

115TH CONGRESS
1ST SESSION

H. R. 3115

To provide for a land exchange involving Federal land in the Superior National Forest in Minnesota acquired by the Secretary of Agriculture through the Weeks Law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2017

Mr. NOLAN (for himself, Mr. PETERSON, Mr. EMMER, Mr. TIPTON, Mr. LAMBORN, Mr. LEWIS of Minnesota, Mr. WESTERMAN, Mr. MCCLINTOCK, and Mr. GOSAR) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To provide for a land exchange involving Federal land in the Superior National Forest in Minnesota acquired by the Secretary of Agriculture through the Weeks Law, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Superior National Forest Land Exchange Act of 2017”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purpose and need for NorthMet Land Exchange.
- Sec. 4. Definitions.
- Sec. 5. NorthMet Land Exchange.
- Sec. 6. Valuation of NorthMet Land Exchange.
- Sec. 7. Maps and legal descriptions.
- Sec. 8. Post-exchange land management.
- Sec. 9. Miscellaneous provisions.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) On January 9, 2017, the Forest Service
4 issued a Final Record of Decision approving the
5 NorthMet Land Exchange between the United
6 States and Poly Met Mining, Inc., a Minnesota Cor-
7 poration, involving National Forest System land in
8 the Superior National Forest in Minnesota.

9 (2) The Final Record of Decision is based on
10 the Final Environmental Impact Statement for the
11 NorthMet Mining Project and Land Exchange.

12 (3) The Final Record of Decision was issued as
13 the result of a complex, multi-year review under the
14 National Environmental Policy Act of 1969 (42
15 U.S.C. 4321 et seq.) and other laws and a public-
16 input process that included—

17 (A) the October 2009 publication of a
18 Draft Environmental Impact Statement on the
19 mining operation;

20 (B) a 2009 Forest Service Feasibility
21 Analysis of the Land Exchange and Forest

1 Service inclusion as a co-lead agency on the
2 land exchange and proposed mining operation;

3 (C) a September 2010 Agreement to Ini-
4 tiate a land exchange between Poly Met and the
5 Forest Service;

6 (D) the December 2013 completion of a
7 Supplemental Draft Environmental Impact
8 Statement analyzing the mining operation and
9 the land exchange;

10 (E) the November 2015 completion of a
11 Final Environmental Impact Statement on the
12 mining operation and the land exchange;

13 (F) the November 2015 issuance of a For-
14 est Service draft Record of Decision approving
15 the NorthMet Land Exchange; and

16 (G) the December 2016 execution of a
17 Memorandum of Agreement under section
18 306108 of title 54, United States Code (former
19 section 106 of the National Historic Preserva-
20 tion Act).

21 (4) The 6,650 acres of Federal land proposed
22 for conveyance to Poly Met in the NorthMet Land
23 Exchange is National Forest System land, the sur-
24 face estate of which is administered as part of the

1 Superior National Forest, but which is underlain by
2 the privately owned NorthMet ore body.

3 (5) Poly Met owns and controls the mineral
4 rights to the NorthMet ore body through long-term
5 mineral leases and proposes to build an open pit
6 mine to recover the minerals.

7 (6) The United States owns the remainder of
8 the property rights, including the surface that would
9 be removed to access the minerals as proposed by
10 Poly Met, and this separate ownership of the surface
11 and subsurface, known as a split estate, raises fun-
12 damental legal and land management conflicts.

13 (7) The Federal land was purchased by the
14 Forest Service, for National Forest System pur-
15 poses, under the authority of section 6 of the Act of
16 March 1, 1911 (commonly known as the Weeks
17 Law; 16 U.S.C. 515), and the Forest Service has
18 taken the position that the mineral rights that were
19 reserved when the lands were acquired by the United
20 States in 1935 do not include the right to surface
21 mine as proposed by Poly Met.

22 (8) Due to the incompatibility between National
23 Forest management objectives and Poly Met's in-
24 tended mining operations, in the absence of a land
25 exchange, the Forest Service is not willing or able to

1 authorize such private, surface mining operations on
2 lands of the Superior National Forest.

