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Legislative Analysis

H.R. 3905, the Minnesota's Economic Rights in the Superior National Forest Act (MINER Act)

Rep. Tom Emmer (MN-06)

On the House Floor:

On Wednesday, November 29, 2017, the House will consider H.R. 3905, the Minnesota's Economic Rights in the Superior National Forest Act (MINER Act), a bipartisan bill introduced by Reps. Tom Emmer (MN-06), Colin Peterson (MN-07), Jason Lewis (MN-02) and Chairman Paul Gosar (AZ-04).

Short Summary:

The MINER Act halts last-minute political mineral withdrawals by requiring Congressional approval for any future withdrawal actions in Minnesota, renews two mineral leases that were denied for political reasons under the same terms they were renewed twice previously and ensures any future mining projects in Minnesota National Forests will have to satisfy all existing environmental permitting requirements including NEPA.

Article IV of the Constitution vests Congress with authority over public lands. This legislation secures the opportunity for job creators to present mining plans in an area *already authorized for mining* twice by Congress and rejects political and unwarranted actions taken by the previous administration that will harm responsible mineral production, kill jobs and decimate education revenues. No one is proposing to mine in the 1.1 million acre Boundary Waters Wilderness Area, an area that already has significant buffers, and the bill actually protects this area. 17,000 jobs, \$3 billion for education, \$1.5 billion in annual wages and \$2.5 billion annually for our economy are at risk if we don't pass H.R. 3905. Further, there are more than four billion tons of ore containing copper, nickel and other metal resources within the area the previous Administration tried to shut down, which represents the largest known undeveloped deposit of strategic and critical metals in the world.

An awesome video produced by the people of Minnesota on the issues addressed by the bill can be viewed [HERE](#).

Bill text can be found [HERE](#). The Committee Report can be found [HERE](#). The Committee one pager can be found [HERE](#). A printable list of endorsements and supporters can be found [HERE](#).

Background:

On January 19th, 2017, the day before President Trump was sworn in, the previous administration published a 234,328-acre federal mineral withdrawal application in the Federal Register, to restrict for a 20-year moratorium, lands within the Superior National Forest in Northeast Minnesota.

This action immediately placed this vast area off limits to future mineral leasing, exploration and potential development for two years while the 20-year withdrawal is being considered. The total withdrawal application boundary spans approximately 425,000 acres, including 95,000 acres of state school trust fund lands.

In conjunction with this massive mineral withdrawal, the Obama Administration's Bureau of Land Management inappropriately rejected Twin Metals Minnesota's application to renew two hard rock mineral leases in Minnesota's Superior National Forest – leases that were signed in 1966 and renewed without controversy in 1989 and 2004.

These bureaucratic decisions could decimate local economies, stifle job creation as well as cause significant harm to K-12 education and mining in Minnesota. These were political, anti-mining and anti-education actions taken by the Obama Administration.

The University of Minnesota-Duluth estimates the creation of 12,000 construction jobs and 5,000 long-term mining jobs if mining projects already being pursued in Duluth Complex are allowed to move forward. These are good-paying jobs, as the average annual mining wage in Minnesota was \$78,635 in 2015.

Education will be significantly harmed as Minnesota is projected to lose up to \$3 billion in royalty revenues for the State's Permanent School Trust Fund that would support nearly 900,000 K-12 students statewide if the withdrawal application and cancelled leases are not rejected.

To date, Twin Metals has invested upward of \$400 million – a significant investment – in reliance on the two federal mineral leases that the BLM executed with the company's predecessors and renewed each time they expired.

In 1950, Congress took action to make land available for mineral exploration and development within the Superior National Forest. Then, in 1978, Congress passed the Boundary Waters Canoe Area Wilderness Act, a compromise that prohibited mining within the 1.1 million acre Boundary Waters Wilderness Area but again specifically authorized mining in the Superior National Forest. The 1986 Forest Service and 2004 Forest Plans both concluded mining in this area is “a desired condition.”

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Other Congressional Actions on these issues:

- A release and letter signed by 26 Members calling for rescission of the 234,328-acre mineral withdrawal application and renewal of two improperly terminated leases can be found [HERE](#).
- The Interior Appropriations Request letter signed by 9 members including House Committee on Natural Resources Chairman Rob Bishop can be viewed [HERE](#).
- The press release on the hearing on H.R.3905 can be found [HERE](#).
- A press story on the Emmer Interior Appropriations Amendment passing can be found [HERE](#).
- A press release on passage of H.R. 3905 by the Resources Committee can be found [HERE](#).

