northeastern minnesotans ***for wilderness***
P.O. Box 625 Ely, Minnesota 55731

2007-08 REPORT TO THE NMW MEMBERSHIP

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Introduction

This report summarizes NMW activities in 2007 and the first half of 2008. Much occurred in 2007 and the early months of 2008 (effectively postponing a report until now.). Drawing this material together should provide members a perspective on our several program areas and our general direction as an organization.

A grassroots advocacy organization is only as good as the willingness of its membership to get out "on the ground." For NMW this means literally tramping the SNF and canoeing the BWCAW. Increasingly it also requires shuffling the thousands of pages of documents submitted by SNF, DNR, and MPCA, and by PolyMet and similar corporations. We need more members "on the ground." Please respond on your next membership renewal. Better yet, contact us directly at www.nmw.org, or through our Ely office.
Brad Sagen,
Chair, NMW Board of Directors
August, 2008

NMW 2007-08 Board

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Metallic Sulfide Mining

Background. Proposals to initiate metallic sulfide mining in the Arrowhead pose major potential problems for health and public safety and for wilderness and wild places. The term "metallic sulfide mining" is used because the desired non-ferrous metals (copper, lead, and zinc being the major extractions) are found in rock formations containing large amounts of sulfur. Sulfur, when mined and exposed to air and especially to water, creates sulfuric acid which is an extremely toxic waste component.

The initial sulfide mining proposal has been submitted PolyMet Corporation. This Vancouver B.C. company has no corporate history in an industry whose track record is one of air, water and soil pollution. PolyMet has submitted for State and Federal reviews a proposal to begin mining in 2008 at the NorthMet site south of Babbitt (20 mi. S of the BWCAW) using processing facilities near Hoyt Lakes formerly owned by LTV Steel. Mining will create millions of tons of sulfur laden waste which must be contained in sites using unproven plastic liners and restoration processes. NMW and Save Lake Superior Association received a grant in 2006 from the Tip of the Mitt Foundation to obtain professional analysis of the information submitted by PolyMet. An Environmental Impact Statement (EIS) is being prepared by the Minnesota DNR. The EIS is now expected to be released for public comment in October.

Public Comments to Date. Additional mining proposals are being prepared in the area S. of Birch Lake near Babbitt and extending E. of Hwy 1 to within a mile of the BWCAW (S. Kawishiwi River area). One of these, Duluth Metals, submitted a proposal for test drilling on USFS lands. NMW submitted comments to USFS and the Bureau of Land Management (BLM) on the (Scoping Document) proposal. NMW comments emphasized the consequences for the BWCAW of drilling within a mile or two of BW boundaries and the cumulative impacts of test drilling carried forward to its expected conclusion of a working mine. The comments were essentially rejected. NMW chose not to appeal the government response.

Minnesota Legislation. Mining laws and regulations in Minnesota are inadequate to the task of controlling potential damage from metallic sulfide mining. Cooperating organizations secured a Legislative Hearing on MSM January 25 at the Capitol.

The primary environmental presentation was by David Chambers, PhD, Director of the Center for Public Participation in Science. Member Bob Tammen from Soudan presented on behalf of NMW.

A second significant action was introduction of legislation concerning MSM. The Financial Assurance of NonFerrous Metallic Mineral Mining Operator Bill was introduced as HF4067 by Rep. Wagenius and as SF3751 by Sen. Dibble. Although introduction was important, the proposed legislation in its current form is not up to the task of controlling for potential damage in the judgment of NMW and others. The legislation was introduced rather late and made little progress during the session.

NMW also joined with NorthStar Chapter of the Sierra Club and others to submit through the Minnesota Environmental Partnership (MEP) a legislative brief proposing a law on sulfide mining similar to the Wisconsin Moratorium. The Wisconsin law stipulates that no further sulfide mining will occur in the State until a similar operation in another state has proven successful for ten years, and until a similar mine has been closed for ten years without harmful pollution.

Federal Legislation. NMW has joined with other organizations to promote revision of the 1872 General Law on Mining. The current law offers little protection to the environment and fails to provide for substantial revenue from mining operations on Federal Lands. Our efforts thus far have been confined to "sign on" letters supported by multiple organizations. The legislation was passed by the House (H.R. 2262) but has not been taken up in the Senate.