3 (9) Poly Met disagrees with the Forest Service
4 position and argues that the mineral rights it seeks
5 to utilize provide for access to the minerals by any
6 mining method, including open pit or surface min-
7 ing.

8 (10) This fundamental conflict raises the possi-
9 bility of litigation between Poly Met and the Forest
10 Service that has no certain outcome and could set an
11 adverse judicial precedent, not only for the 6,650
12 acres of Federal land, but also for other lands owned
13 by the United States that were acquired under the
14 authority of section 6 of the Act of March 1, 1911
15 (commonly known as the Weeks Law; 16 U.S.C.
16 515).

17 (11) The NorthMet Land Exchange would per-
18 manently resolve this fundamental conflict and risk
19 to the United States.

20 (12) Consummation of the NorthMet Land Ex-
21 change will not authorize Poly Met's mining pro-
22 posal to occur because other governmental entities,
23 primarily the State of Minnesota and the United
24 States Army Corps of Engineers, will still have the

1 responsibility and authority to make decisions re-
2 lated to approval of the mining proposal.

3 (13) Under the NorthMet Land Exchange, the
4 United States will acquire 6,690 acres of non-Fed-
5 eral private land that will be open to public use and
6 enjoyment and managed as a part of the Superior
7 National Forest.

8 **SEC. 3. PURPOSE AND NEED FOR NORTHMET LAND EX-**
9 **CHANGE.**

10 (a) PURPOSE.—It is the purpose of this Act to fur-
11 ther the public interest by consummating the NorthMet
12 Land Exchange as specifically set forth in this Act.

13 (b) NEED.—In addition to the findings under section
14 2 of this Act supporting the advisability and need for the
15 NorthMet Land Exchange, according to the Final Record
16 of Decision, the NorthMet Land Exchange is advisable
17 and needed because the NorthMet Land Exchange will—

18 (1) result in a 40-acre net gain in National
19 Forest System lands;

20 (2) improve the spatial arrangement of Na-
21 tional Forest System lands by reducing the amount
22 of ownership boundaries to be managed by 33 miles;

23 (3) improve management effectiveness by ex-
24 changing isolated Federal lands with no public over-
25 land access for non-Federal lands that will have pub-

1 lic overland access and be accessible and open to
2 public use and enjoyment;

3 (4) result in Federal cost savings by eliminating
4 certain easements and their associated administra-
5 tion costs;

6 (5) meet several of the priorities identified in
7 the land and resource management plan for Superior
8 National Forest to protect and manage administra-
9 tively or congressionally designated, unique, pro-
10 posed, or recommended areas, including acquisition
11 of 307 acres of land to the administratively proposed
12 candidate Research Natural Areas, which are man-
13 aged by preserving and maintaining areas for eco-
14 logical research, observation, genetic conservation,
15 monitoring, and educational activities;

16 (6) promote more effective land management
17 that would meet specific National Forest needs for
18 management, including acquisition of over 6,500
19 acres of land for new public access, watershed pro-
20 tection, ecologically rare habitats, wetlands, water
21 frontage, and improved ownership patterns;

22 (7) convey Federal land generally not needed
23 for other Forest resource management objectives,
24 because such land is adjacent to intensively devel-
25 oped private land including ferrous mining areas,

1 where abundant mining infrastructure and transpor-
2 tation are already in place, including—

3 (A) a large, intensively developed open pit
4 mine lying directly to the north of the Federal
5 land;

6 (B) a private mine railroad, powerlines,
7 and roads lying directly to the south of the
8 Federal land; and

9 (C) already existing ore processing, milling,
10 and tailings facilities located approximately 5
11 miles to the west of the Federal land; and

12 (8) provide a practical resolution to complex
13 issues pertaining to the development of private min-
14 eral rights underlying the Federal land surface, and
15 thereby avoid potential litigation which could ad-
16 versely impact the status and management of the
17 Federal land and other National Forest System land
18 acquired under the authority of section 6 of the Act
19 of March 1, 1911 (commonly known as the Weeks
20 Law; 16 U.S.C. 515).

