the virtual definition of arbitrary and capricious, which is the legal standard that courts use in determining whether to overrule an agency decision.

Government decisions are supposed to be based on scientific or economic arguments. Those that are seen as little more than political payoffs to special interests are routinely overturned by the courts, and justifiably so.

In order to avoid all this, Trump Interior officials turned to Daniel Jorjani to craft a creative “legal opinion” that could sweep aside troublesome review processes and deny the Forest Service its statutory right to approve or deny any mining proposal on the Superior National Forest— a law that has been in effect since 1950.

Jorjani, who cut his teeth at the pro-industry Charles Koch Institute, used the only plausible legal argument available to him, suggesting that federal officials had intended to give the International Nickel Company absolute rights to minerals within the boundaries of the leases for at least 50 years, with no strings attached.

The documents now in the hands of plaintiffs demonstrate exactly the opposite. Interior officials ultimately agreed to give INCO a 20-year initial lease, which was longer than the usual term, but they did so under heavy pressure from then-Congressman John Blatnik, who hoped a new copper-nickel mine would alleviate persistent unemployment in the Ely area at the time, as well as mitigate the employment impacts of the pending shutdown of the Pioneer Mine.

The lease also gave the company preferential rights to three future renewals, which is standard in federal mineral leasing. But those renewals were conditioned on the start of actual mining at the site within the initial 20-year lease term. That’s not only stated in memoranda— it was a point noted in the 1966 Interior Department press release announcing the leases.

There's no conceivable federal interest in giving mining companies half-century-long rights to lock up federal lands and minerals with no obligation to produce anything. Otherwise, mining interests could lock up federal minerals indefinitely, simply to control supply and maintain high prices.

Neither INCO nor any of its successors have engaged in commercial mining in the more than half a century since the leases were first issued. So under the terms, the company has no right to automatic renewal. Department of Interior legal lawyers, under both the Reagan and Obama administrations, previously concluded as much.

Twin Metals even acknowledged that the renewal was discretionary in financial filings that company made in 2014.

While the actual reissuance of the Twin Metals permits will require a modicum of environmental review, it matters little since the Interior Department now argues that it's bound to reissue the leases regardless of what evidence of environmental or economic harm might be presented.

That falsehood is being used to allow the Trump administration to complete the handover of several thousand acres of the Superior National Forest to Andronico Luksic, the Chilean billionaire who controls the Twin Metals project. Luksic just happens to be the landlord for Ivanka Trump and Jared Kushner. A company controlled by Luksic purchased the Washington, D.C. mansion where Trump and Kushner now live shortly before Trump was inaugurated. It was all very conveniently-timed.

This, of course, is standard operating procedure in the Trump administration, where it's open season on public lands and the environment as a whole, all to benefit well-connected special interests.

From the Arctic National Wildlife Refuge to the Bears Ears National Monument, the Trump administration is engaged in a lawless rush to sell off millions of acres of our most pristine public lands to the fossil fuel and mining industries. Their push to reinstate leases for the Twin Metals project is part of that same effort.

The only question now is whether the courts will allow a renegade administration to get away with it.

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