One irony is that the current law does not apply to Minnesota. According to information from the Bureau of Land Management, Minnesota was among a number of Midwestern states removed from the law in 1874. Minnesota is now covered under the 1947 Acquired Lands Act. This does not negate our role in promoting good general legislation; but it does call for additional effort concerning Minnesota.

Our most immediate concern is that Senators Klobuchar and Coleman, and Representative Oberstar have introduced legislation that would force USFS to sell approximately 6700 acres of FS land to PolyMet Corporation for their copper-nickel strip mine in NE Minnesota. This is blatant private interest legislation and is opposed by NMW and others for a number of reasons. The sale would occur without determining the public's interest and without environmental review. FS cannot allow a strip mine on the property so PolyMet must acquire the land to construct this type of mine. Normally a transfer would be accomplished through a land exchange with proper environmental review and determination that the exchange is in the public's interest. Instead, our two senators and the area's representative have pandered to private interests.

Forest Management

In 2004 SNF adopted a 20 year Forest Plan that is now being implemented through a series of projects addressing timber management and other actions in more specific geographic areas. With limited resources, NMW has chosen to comment on those FS projects having the most potential impact on the BWCAW and on other wild places such as Inventoried Roadless Areas (IRA). Public comments are invited at several stages in the process. In 2007 NMW offered comments on the initial Scoping Documents for the Glacier Project (Kawishiwi Ranger District) and in early 2008 similar comments on the Draft EIS. The Glacier Draft EIS has now been reopened for public comments because of a revision. Comments were submitted also in 2008 on the Border Project Scoping Document (Lac La Croix Ranger District).

In addition to specific concerns for areas adjacent to the BWCAW and actions affecting IRA, NMW comments typically emphasize avoidance of clearcutting, utilization of prescribed burns and other non-harvest alternatives in fuels reduction, avoidance of new permanent roads wherever reasonable, and protection of lynx and other important species habitat.

Legal Advocacy

SNF Forest Plan. Legal advocacy is an activity consistent with our mission to promote and defend wilderness and wild places in Northeastern Minnesota. As just described under "Forest Management," public comments on proposed USFS actions are invited under EPA and FS guidelines for determining potential environmental impacts and adherence to applicable laws and regulations. Should comments be rejected in a final Administrative Appeal within USFS, the only recourse is to contest the decision in Federal Court.

NMW is currently participating in three lawsuits against the U.S. Forest Service. The first suit, filed in 2006, contests the Forest Plan for Superior National Forest adopted in 2004. NMW was joined in the appeal and the suit by Friends of the BWCA, Sierra Club, and Defenders of Wildlife. Major issues addressed in the Forest Plan suit involve FS procedures used in preparing the Plan. These include, 1) failure to analyze the impact of FS plans upon the BWCAW; 2) failure to create and maintain an accurate inventory of roads, trails and roadless areas in order to fully analyze the environmental impacts of the Plan alternatives; 3) failure to select and monitor Management Indicator Species (MIS) as a means of maintaining species diversity; 4) failure to use accurate baseline data to analyze the impacts of the Forest Plan on the threatened lynx. A court hearing was held in June 2008 and a ruling is expected.

South Fowl Lake. The second suit concerns an area identified by South Fowl Lake, directly North of Hovland (Grand Marais area). The original issue was the FS decision to build a two mile snowmobile trail on a 'bench' running along a cliff face to provide access to South Fowl Lake. The trail would replace an illegal trail in the vicinity. Trail preparation would endanger plant and animal species in the area, and would be visible from Royal Lake which is within the BWCAW, thus degrading the wilderness experience and inviting illegal snowmobile activity in the BW. The suit charges the FS with failure to follow Agency standards in trail planning regarding protection of wilderness character, and protection of the Canadian Lynx. Legal research determined that South and North Fowl Lakes lie within the BWCAW and should be included among the lakes in the BW with motor size limits, established quotas for motor boat usage, and prohibition of snowmobiling. NMW was joined in the South Fowl suit by the Izaak Walton League, Sierra Club Northstar Chapter, and Wilderness Watch.