21 **SEC. 4. DEFINITIONS.**

22 In this Act:

23 (1) **COLLECTION AGREEMENTS.**—The term
24 “Collection Agreements” means the following agree-

1 ments between the Secretary and Poly Met per-
2 taining to the NorthMet Land Exchange:

3 (A) The agreement dated August 25,
4 2015.

5 (B) The agreement dated January 15,
6 2016.

7 (2) FEDERAL LAND PARCEL.—The term “Fed-
8 eral land parcel” means all right, title, and interest
9 of the United States in and to approximately 6,650
10 acres of National Forest System land, as identified
11 in the Final Record of Decision, within the Superior
12 National Forest in St. Louis County, Minnesota, as
13 generally depicted on the map entitled “Federal
14 Land Parcel–NorthMet Land Exchange”, and dated
15 June, 2017.

16 (3) NON-FEDERAL LAND.—The term “non-Fed-
17 eral land” means all right, title, and interest of Poly
18 Met in and to approximately 6,690 acres of land in
19 four separate tracts (comprising 10 separate land
20 parcels in total) within the Superior National Forest
21 to be conveyed to the United States by Poly Met in
22 the land exchange as generally depicted on an over-
23 view map entitled “Non-Federal Land Parcels–
24 NorthMet Land Exchange” and dated June 2017,

1 and further depicted on separate tract maps as fol-
2 lows:

3 (A) TRACT 1.—Approximately 4,650 acres
4 of land in St. Louis County, Minnesota, gen-
5 erally depicted on the map entitled “Non-Fed-
6 eral Land Parcel–NorthMet Land Exchange–
7 Hay Lake Tract”, and dated June, 2017.

8 (B) TRACT 2.—Approximately 320 acres of
9 land in 4 separate parcels in Lake County, Min-
10 nesota, generally depicted on the map entitled
11 “Non-Federal Land Parcels–NorthMet Land
12 Exchange–Lake County Lands”, and dated
13 June, 2017.

14 (C) TRACT 3.—Approximately 1,560 acres
15 of land in 4 separate parcels in Lake County,
16 Minnesota, generally depicted on the map enti-
17 tled “Non-Federal Land Parcels–NorthMet
18 Land Exchange–Wolf Lands”, and dated June,
19 2017.

20 (D) TRACT 4.—Approximately 160 acres of
21 land in St. Louis County, Minnesota, generally
22 depicted on the map entitled “Non-Federal
23 Land Parcel–NorthMet Land Exchange–Hunt-
24 ing Club Lands”, dated June, 2017.

1 (4) NORTHMET LAND EXCHANGE.—The term
2 “NorthMet Land Exchange” means the land ex-
3 change specifically authorized and directed by sec-
4 tion 5 of this Act.

5 (5) POLY MET.—The term “Poly Met” means
6 Poly Met Mining Corporation, Inc., a Minnesota
7 Corporation with executive offices in St. Paul, Min-
8 nesota, and headquarters in Hoyt Lakes, Minnesota.

9 (6) RECORD OF DECISION.—The term “Record
10 of Decision” means the Final Record of Decision of
11 the Forest Service issued on January 9, 2017, ap-
12 proving the NorthMet Land exchange between the
13 United States and PolyMet Mining, Inc., a Min-
14 nesota Corporation, involving National Forest Sys-
15 tem land in the Superior National Forest in Min-
16 nesota.

17 (7) SECRETARY.—The term “Secretary” means
18 the Secretary of Agriculture.

19 (8) STATE.—The term “State” means the State
20 of Minnesota.

21 **SEC. 5. NORTHMET LAND EXCHANGE.**

22 (a) EXCHANGE AUTHORIZED AND DIRECTED.—

23 (1) IN GENERAL.—Subject to section 6(e)(1)
24 and other conditions imposed by this Act, if Poly
25 Met offers to convey to the United States all right,

1 title, and interest of Poly Met in and to the non-
2 Federal land, the Secretary shall accept the offer
3 and convey to Poly Met all right, title, and interest
4 of the United States in and to the Federal land par-
5 cel.

