

Second lawsuit against PolyMet land exchange

By [John Myers](#) Today at 11:28 a.m.

Minnesota-based WaterLegacy on Monday filed suit in U.S. District Court against the U.S. Forest Service seeking to overturn the agency's approval of a 6,650-acre land swap for the PolyMet copper mine project.

The environmental group says the approval earlier this month "violated the Federal Land Policy and Management Act because it failed to consider the highest and most profitable use of the lands for mining related uses, significantly undervalued the federal lands, and would result in a windfall for the PolyMet foreign corporation at the expense of Minnesota taxpayers and public lands."

The 20-page lawsuit filed in Minnesota claims "The Forest Service's failure to appraise the market value of the federal lands ... as a whole property, failure to value the lands according to their most profitable, feasible, probable and intended use for mining related purposes, and failure to value the lands based on the most comparable Northeastern Minnesota transactions by mining companies in the private market reflected a willful blindness of the Forest Service to the intended use of the federal property; was neither reasonable nor credible. ..."

PolyMet needs the Forest Service land because it sits on top of the deposit of copper, nickel and the valuable metals that it wants to mine — the first copper mine ever in Minnesota. In exchange for the mine site, PolyMet purchased and is trading to the federal government an equal amount of undeveloped land within the border of the Superior National Forest.

The land swap approval was one of the first federal actions in the PolyMet saga and has been pounced on by critics of copper mining who say exposing high-sulfur rocks in the area could taint local waterways.

Earlier this month two other environmental groups, the Center for Biological Diversity and Earthworks, filed a formal "60-day notice of intent" to sue the U.S. Fish and Wildlife Service and U.S. Forest Service under the Endangered Species Act for their approval of the PolyMet project in the Superior National Forest. If the agencies don't reverse their decision, that suit also will be filed in federal court.

WaterLegacy's attorney, Paula Maccabee, said the Forest Service gave away public land at too low a price, especially considering the environmental upheaval the open-pit mine will cause.

"WaterLegacy's board and thousands of other citizens across Northeastern Minnesota are tired of seeing Minnesota's Superior National Forest lands and Lake Superior watersheds devalued in order to serve the interests of PolyMet and its foreign investors."

But Bruce Richardson, PolyMet spokesman, said the land was valued correctly and the Forest Service, a division of the U.S. Department of Agriculture, made the right decision.

"We have confidence in the Forest Service appraisals, which followed well-established federal guidelines by the Department of Justice," Richardson said in a statement to the News Tribune. "After years of review and analysis, the Forest Service has determined the land exchange is in the best public interest."

The lawsuit alleges that the Forest Service valued the site proposed for the PolyMet mine at \$550 per acre, based only on its use for "timber investment." However, recent private sales of Minnesota land to mining companies have resulted in prices many times higher. For example, from 2012 to 2016, Kennecott Exploration Company has paid an average of \$3,885 per acre for land in Minnesota's Aitkin County with copper-nickel mining potential.

Maccabee said other land appraisers agreed that the Polymet mine site was vastly undervalued by the Forest Service.

According to the Forest Service Biological Assessment, the proposed exchange of 6,650 acres of Superior National Forest lands for the PolyMet mine project would be the largest land exchange ever conducted by the Forest Service, Maccabee said.

The earlier lawsuit notice was based more on Endangered Species Act violations. The groups say the Endangered Species Act requires federal agencies to ensure that proposed actions will not destroy or adversely modify critical habitat for threatened and endangered species like lynx and wolves.

PolyMet supporters say the mine will employ 300 people and pump \$550 million into the local economy a year.

PolyMet's Environmental Impact Statement was approved in 2015 by the Minnesota Department of Natural Resources after a nearly 10-year environmental review period that included a do-over after the initial review was deemed inadequate by federal regulators.

Toronto-based PolyMet, which is one-third owned by Swiss commodities giant Glencore, is a "Canadian junior" mining company and the Hoyt Lakes mine is the only project it has. The company will need to raise more than half a billion dollars from investors and lenders to actually build out the mine, with financing likely to come after permits are approved.

The company is now in the process of securing more than 20 state and federal permits to start work on the mine. If permits are issued, construction should take about two years.