



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #MKE-17-007

TITLE: Protecting Chippewa Lands and Resources from the Threats Posed by PolyMet Mine

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, there are now proceedings before Congress, the U.S. Forest Service, the Army Corps of Engineers, and several Minnesota agencies to approve a transfer of 6,650 acres of federal lands within the Superior National Forest to a mining company, PolyMet Mining Inc., and to grant federal and state permits to authorize the development of an open pit copper-nickel-sulfide mine on such lands; and

WHEREAS, the proposed mine is located within the Territory where the Lake Superior Chippewa hold Treaty-reserved rights to hunt, fish and gather, contains traditional cultural properties, historic resources, and sacred sites, and is crossed by two major rivers that flow downstream to waters within the Reservation of the Fond du Lac Band of Lake Superior Chippewa; and

WHEREAS, the land that would be transferred to PolyMet is a large intact area of pristine wilderness, comprised of exceptionally high quality wetlands and mature timber, most of which (6,025 acres) has been designated by Minnesota as a Site of High Biodiversity Significance, meaning that the area contains very good quality occurrences of the rarest species, high-quality examples of rare native plant communities, and is an important functional landscape, all of which illustrates the importance of these lands and waters in providing critical habitat for fish, game and wild rice on which Chippewa Treaty rights – both within and outside the Reservations – depend; and

WHEREAS, the proposed mine would be the first of its kind in Minnesota; and

WHEREAS, because of the threats posed by the mine, the Fond du Lac Band of Lake Superior Chippewa, the Grand Portage Band of Lake Superior Chippewa and the Bois Forte Band of Chippewa, have actively participated in the environment review and proceedings on the permitting process, and in so doing have provided, and continue to provide, detailed scientific analysis of the potential impacts of the mine to the environment and information on why the loss of these federal lands and the development of the mine would put the Bands' Treaty rights, health and welfare, at risk because of the harm to water, fish, game, wild rice, and the habitat on which those depend; and

WHEREAS, despite the substantive expertise provided by the Tribes, in November 2015, a Final Environmental Impact Statement was released by the federal and state agencies, following which, on January 7, 2017, the Forest Service issued a decision to approve a transfer of the federal lands to PolyMet; and

WHEREAS, although a Final EIS was issued in November 2015, proceedings are still underway to determine whether permits (federal and state) should be issued for this mine which involve further scientific and technical analysis that was not addressed in the Final EIS; and

WHEREAS, there is also now pending litigation in the federal court in Minnesota brought by several environmental organizations challenging the Forest Service's January 7, 2017 decision; and

WHEREAS, although proceedings on the permits have not been concluded and it is therefore not certain whether the mine will ultimately be permitted, and although litigation challenging the decision to transfer these lands is still pending, legislation is now being advanced in Congress to direct the transfer of these federal lands to the mining company; and

WHEREAS, such congressional action sets a dangerous precedent by bypassing important and long-standing laws that ensure tribal lands, resources, and reserved rights are protected, consistent with the federal government's Treaty and trust obligations to Indian tribes, and subject to the right to seek judicial review of federal agency decisions; and

WHEREAS, federal action to transfer these lands for the development of the proposed mine, and approval of permits for such mine, pose a direct and immediate threat to the lands, waters and natural resources on which the Chippewa people depend, and a direct and immediate threat to their health and welfare.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) does hereby oppose the legislative transfer of these federal lands for the development of the proposed PolyMet mine, and calls for the evaluation of whether such lands should be transferred and the mine permitting is done pursuant to, and in full compliance with, existing federal law, including the United States' obligation to protect Tribal Treaty rights from loss, damage or harm, and its trust responsibility to protect the health and welfare of Indian people who depend on such lands, waters and natural resources to meet their most basic subsistence, cultural and religious needs; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2017 Annual Session of the National Congress of American Indians, held at the Wisconsin Center in Milwaukee, WI, Oct 15, 2017 - Oct 20, 2017, with a quorum present.



Jefferson Keel, President

ATTEST:



Juana Majel Dixon, Recording Secretary