6 (2) LAND EXCHANGE EXPEDITED.—Subject to
7 the conditions imposed by this Act, the NorthMet
8 Land Exchange directed by this Act shall be con-
9 summated not later than 90 days after the date of
10 enactment of this Act.

11 (b) FORM OF CONVEYANCE.—

12 (1) NON-FEDERAL LAND.—Title to the non-
13 Federal land conveyed by Poly Met to the United
14 States shall be by general warranty deed subject to
15 existing rights of record, and otherwise conform to
16 the title approval regulations of the Attorney Gen-
17 eral of the United States.

18 (2) FEDERAL LAND PARCEL.—The Federal
19 land parcel shall be quitclaimed by the Secretary to
20 Poly Met by an exchange deed.

21 (c) EXCHANGE COSTS.—

22 (1) REIMBURSEMENT REQUIRED.—Poly Met
23 shall pay or reimburse the Secretary, either directly
24 or through the Collection Agreements, for all land
25 survey, appraisal, land title, deed preparation, and

1 other costs incurred by the Secretary in processing
2 and consummating the NorthMet Land Exchange.
3 The Collection Agreements, as in effect on the date
4 of the enactment of this Act, may be modified
5 through the mutual consent of the parties.

6 (2) DEPOSIT OF FUNDS.—All funds paid or re-
7 imbursed to the Secretary under paragraph (1)—

8 (A) shall be deposited and credited to the
9 accounts in accordance with the Collection
10 Agreements;

11 (B) shall be used for the purposes specified
12 for the accounts; and

13 (C) shall remain available to the Secretary
14 until expended without further appropriation.

15 (d) CONDITIONS ON LAND EXCHANGE.—

16 (1) RESERVATION OF CERTAIN MINERAL
17 RIGHTS.—Notwithstanding subsection (a), the
18 United States shall reserve the mineral rights on ap-
19 proximately 181 acres of the Federal land parcel as
20 generally depicted on the map entitled “Federal
21 Land Parcel–NorthMet Land Exchange”, and dated
22 June, 2017.

23 (2) THIRD-PARTY AUTHORIZATIONS.—As set
24 forth in the Final Record of Decision, Poly Met shall
25 honor existing road and transmission line authoriza-

1 tions on the Federal land parcel. Upon relinquish-
2 ment of the authorizations by the holders or upon
3 revocation of the authorizations by the Forest Serv-
4 ice, Poly Met shall offer replacement authorizations
5 to the holders on at least equivalent terms.

6 **SEC. 6. VALUATION OF NORTHMET LAND EXCHANGE.**

7 (a) APPRAISALS.—The Congress makes the following
8 new findings:

9 (1) Appraisals of the Federal and non-Federal
10 lands to be exchanged in the NorthMet Land Ex-
11 change were formally prepared in accordance with
12 the Uniform Appraisal Standards for Federal Land
13 Acquisitions, and were approved by the Secretary in
14 conjunction with preparation of the November 2015
15 Draft Record of Decision on the NorthMet Land
16 Exchange.

17 (2) The appraisals referred to in paragraph (1)
18 determined that the value of the non-Federal lands
19 exceeded the value of the Federal land parcel by ap-
20 proximately \$425,000.

21 (3) Based on the appraisals referred to in para-
22 graph (1), the United States would ordinarily be re-
23 quired to make a \$425,000 cash equalization pay-
24 ment to Poly Met to equalize exchange values under
25 the Federal Land Policy and Management Act of

1 1976 (43 U.S.C. 1701 et seq.), unless such an
2 equalization payment is waived by Poly Met.

3 (b) VALUES FOR CONSUMMATION OF LAND EX-
4 CHANGE.—The appraised values of the Federal and non-
5 Federal land determined and approved by the Secretary
6 in November 2015, and referenced in subsection (a)—

7 (1) shall be the values utilized to consummate
8 the NorthMet Land Exchange; and

9 (2) shall not be subject to reappraisal.

