

Congress of the United States
Washington, DC 20515

November 5, 2018

The Honorable Sonny Perdue
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, DC 20250

The Honorable Ryan Zinke
Secretary of the Interior
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Dear Secretaries Perdue and Zinke,

We write to express our strong disapproval of the September 6, 2018 decision by the U.S. Department of Agriculture (USDA) to abruptly cancel the environmental assessment evaluating the U.S. Forest Service's proposal to withdraw federal minerals on 234,328 acres of Superior National Forest (SNF) lands from the federal mineral leasing program (including sulfide-ore copper mining) for the maximum period of twenty years. USDA discontinued the environmental review, which had been underway for 20 months, without releasing any findings or addressing the substantive public commentary. This action and the Bureau of Land Management's subsequent decision to cancel the withdrawal application ignored the science-based decision-making and conservation-based management standards to which your agencies are legally bound.

With this action, the USDA and the Department of the Interior (DOI) have neglected the established process for finalizing mineral withdrawal decisions provided by law under the *Federal Land Policy and Management Act* (FLPMA; P.L. 94-579). Furthermore, your actions undermine the obligations of the DOI and USDA to sustainably manage the SNF and to preserve the national treasures located within this watershed, including the Boundary Waters Canoe Area Wilderness and Voyageurs National Park.

There are numerous examples of new scientific reports detailing the risk of sulfide-ore mining that were brought to the attention of the Forest Service during the review period, however, USDA stated in a press release that the decision to cancel the application for a mineral withdrawal was made as a result of the environmental review and that public feedback "did not reveal new scientific information".

USDA has not provided any information about its analysis and appears to have disregarded scientific information, such as four peer-reviewed and published reports from the Minnesota Pollution Control Agency Wild Rice Sulfate Study^{1,2,3,4}, comments submitted by one of the lead scientists in Minnesota's state study⁵, and numerous other expert analyses including: the likelihood of acid mine drainage

¹ "Increase in Nutrients, Mercury, and Methylmercury as a Consequence of Elevated Sulfate Reduction to Sulfide in Experimental Wetland Mesocosms"; A. Myrbo, et al (Journal of Geophysical Research: Biogeosciences, 2017)

² "Sulfide Generated by Sulfate Reduction is a Primary Controller of the Occurrence of Wild Rice (*Zizania palustris*) in Shallow Aquatic Ecosystems"; A. Myrbo, et al (Journal of Geophysical Research: Biogeosciences, 2017)

³ "Effects of sulfate and sulfide on the life cycle of *Zizania palustris* in hydroponic and mesocosm experiments"; J. Pastor, et al (Ecological Applications 2017)

⁴ "The Evolution of Sulfide in Shallow Aquatic Ecosystem Sediments: An Analysis of the Roles of Sulfate, Organic Carbon, and Iron and Feedback Constraints Using Structural Equation Modeling"; Curtis C. Pollman, et al (Journal of Geophysical Research: Biogeosciences, 2017)

⁵ Comment letter submitted to the U.S. Forest Service; Daniel Engstrom, Ph.D. (2017)

contaminating the watershed⁶; the toxic impact on fisheries⁷, birds⁸, and other wildlife⁹; the substantial risks to human health¹⁰; and economic cost-benefit analysis demonstrating that a withdrawal is significantly more likely to lead to greater economic prosperity in the region compared to opening the area to mining leases ¹¹.

However, even absent these new reports, a decision based on the claim that there is no “new scientific information” should have supported the mineral withdrawal, not its cancelation. The record of decision at the time that the withdrawal was proposed contains extensive scientific evidence of the harmful consequences of regionally-untested copper-nickel sulfide ore mining.

Former U.S. Forest Service Chief Thomas L. Tidwell issued a denial of consent to renew to two leases in the withdrawal area in December 2016, which concluded that the “inherent potential risk” of mining near the BWCA “might cause serious and irreplaceable harm to this unique, iconic, and irreplaceable wilderness area”. The application for withdrawal reiterated that conclusion, stating that “the purpose of this withdrawal request is to protect National Forest System lands (and waters) located in the Rainy River Watershed, the BWCAW, and the MPA from the adverse environmental impacts arising from exploration and development of fully Federally-owned minerals conducted pursuant to the mineral leasing laws. This will result in more efficient and effective Forest Service administration of such NFS lands (and waters) in accord with applicable Federal law.”