What H.R. 3905 doesn't do:

- Supersede current federal, state, or local environmental review. Any project proposed in areas that allow mining (all outside the Boundary Waters Canoe Area) must still undergo the normal NEPA environmental analysis, which we also require for any lease issuances under the bill.
- Mine in the boundary waters. In fact, the legislation clarifies that “*nothing should be construed to permit prospecting for development and utilization of mineral resources within the Boundary Waters Canoe Area Wilderness or Mine Protection Area.*” (Section 4(f))

What They Are Saying:

- **53 bipartisan state legislators** (including leadership of both parties) – “*As elected leaders of the Minnesota Legislature, we are writing in strong support of H.R. 3905. This legislation supports jobs, economic development and industry in Northeast Minnesota, and will reverse an onerous, overreaching and politically-motivated decision by the Obama Administration. H.R. 3905 has our bipartisan support, and it is our sincere hope that it will become law for the well-being of our state and its citizens.*”
- **Competitive Enterprise Institute** – “*The bipartisan H.R. 3905 is a welcome reassertion of congressional authority over public lands. Article IV of the Constitution vests Congress—not the President—with plenary power over public lands. Members on both sides of the aisle should take umbrage at President Obama’s lame duck machinations to withdraw from the multiple use framework more than 230,000 acres of public lands in Minnesota—with the mere stroke of a pen. By treating public lands regulation as a means to build a presidential legacy through midnight regulation, the previous administration flouted the spirit of participatory and inclusive lands-use statutes as designed by Congress. Lawmakers should correct the course by passing the excellent H.R. 3905.*”
- **International Union of Operating Engineers, Local 49** – “*Unfortunately, the economic future of the region is now threatened by federal agency actions initiated in December 2016 that would cancel valid, long-standing federal mineral leases and withdraw 235,000 acres of federal land in the region from future mining development, contrary to previous directives by Congress. If allowed to stand, these agency actions will eliminate the possible creation of thousands of good-paying construction jobs, billions of dollars in economic growth, and billions more in revenues for Minnesota’s public schools through mineral development on state school trust lands.*”
- **Range Association of Municipalities and Schools** – “*The results of the withdrawal and a potential 20 year moratorium would have a devastating impact on the financial support for our state wide public school system and future generations of Iron Rangers who would be employed in any future mining developments. It has been estimated that within 20 years of mining for precious metals, our Permanent School Trust Fund would reap nearly \$3 billion dollars in royalties. The Miner Act does not infringe or restrict the very strenuous and stringent environmental review and enforcement process and specifically re-emphasizes that there will be no mining in the Boundary Waters (BWCAW) or the buffer zone surrounding the BWCAW.*”
- **American Exploration & Mining Association** – “*H.R. 3905 will eliminate delays, return to good stewardship of fair process and restore the opportunity to explore strategic metals critical to our economy and national security in one of the richest mineral deposits in the nation... The emerging mining industry is an investment in the future well-being of our state and nation; without this legislation, that future is at risk.*”

- **Associated General Contractors of Minnesota** – *“H.R. 3905 changes no environmental review processes, relaxes no environmental standards, and specifically restates Congress’ prohibition on any mining activity in the BWCAW and surrounding protective buffer. H.R. 3905 would reaffirm long-standing Congressional intent in the management and development of critical minerals in Minnesota, eliminate bureaucratic delays in developing environmentally-responsible mine projects proposals, and restore the promise of future job growth and economic opportunity to an economically distressed region of the state.”*
- **National Mining Association** – *Northern Minnesota is blessed with a world class, economically significant, mineral deposit containing copper, nickel and precious metals. In an unprecedented move — one clearly motivated by politics rather than science — the previous administration denied two mineral lease renewal applications that had been renewed several times without issue dating back to 1966. Furthermore, the previous administration initiated a full-scale mineral withdrawal of nearly 240,000 acres just days before leaving office...Importantly, the mineral deposits under these leases are critical to our domestic manufacturing, infrastructure and defense needs. The U.S. has become increasingly reliant on foreign imports with only 50 percent of the needs of our manufacturing industry being sourced from domestic mineral supplies.*
- **House Committee on Natural Resources Energy and Minerals Chairman and Western Caucus Chairman Paul Gosar (AZ-04)** – *“17,000 jobs, \$3 billion for education, \$1.5 billion in annual wages and \$2.5 billion annually for our economy are at risk if we don't pass H.R. 3905. Further, there are four billion tons of ore containing strategic and critical minerals in the area the Obama Administration tried to shut down. If left unchallenged, these political anti-mining actions will set a terrible precedent that could negatively impact communities throughout the country.”*
- **Conservatives for Property Rights** – *“This legislation would remedy the broad bureaucratic discretion that led to unilateral government action limiting private mineral rights on several hundred-thousand acres of land in the Superior National Forest in northeastern Minnesota. The government’s limitation on reasonable public lands use deprives the nation, the state of Minnesota, and surrounding localities of important benefits from valuable deposits of copper, nickel, and other minerals. Royalty revenues upward of \$3 billion for the state’s school fund alone will be lost should the government’s land grab not be reversed.”*
- **Congressman Tom Emmer MN-06** – *“Passage of the MINER Act ensures Minnesotans have a say in sweeping bureaucratic decisions made by Washington bureaucrats. Environmentally responsible mining and exploration in Northern Minnesota will unleash our ability to tap into our abundance of natural resources, and provide for a better way of life for our children, just as those in Northern Minnesota have done for decades. We can preserve our state’s natural beauty without permanently destroying any future job creation or economic development. We can utilize the largest untapped copper-nickel deposit in the world, and do so in an environmentally sound way. Nothing in this legislation will circumvent any of the numerous strict local, state and federal environmental regulations and permitting requirements currently in place, including those that prohibit mining in the Boundary Waters. Instead, passage of this legislation simply rolls back unnecessary, politically motivated actions by the previous administration and returns power to Minnesota while bringing jobs to communities in Northern Minnesota who desperately need them, and boosting our local, state and federal economies.”*

