

October 8, 2015

Brenda Halter  
Superior National Forest  
8901 Grand Avenue Place  
Duluth, MN 55808

Re: NorthMet Environmental Impact Statement

Dear Ms. Halter,

This letter is primarily to memorialize our conversation in your office on September 29 regarding issues that have not yet been addressed in the environmental review process for the proposed PolyMet Mine and associated land exchange. I submit this letter on behalf of Friends of the Boundary Waters Wilderness, Minnesota Center for Environmental Advocacy, and the Center for Biological Diversity.

The primary issue that I wanted to bring to your attention is the lack of information in the Supplemental Draft Environmental Impact Statement (SDEIS), the Preliminary Final Environmental Impact Statement (PFEIS), and the Biological Evaluation (BE) that would allow any consideration or judgment of the significance of the loss of various resources to the federal estate due to the land exchange. In the Forest Plan, the “bottom line” standard for Regional Forester Sensitive Species (RFSS) is, “If negative impacts to sensitive species cannot be avoided, management activities must not result in a loss of species viability forest-wide or create significant trends toward federal listing.” S-WL-5. It is impossible to determine from the EIS in its current form whether the land exchange will contribute to the loss of forest-wide viability of certain species.

Using the floating marsh marigold as an example, there are either one or three populations that will be lost to the federal estate due to the land exchange, depending on whether you read the BE or the EIS. We are also told that there are 15 known populations of this plant within the state of Minnesota. Completely missing is any information on how many of these populations are located on the Superior National Forest. While we believe that the loss of one of fifteen populations is significant, that significance increases if the loss is, for example, three of nine. Based on the information in the EIS and BE, it seems entirely possible that the Forest Service will lose a significant percentage of its floating marsh marigold populations, but insufficient information is provided to make that determination.

While floating marsh marigold is the rarest of the rare plant RFSS species, the same problem is present for the other species. For example, about ten percent of the known Minnesota populations of Michigan moonwort and ternate grapefern are located on the land that the Forest Service will lose in the land exchange. For all we know from the EIS and BE, these are all of the populations on the Superior National Forest. While I suspect that this is not the case, the truth is that I have no way of knowing.

The same problem exists for northern goshawk and great gray owl nests. The Superior National Forest has a target population of 20 to 30 breeding pairs of northern goshawks, which is a Management Indicator Species. *See* Forest Plan O-WL-31. Neither the BE nor the EIS provides any information on how many breeding pairs have been observed on the Superior National Forest – or within the state of Minnesota, for that matter. The closest the BE comes to providing this information is to refer to a study of 46 nests throughout northern Minnesota. However, the BE also states that most pairs have two to nine alternative nest sites, so presumably this does not mean that there were 46 known breeding pairs in northern Minnesota in the year of the study.

There is even less information on the number of known breeding pairs of great gray owls, both on the Superior National Forest and in Minnesota. I have not yet been able to obtain more current information, but the last annual wildlife survey report released by the Superior National Forest in 2009 indicates that surveys of the “Laurentian Forest Province of Minnesota” observed one great gray owl in 2008 and two in 2009. Apparently these birds are very, very rare in Minnesota, and yet they have been observed nesting on the lands that the Forest Service is proposing to exchange.

Surely information on the number of nesting pairs of northern goshawks and great gray owls on the Superior National Forest is critical to a determination of whether the loss of nesting territories and nests is an important factor in decisions regarding the land exchange.

As you know, the Center for Biological Diversity has submitted a Freedom of Information Act request in an attempt to find answers to these questions. Although we appreciate the efforts of your staff to respond to that request, we have been told that the only way to obtain the information is through the Natural Heritage Information System, which will cost a minimum of ninety dollars, and probably more. Using longitude and latitude data from the NHIS, we will then need to determine for ourselves what resources are located on the Superior National Forest. We are placed in the position of having to do work that should have been done for the EIS in order to effectively show that this work is needed. This is not an appropriate burden to place on the public.

The Forest Plan also indicates the highest level of priority in protecting rare lichens and butterflies. *See* G-WL-21 and S-WL-7. It appears that the lands to be disposed of contain prime habitat for some of these species, including old growth northern white cedar and black spruce that could host very rare lichens. After reviewing all of the available documents on plant and wildlife surveys, it appears that no lichen or butterfly survey has been done. The Forest Service needs to know what it is giving up before it can determine whether the loss of this land to the federal estate is in the public interest.

The Forest Plan also indicates that an important consideration for the protection of watersheds is the amount of forest cover in 6<sup>th</sup> level watersheds. *See* S-WS-1. The EIS does not delineate the 6<sup>th</sup> level watershed, much less discuss the impact on the watershed

of the loss of forest cover. As a portion of this watershed will remain in the Superior National Forest, this consideration is important to a determination of the impacts to the federal estate as well as more generally to the Partridge River.

In regard to wetlands, while the EIS does discuss the acreage of wetlands to be gained versus those lost, it lumps several types of wetlands together and does not discuss the loss to the federal state of particular types of wetlands, some of which are of more value to the public than others.

I also mentioned errors I found in the economic analysis for the Underground Mine Alternative. The most important is that the figure used for mining costs for an underground mine is extrapolated from an AGP memo, but misrepresents the figure in that memo. The AGP memo provides a figure that applies to *total* mining costs (which includes mining, processing, and general and administrative costs); the economic analysis uses that figure for *only* mining costs, adding processing and general and administrative costs again on top of it. While the economic analysis uses figures from a number of sources, all of the other sources provide a significantly lower estimate than the one from the AGP memo. In short, without the misrepresentation of the AGP estimate, no source provided in the economic analysis supports the estimate of mining costs. If the error is corrected, the economic analysis does not show a loss for mining at the 7,500 tons per day level under the other parameters used in the analysis, and yet this is the basis on which the Underground Mine Alternative was eliminated from consideration.

I'm sure you know that Twin Metals is planning an underground mine for a similar ore body not far from the PolyMet site, and that U.S. Steel operated for years under the belief that the NorthMet ore body could be mined using underground methods. We have no evidence that U.S. Steel abandoned its plans because it thought an underground mine would not be viable; rather, at the time the difficulties in processing the ore (separating the target metals from other material) had not been resolved. Given the quality of the resources on this land, the failure of any of the agencies involved to really consider whether underground mining is possible here is disheartening.

Thank you for meeting with me last week, and for your attention to these issues.

Sincerely,

Jane Reyer