

## **Sportsmen for the Boundary Waters Lease Reinstatement Q and A:**

### **What Happened?**

On Wednesday, May 2, 2018, officials at the Department of Interior (DOI) and the Bureau of Land Management (BLM) issued a decision letter reinstating two expired federal mineral leases that are held by Twin Metals, and located in the Boundary Waters watershed. The leases had their beginnings as two 20-year leases granted in 1966. Each 1966 lease was replaced by a 10-year lease renewal in 1989. They were renewed for another 10 years in 2004. No mining has ever been conducted on these leases.

In 2016, the BLM denied the mining company's request for a third 10-year renewal of the leases, after the U.S. Forest Service declined to give its consent to the renewal. At that point, the expired leases were cancelled, i.e., ceased to exist.

The May 2, 2018 decision by the DOI and BLM reverses the 2016 denial of lease renewal, and reinstates the cancelled leases. The leases grant the right to explore, build mine facilities, and mine on approximately 5,000 acres of Superior National Forest land next to the Boundary Waters Canoe Area Wilderness.

### **What does this mean for the Boundary Waters?**

The DOI says its May 2<sup>nd</sup> decision resurrects the two cancelled leases, and allows the BLM to begin the process of renewing them for 10 years. The decision does not interfere with the U.S. Forest Service's ongoing study of its proposal to put 234,328 acres of federal land in the Boundary Waters watershed off-limits for 20 years to new mineral leasing and mineral exploration permits. Reinstating the two leases, however, means that mining on the leases could proceed, even if the 20-year ban goes into effect.

### **Can Twin Metals begin mining?**

No, but according to Twin Metals it now has the rights to resume exploratory drilling operations on the two lease areas, to build infrastructure, and to apply for permits to begin building a mine.

### **Is the May 2, 2018 decision by DOI and BLM correct? NO.**

First, in December, 2016, the Forest Service properly withheld its consent to renewal of the leases. Then the BLM properly and legally denied Twin Metals' application to renew the leases. At that point the two expired leases were cancelled – they ceased to exist. No action by the DOI or BLM can resurrect leases that no longer exist. The DOI's legal theory invalidating the denial and the cancellation of the leases is faulty.

Second, two federal statutes – Section 402 of the President's Reorganization Plan #3 of 1946, and the Act of June 30, 1950 – make clear that no mining lease or lease renewal on National Forest land in Minnesota can proceed without prior written consent from the U.S. Forest Service. No consent in this case was given, and the DOI has adopted a view that greatly

restricts the scope of the Forest Service's consent power. The DOI's view conflicts with clear language in the federal statutes.

**Wasn't there an ongoing lawsuit about these leases?**

Yes, in September 2016 the mining companies sued the United States, challenging the DOI's determination that BLM had discretion to renew or to deny renewal of the mineral leases. In June 2017, the Department of Justice (Trump administration) filed a motion to dismiss the mining companies' lawsuit. On November 14, 2017, the Trump administration's lawyer in the Department of Justice argued that the mining companies did not have a right to ask that the federal court to renew the 2004 leases.

The Department of Interior's May 2, 2018 decision is in direct contradiction of the legal arguments made in court by the Justice Department on November 14, 2017. The mining companies dismissed their lawsuit, however, on December 22, 2017, after the Department of Interior concluded that the BLM had no discretion, and was required to renew the leases.

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