The bill is endorsed by:

- 53 bipartisan state legislators (including leadership of both parties)
- AFL-CIO International Association of Bridge, Structural, Ornamental, and Reinforcing Iron Workers Local Union 512
- Agribusiness & Water Council of Arizona
- ALLETE
- American Exploration & Mining Association
- Americans for Limited Government
- Apache County (Arizona)
- Apache Sun Golf Club
- APEX
- Arizona Cattle Feeders Association
- Arizona Golf Association

- Arizona Pork Council
- Arizona Liberty
- Arizona State Rep. Bob Thorpe
- Associated General Contractors of Minnesota
- AZ BASS Nation
- AZ Deer Association
- The Bass Federation
- Better in our Back Yard
- Colorado Mining Association
- Competitive Enterprise Institute
- Concerned Citizens for America (Arizona)
- Conservatives for Property Rights
- Global Minerals Engineering LLC
- Golden Vertex Corporation
- Grand Rapids Area Chamber of Commerce
- Hibbing Area Chamber of Commerce
- International Union of Operating Engineers, Local 49
- The Jamar Company
- Jefferson County Commissioner Donald Rosier, P.E.
- Jobs for Minnesotans
- Laborers District Council of MN & ND
- Laborers International Union of North America
- Laurentian Chamber of Commerce
- Minnesota Building and Construction Trades Council
- Minnesota Chamber of Commerce
- MiningMinnesota
- Minnesota Pipe Trades Association
- Minnesota Power
- Minnesota State Rep. Josh Heintzeman
- Montana Mining Association
- National Mining Association
- National Stone, Sand & Gravel Association
- New Mexico Cattle Growers' Association
- New Mexico Federal Lands Council
- New Mexico Wool Growers, Inc.
- North America's Building Trade Unions
- Plumbers and Pipefitters Local 589
- Range Association of Municipalities and Schools
- Shake Rattle & Troll Outdoors
- Sulphur Springs Valley Electric Cooperative
- Twin Metals Minnesota
- United Brotherhood of Carpenters and Joiners of America
- Water Resource Institute
- Women's Mining Coalition
- Yavapai County Cattle Growers
- Yavapai County Supervisor Board Chairman Thomas Thurman
- Yuma County (AZ) Chamber of Commerce

Cost:

According to Congressional Budget Office Analysis, enacting H.R. 3905 would reduce direct spending by \$2 million over the 2018-2027 period by increasing offsetting receipts.

Amendments:

- I. **Nolan (D-MN)** – Would strip Section 3 of the bill, a provision aimed to ensure future administrations can't use the stroke of a pen to prevent responsible mining in area twice authorized for mining by Congress through law. The 1986 Forest Service and 2004 Forest Plans both also concluded mining is “a desired condition” in the Superior National Forest.
Chairman Gosar recommends a '**NO**' vote
- II. **Grijalva (D-AZ)** – Increases taxes (royalty rates) on responsible mineral production by 16.66 percent. If adopted, this amendment would dry up investment and kill jobs.
Chairman Gosar recommends a '**NO**' vote

Constitutional Authority:

The sponsor has stated that Congress has the power to enact this legislation pursuant to Article IV, Section 3, Clause 2 (the Property Clause), which confers on Congress the power to make all needful Rules and Regulations respecting the property belonging to the United States.

More Information:

If you have questions about H.R. 3905, please contact Landon Zinda in Congressman Emmer's office at landon.zinda@mail.house.gov.

If you have questions about this policy analysis or for the Congressional Western Caucus, please contact Jeff Small at jeff.small@mail.house.gov or Tanner Hanson at tanner.hanson@mail.house.gov.