A Federal Court has ruled on most portions of the suit. The Trail was approved, subject to further USFS analysis and justification. Our claim of Wilderness status for N. and S. Fowl lakes was rejected. The Court did award NMW and fellow plaintiffs a major victory, however, when it ruled that USFS is required by the Wilderness Act to examine potential impacts on Wilderness and the wilderness experience of FS activities occurring outside the BWCAW. The suit is now involved in appeals and cross appeals from plaintiffs, defendants, and interveners. A second hearing before the original court to settle additional matters was held in June, 2008.

Echo Trail Project. The third NMW lawsuit followed rejection of an Administrative Appeal of the Final Environmental Impact Statement (FEIS) regarding the SNF Echo Trail Project. The lawsuit was filed in March, 2007. NMW joined in the Appeal with Audubon Minnesota, Defenders of Wildlife, Friends of the BWCAW, Sierra Club Northstar Chapter, and the Wilderness Society. The Echo Trail Area Forest Management Project area borders the Boundary Waters Canoe Area Wilderness (BWCAW) on the north and south sides of the Echo Trail and completely surrounds the Trout Lake Unit of the wilderness. Some timber stands identified in the Project could be cut right to the wilderness boundary.

Objecting primarily to the Project's potential impact on the BWCAW and surrounding inventoried roadless areas, the appeal claims: The Forest Service failed to consider direct, indirect, and cumulative impacts of the Project on the BWCAW; The Forest Service failed to preserve wilderness character pursuant to section 4(b) of the Wilderness Act of 1964; and the Project violates the 2001 Roadless Rule by allowing temporary roads and timber harvest in inventoried roadless areas (IRAs). A court hearing on the Echo Trail lawsuit was held in June, 2008 and a ruling is expected.

Coalition relationships with other organizations have given NMW access to legal resources we have not possessed in the past. Larger organizations may have one or more staff attorneys, and coalitions representing multiple public segments may have access to pro bono attorneys from law firms with resources to contribute to worthy causes. NMW has been fortunate to utilize these resources in recent wilderness advocacy.

Motorized Recreation

Motorized recreation is a major outdoor activity in the Arrowhead Region. It is also a major threat to the wilderness and wild places NMW seeks to preserve and protect. Motorized recreation (i.e.) "unmanaged recreation" is identified by USFS as one of the four major threats to the Nation's forests.

Until 2004, National Forests were essentially open to ATV use. The 2004 restriction of ATV to designated Forest Roads and approved trails necessitated planning for ATV use in Superior National Forest. An initial inventory of existing roads and trails has been completed and trail plans have been prepared for SNF. NMW submitted comments on proposed ATV road and trail openings in the SNF Gunflint and Tofte Districts (East Zone Travel Management Project), and later the Kawishiwi, Lac LaCroix, and Laurentian Districts (West Zone Travel Management Project). These projects were then combined into a single SNF Travel Management Plan. NMW was part of a coalition (FOBW, Midwest Ikes, Sierra Club NorthStar Chapter, MCEA) that submitted public comments on the Plan in July. NMW's primary contribution was on the ground inspection of existing and proposed ATV trails, and documentation of ATV damage. NMW submitted similar comments to the Minnesota DNR on its plans for ATV travel in State Forests in N. St. Louis Co. Due to lack of manpower we did not submit comments to DNR concerning its plans for Lake County.

SNF Law Enforcement

Violations of motor use regulations have become a significant concern for NMW. Illegal snowmobile entries in the BWCAW have been a problem for many years. Increased use of ATV has resulted in similar problems and in considerable damage to wild places in SNF. NMW members investigated ATV and snowmobile violations in the Range River area of SNF and the BWCAW. A report was submitted in '06 to the SNF Kawishiwi District. NMW also co-sponsored the '07 report by Kevin Proescholdt, "Wilderness Between the Cracks: Where Motor Use and other Wilderness Violations Have Degraded the Eastern

Part of the Boundary Waters Canoe Area Wilderness." (A copy of the report may be obtained by writing NMW or by contacting us through the NMW website.)