10 (c) WAIVER OF EQUALIZATION PAYMENT.—

11 (1) CONDITION ON LAND EXCHANGE.—Not-
12 withstanding section 206(b) of the Federal Land
13 Policy and Management Act (43 U.S.C. 1716(b)),
14 and as part of its offer to exchange the non-Federal
15 lands as provided in section 5(a)(1) of this Act, Poly
16 Met shall waive any payment to it of any monies
17 owed by the United States to equalize land values.

18 (2) TREATMENT OF WAIVER.—A waiver of the
19 equalization payment under paragraph (1) shall be
20 considered as a voluntary donation to the United
21 States by Poly Met for all purposes of law.

22 **SEC. 7. MAPS AND LEGAL DESCRIPTIONS.**

23 (a) MINOR ADJUSTMENTS.—By mutual agreement,
24 the Secretary and Poly Met may correct minor or typo-
25 graphical errors in any map, acreage estimate, or descrip-

1 tion of the Federal land parcel or non-Federal land to be
2 exchanged in the NorthMet Land Exchange.

3 (b) CONFLICT.—If there is a conflict between a map,
4 an acreage estimate, or a description of land under this
5 Act, the map shall control unless the Secretary and Poly
6 Met mutually agree otherwise.

7 (c) EXCHANGE MAPS.—The maps referred to in sec-
8 tion 4 depicting the Federal and non-Federal lands to be
9 exchanged in the NorthMet Land Exchange, and dated
10 June, 2017, depict the identical lands identified in the
11 Final Record of Decision, which are on file in the Office
12 of the Supervisor, Superior National Forest.

13 **SEC. 8. POST-EXCHANGE LAND MANAGEMENT.**

14 (a) NON-FEDERAL LAND.—Upon conveyance of the
15 non-Federal land to the United States in the NorthMet
16 Land Exchange, the non-Federal land shall become part
17 of the Superior National Forest and be managed in ac-
18 cordance with—

19 (1) the Act of March 1, 1911 (commonly known
20 as the Weeks Law; 16 U.S.C. 500 et seq.); and

21 (2) the laws and regulations applicable to the
22 Superior National Forest and the National Forest
23 System.

24 (b) PLANNING.—Upon acquisition by the United
25 States in the NorthMet Land Exchange, the non-Federal

1 lands shall be managed in a manner consistent with the
2 land and resource management plan applicable to adjacent
3 federally owned lands in the Superior National Forest. An
4 amendment or supplement to the land and resource man-
5 agement plan shall not be required solely because of the
6 acquisition of the non-Federal lands.

7 (c) FEDERAL LAND.—Upon conveyance of the Fed-
8 eral land parcel to Poly Met in the NorthMet Land Ex-
9 change, the Federal land parcel shall become private land
10 and available for any lawful use in accordance with appli-
11 cable Federal, State, and local laws and regulations per-
12 taining to mining and other uses of land in private owner-
13 ship.

14 **SEC. 9. MISCELLANEOUS PROVISIONS.**

15 (a) WITHDRAWAL OF ACQUIRED NON-FEDERAL
16 LAND.—The non-Federal lands acquired by the United
17 States in the NorthMet Land Exchange shall be with-
18 drawn, without further action by the Secretary, from ap-
19 propriation and disposal under public land laws and under
20 laws relating to mineral and geothermal leasing.

21 (b) WITHDRAWAL REVOCATION.—Any public land
22 order that withdraws the Federal land parcel from appro-
23 priation or disposal under a public land law shall be re-
24 voked without further action by the Secretary to the extent

1 necessary to permit conveyance of the Federal land parcel
2 to Poly Met.

3 (c) WITHDRAWAL OF FEDERAL LAND PENDING
4 CONVEYANCE.—The Federal land parcel to be conveyed
5 to Poly Met in the NorthMet Land Exchange, if not al-
6 ready withdrawn or segregated from appropriation or dis-
7 posal under the mineral leasing and geothermal or other
8 public land laws upon enactment of this Act, is hereby so
9 withdrawn, subject to valid existing rights, until the date
10 of conveyance of the Federal land parcel to Poly Met.

11 (d) ACT CONTROLS.—In the event any provision of
12 the Record of Decision conflicts with a provision of this
13 Act, the provision of this Act shall control.

○