

Dale Lueck
State Representative
District 10B
Aitkin and Crow Wing Counties



Minnesota House of Representatives

Attn: Connie Cummins, Forest Supervisor
Superior National Forest
8901 Grand Avenue Place
Duluth, MN 55808-1122

10 August 2017

Re: Northern Minnesota Federal Minerals Withdrawal EIS – Scoping Comments

Dear US Forest Service,

As chair of Minnesota's Legislative Permanent School Fund Commission and on behalf of Minnesota's over 900,000 public school children the comments contained herein are submitted with respect to scoping of the environmental review process for the US Forest Service's (USFS) application to the Secretary of Interior requesting a 20 year withdrawal of approximately 234,328 acres of National Forest Systems lands within the Superior National Forest and Rainy River watershed.

Minnesota's Legislative Permanent School Fund Commission is a bipartisan commission established by the Minnesota Legislature (MN Statue 127A.30) to ensure Minnesota fulfills its fiduciary responsibility¹ to manage school trust assets in favor of funding Minnesota's public schools.

The proposed withdrawal of 234,328 acres of federal lands from availability under the Mineral Leasing Act of 1920 and Mineral Leasing Act for Acquired Lands of 1947 will severely degrade Minnesota's ability to effectively manage and generate revenue for the state's School Trust Fund.

The USFS is egregiously overstepping its authority with respect to managing federal lands by ignoring the 160 year old federal policy² of supporting public school systems through the federal land grant process.

For this reason alone the USFS proposal should be immediately withdrawn.

School Trust Lands (sections 16 & 36 in each township) were originally conveyed to Minnesota by the Federal Enabling Act of 1857, the federal government granted additional lands that are held by the state for school trust purposes with the Swampland Act of 1860, and the Internal

¹ Minnesota Constitution, Article XI, Section 8, "Permanent school fund; source; investment; board of investment. The permanent school fund of the state consists of (a) the proceeds of lands granted by the United States for the use of schools within each township, (b) the proceeds derived from swamp lands granted to the state, (c) all cash and investments credited to the permanent school fund and to the swamp land fund, and (d) all cash and investments credited to the internal improvement land fund and the lands therein...."

² Federal Enabling Act of 1857, Swampland Grant Act of 1860, and the Internal Improvement Grant of 1866.

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Improvement Act of 1866. Today Minnesota's School Trust Lands include ownership of over 3.4 million acres of mineral rights, with the vast majority of those mineral resource acres concentrated in Northeast Minnesota.

Minnesota's school trust lands are interwoven within the proposed 234, 238 federal acres to be withdrawn by the USFS. Should this proposal go forward it will severely devalue the worth of Minnesota's School Trust Lands. The action essentially nullifies the federal government's purpose for originally granting the lands. That was to fund Minnesota's public education school system.

Recent actions by the USFS and Bureau of Land Management (BLM) not to renew long standing federal mineral leases within the targeted area has already called into the question the long term value of existing state school trust mineral leases.

The USFS/BLM recent decision³ not to renew federal mineral leases held by the Twin Metals Minnesota directly impacts state school trust lands mineral leases currently in effect on adjoining parcels. Without access to adjoining federal mineral lease opportunities, the state's school trust lands lose their value as long term revenue producing elements for Minnesota's public school system.

The USFS/BLM decision to end mineral leases on federal lands in the Rainy River Watershed will negatively impact as much as 2,280 acres of existing state school trust non-ferrous metallic mineral leases with lease expiration dates out into the 2050-2057 time frame.

Withdrawing an additional 234,238 acres will devastate the long term ability to produce school trust fund revenue from mineral leases in this part of Minnesota. The scale of the negative impact on school trust land long term revenues is likely to be in the billions of dollars.

In 2008, the Minnesota Department of Natural Resources (MN DNR) conservatively estimated⁴ the actual future value of royalties on just a portion of school trust lands in Northeast Minnesota, which included the Mesaba, Birch Lake, and Nokomis mineral deposits to be about \$1.4 billion.

Since the 2008 MN DNR estimate, significant additional exploration has taken place which suggests this 2008 long term revenue estimate is low by several orders of magnitude.

Again, because the USFS withdrawal proposal is in direct conflict with the federal government's long standing policy of supporting the public school systems through the federal land grant process, the proposal should be withdrawn.

³ BLM letter of December 15, 2016 to Twin Metals Minnesota rejecting Twin Metals application for renewal of mineral leases MNES 01352 and MNES 01253.