As a result of these reports, a series of meeting have been held with SNF officials. These meetings took a decidedly different turn in the summer of '07 when the Basswood Lake camper harassment and gunfire incidents occurred. Six Ely area men were arrested and five have been found guilty of numerous State charges. A sixth defendant was charged as a juvenile but will now apparently be tried as an adult. Federal and Canadian charges may also be filed. NMW has expressed its concern to SNF regarding the lack of systematic reporting of all major violations. NMW has suggested that lack of timely and systematic reporting of violations may actually be impeding public awareness and enabling violators.

In a related action, NMW in '07 joined with Friends of the BWCA in each matching a Forest Service reward of $1000 for apprehension and conviction of those responsible for the widespread vandalism at BW entry points in the Ely area. The vandals have yet to be apprehended.

Lead-Free Tackle

Lead is also known to be toxic to over 25 species of waterfowl including loons, ducks, geese, swans and eagles. Studies in the northeastern US have shown that 25-50% of adult loon mortality is due to ingestion of lead tackle. A single lead sinker can kill a loon in 2-3 weeks. Lead tackle has been banned in some form in Great Britain, Canadian National Wildlife Areas and National Parks, three US National Wildlife Refuges, Yellowstone, and five northeastern US states.

NMW and the Midwest Chapter of the Izaak Walton League developed legislation to ban lead fishing tackle in Minnesota. A Bill was introduced in the 2007 Minnesota Legislature by Senator Yvonne Prettner-Solon of Duluth. It soon became clear there was insufficient support to move the legislation forward. NMW will continue its efforts to educate fishing enthusiasts on this issue.

Public Information and Education

NMW offered information booths at two Ely summer festivals, the Blueberry Arts Festival in July and the Harvest Moon Festival in September. The blueberry fest draws an estimated 40,000 visitors and several thousand of these visited the NMW booth. We presented displays and distributed handouts concerning metallic sulfide mining, lead free tackle, motorized recreation, and vandalism in SNF. NMW Board members were joined by members Bob and Pat Tammen of Soudan in staffing the booth. Special thanks to Bob and Pat for long hours of effective communications.

NMW members will recall some differences of view regarding our Blueberry participation in '07. The issue was resolved thanks to some volunteer legal representation and the participation of the Minnesota Civil Liberties Union. Everything has proceeded smoothly in 2008.

We learned several things from our '07 festival participation. In addition to becoming informed about wilderness and environmental issues there is a public need for basic education concerning the concept of wilderness and the distinctiveness of NE Minnesota regarding wilderness and wild places. Several sub-groups among visitors require more attention. These include, children and youth, teachers seeking instructional materials and ideas, and a number of loggers, miners, fishing and hunting enthusiasts, and others with questions regarding NMW positions on issues of concern to them. We improved our '08 displays and handouts and will continue to add and update materials.

In addition to repeating in '09 the Ely festivals (Blueberry in late July, Harvest Moon, in early September), NMW plans to add the Grand Marais Fishermen's Picnic (late July). Please visit us at these festivals. And please consider volunteering to help staff our booth.

Regional Haze

By Federal Law, Minnesota is required to adopt a plan for reducing regional haze (reduction of visibility) in two "Class I" areas which are mandated to achieve natural visibility by 2064. The two Minnesota areas are the BWCAW and Voyageurs National Park. The Minnesota Pollution Control Agency (MPCA) is charged with this responsibility, subject to Federal approval. Several meetings were held in 2007 to secure public comments on the project. NMW participated in one of these and offered comments. A draft plan (SIP) was proposed in '08 and NMW submitted comments. Of particular concern to NMW is the fact that NE Minnesota taconite facilities by MPCA's own admission, "…may be currently uncontrolled or undercontrolled…" Eighteen facilities in NE Minnesota, chiefly taconite and electricity generating, account for 2/3 of the visibility impact from all such "point sources." The regional haze issue became more complicated in July when the DC Circuit Court vacated the Clean Air Interstate Rule. CAIR provided both a standard and a lever for some of the SIP proposed actions. Although not a fatal blow, the SIP proposal must now be reformulated.