Your decision to abandon the environmental assessment is a rejection of the clear scientific record that prompted the application for withdrawal and the mounting evidence since then in support of withdrawal. By abruptly cancelling the withdrawal study, this administration has ignored the explicit encouragement from Congress “to complete a thorough environmental impact statement... considering the economic, environmental, public health, and other related issues raised during the scoping process”¹². It is also a rejection of the thorough and comprehensive process established by FLPMA for mineral withdrawal applications that ensures that decisions are transparent, science-based, and provide opportunities for input from the public.

The USDA and DOI has faithfully followed the established process while assessing two other applications for mineral withdrawal that were also proposed in the final months of 2016: the Emigrant Crevice Mineral Withdrawal and the Methow Headwaters Mineral Withdrawal. In both instances, the Forest

⁶ “Follow-up Report: Acid Mine Drainage and other Water Quality Problems at Modern Copper Mines Using State-of-the-Art Prevention, Treatment, and Mitigation Methods”; Stu Levit (February 2018),

⁷ “The Fish and Fisheries of the Boundary Waters Canoe Area Wilderness and Voyageurs National Park, and Their Vulnerability to Copper Sulfide Mining”; Paul Venturelli, Ph.D., & Bruce Vondracek, Ph.D. (2017).

⁸ “Birds of Minnesota’s Boundary Waters Canoe Area and Adjacent Upstream Regions, with Comments on Conservation Implications of New Copper Mining Under Consideration,”; John W. Fitzpatrick, Ph.D., Executive Director, Cornell Lab of Ornithology (2017).

⁹, “Mammals and Mining for Minerals in Sulfur-Bearing Rock Formations in Northeastern Minnesota”; Roger A Powell, Ph.D. (2017)

¹⁰ Comment Letter to the U.S. Forest Service and BLM from health professionals and health professional organizations expressing concerns about impacts to human health posed by sulfide-ore copper mining. (May 8, 2017)

¹¹ Analysis submitted to the U.S. Forest Service on Economic Impact of Superior National Forest Withdrawal; James H. Stock, Ph.D. & Jacob T. Brandt; (August 6, 2018)

¹² Language from H.Rept. 115-238, accompanying the Consolidated Appropriations Act, 2018 (P.L. 115-141)

Service completed and released full environmental assessments of the proposed withdrawals. These environmental assessments were submitted to the Bureau of Land Management as part of the complete application package to clearly support the actions recommended by the Forest Service. In the case of Emigrant Crevice, a draft environmental assessment was released in May 2018, a complete withdrawal application package was transmitted to the BLM in September 2018 recommending withdrawal, and the BLM noticed a 20-year withdrawal from mining laws on October 12, 2018. In the case of Methow Headwaters, an environmental assessment was published in August 2018, a complete application package was sent to the BLM in September 2018, and the BLM is conducting a public meeting and public comment period during November 2018.

It is unclear why the Forest Service deviated from the established process when considering the Rainy River Watershed withdrawal application. A press release is not an adequate substitute for the completion and release of a full environmental assessment and the submission of a complete withdrawal application package to the BLM. Therefore, as part of the oversight responsibility of the House Committee on Natural Resources and the House Appropriations Subcommittee on Interior and Environment, we request the following documentation be provided within 14 days of the receipt of this letter:

1. The review materials referred to in the press release as forming the basis for the USDA decision, including but not limited to:
 - a. "a mineral resources report"
 - b. "a biological and economic impact assessment"
 - c. "potential impacts to water resources, wilderness areas, and cultural resources;"
2. A detailed list of all contracted work, including the scope and the anticipated end date, that was a part of the withdrawal study;
3. Any deliverables that the USDA or DOI received as part of the contracted work;
4. All scientific reports or substantive letters received by the USFS as part of the public feedback; and
5. The dates and participants of all meetings taken by officials at the USDA or DOI on the topic of the Rainy River Watershed mineral withdrawal proposal.

Due to the abrupt and unsupported decision to cancel the withdrawal application, we also request that the BLM immediately suspend all mineral development authorizations within the Rainy River Watershed on Superior National Forest Lands.

We look forward to reviewing the requested materials and working with DOI and USDA to ensure that the natural treasures and pristine waters in the Rainy River Watershed receive the same consideration that has been afforded to other applications for withdrawal in places that are too precious to mine.

Sincerely,



Betty McCollum
Ranking Member
Appropriations Subcommittee on Interior,
Environment, and Related Agencies



Raúl M. Grijalva
Ranking Member
Committee on Natural Resources