⁴ Fact Sheet - Potential School Trust Royalty Income from Identified Mineral Deposits in the Duluth Complex, dtd March 7, 2008.

An additional justification for immediately withdrawing the proposal is the serious complication that will be caused to the current effort by the State of Minnesota and the US Forest Service to resolve a 53-year old school trust land ownership issue. Approximately 83,000 acres of Minnesota's permanent school trust lands are landlocked within the Boundary Waters Canoe Area Wilderness (BWCAW) in the Superior National Forest.

A fundamental precept of creating the BWCA in 1964 was that federal lands outside the BWCA would continue to be managed on a multiple use basis including mineral exploration and development. For decades Minnesota⁵ and the USFS have been working on how to exchange school trust lands for existing federal lands outside the BWCA of equal value. Minnesota Statute 92.80 refers⁶.

Currently there are a total of 984 federal candidate parcels (~39,360 acres) identified for the BWCA land exchange project to be exchanged for roughly 31,000 acres of equal value school trust lands. Of these 984 federal parcels, 248 are included in the USFS proposed mineral withdrawal area.

Should the proposed withdrawal go forward that will require reconsideration of at least 248 federal parcels currently under consideration for the land exchange. The extensive investment by Minnesota to identify and evaluate suitable federal lands for the exchange now appears to be a wasted time and effort.

USFS and their parent agency the US Department of Agriculture (USDA) has embarked on an action that unnecessarily complicates resolving a 50 year old situation that continues to deny Minnesota's school children funding for their public school system.

Adding further delay and complication to completing the land exchange and sales only increases the significant liability the federal government has already accrued toward Minnesota's school trust fund.

Because of the complication the withdrawal proposal causes to the USFS and BWCA State School Trust Lands exchange process, the USFS withdrawal proposal should be withdrawn.

⁵ Resolution 1 SF2494 - Minnesota Session Laws 2010, ... "BE IT FURTHER RESOLVED by the Legislature of the State of Minnesota that it affirms the recommendation of the Permanent School Fund Advisory Committee to include in those negotiations a hybrid model that would provide for both the sale and exchange of school trust lands in the Boundary Waters Canoe Area Wilderness for Federal lands outside the Boundary Waters Canoe Area Wilderness. BE IT FURTHER RESOLVED that the Secretary of State of the State of Minnesota is directed to transmit copies of this memorial to Minnesota's Senators and Representatives in Congress, the Secretary of Agriculture, and the Director of the United States Forest Service. Adopted by unanimous vote in the Minnesota House of Representatives and Minnesota Senate. Signed by the Honorable Tim Pawlenty, Governor of the State of Minnesota on April 1, 2010."

⁶ MN Statute 92.80 "Expedited Exchange of Land Within Boundary Waters Canoe Area Wilderness for Federally Owned Lands. Subdivision 1. Purpose and scope. (a) The purpose of this section is to expedite the exchange of apportion of the state-owned lands located within the Boundary Waters Canoe Area Wilderness. The state owns 116,559 acres of land within the wilderness area, 86,295 acres of which are school trust land. ..."

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Notwithstanding the serious breach of the federal government's land grant policy in support of public education and complicating the already long overdue BWCA land exchange, this action also violates the USFS's duty to manage federal public lands under a long-standing multi-use management approach which includes, mineral development, forestry and recreational opportunities.

The impact of this proposed withdrawal does not just effect the federal mineral estate, it also directly impacts the future value of Minnesota's school trust lands mineral estate. The USFS is premature in proposing this withdrawal and is ignoring other elements of long standing federal policy supporting public school systems through the federal land grant policy. The proposal should be immediately withdrawn from further consideration.

Should the proposal not be withdrawn, then the USFS must include within the scope of the legal and environmental review process the amount of revenue the Minnesota School Trust Fund will be lost by implementation of the withdrawal and how the federal government will compensate the trust fund for the lost revenue.

Sincerely Yours,



Dale K. Lueck, Chairman
Legislative Permanent School Fund Commission

cc: USDA Secretary Sonny Purdue
Senator Al Franken
Congressman Jason Lewis
Congressman Keith Ellison
Thomas Tidwell, Chief, U.S. Forest Service
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Tom Landwehr, Commissioner MN DNR
Legislative School Trust Commission, Members
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Governor Mark Dayton
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Senator Amy Klobuchar
Congressman Tim Walz
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