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**IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF MINNESOTA**

CENTER FOR BIOLOGICAL DIVERSITY;	)	Case No.
SAVE LAKE SUPERIOR ASSOCIATION;	)	
SAVE OUR SKY BLUE WATERS;	)	<b>COMPLAINT FOR DECLARATORY</b>
FRIENDS OF THE CLOQUET VALLEY	)	<b>AND INJUNCTIVE RELIEF</b>
STATE FOREST; and DULUTH FOR	)	
CLEAN WATER;	)	

Plaintiffs,

v.

DEB HAALAND, SECRETARY OF THE  
 INTERIOR; UNITED STATES FISH AND  
 WILDLIFE SERVICE; UNITED STATES  
 FOREST SERVICE; and UNITED STATES  
 ARMY CORPS OF ENGINEERS,

Defendants.

## INTRODUCTION

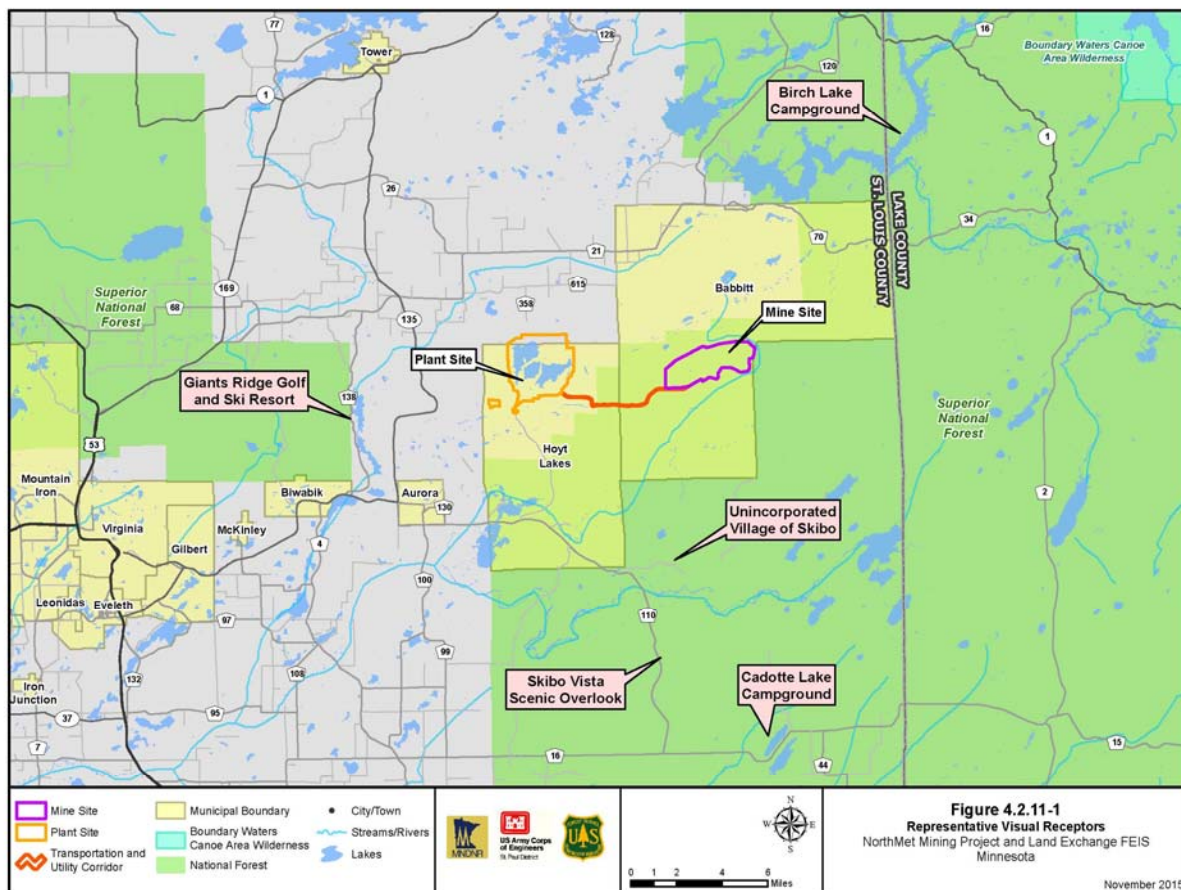
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1. Plaintiffs Center for Biological Diversity, Save Lake Superior Association, Save Our Sky Blue Waters, Friends of the Cloquet Valley State Forest, and Duluth for Clean Water challenge the failure of Defendants Deb Haaland, the United States Secretary of the Interior; the United States Fish and Wildlife Service (“FWS”); the United States Forest Service (“Forest Service”); and the United States Army Corps of Engineers (“Corps”) to comply with the Endangered Species Act (“ESA”), 16 U.S.C. §§ 1531 *et seq.*, and the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 551 *et seq.*, for the proposed NorthMet Mine Project and Land Exchange in northeastern Minnesota.

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2. Plaintiffs challenge (1) FWS’s February 5, 2016 Biological Opinion for the NorthMet Mine Project and Land Exchange; (2) the Forest Service’s reliance on the 2016 Biological Opinion when it approved the January 9, 2017 Record of Decision for the NorthMet Land Exchange; (3) the Corps’ reliance on the 2016 Biological Opinion when it approved the March 21, 2019 Record of Decision for the Clean Water Act Section 404 Permit for the NorthMet Mine Project; and (4) the ongoing failure of FWS and the Corps to reinitiate and complete ESA consultation for the NorthMet Mine Project despite significant new information and substantial changes to the Project revealing that the Project may affect threatened species and critical habitat in a manner and to an extent not previously considered.

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3. Plaintiffs seek (1) declaratory relief that FWS violated Section 7 of the ESA in preparing and approving the 2016 Biological Opinion for the NorthMet Mine Project and Land Exchange; (2) declaratory relief that the Forest Service and the Corps each violated Section 7 of the ESA in relying on the unlawful 2016 Biological Opinion in issuing their Record of Decisions and related decisions; (3) declaratory relief that the June 28, 2018 land exchange between the

Forest Service and PolyMet is void; (4) declaratory relief that FWS and the Corps are in ongoing violation of the ESA by failing to reinitiate and complete ESA consultation for the NorthMet Mine Project; (5) an order vacating the 2016 Biological Opinion, the Forest Service's 2017 Record of Decision for the Land Exchange, and the Corps' 2019 Record of Decision and Clean Water Act Section 404 Permit; (6) an order requiring FWS and the Corps to reinitiate and complete ESA consultation for the NorthMet Mine Project; and (7) injunctive relief to enjoin any implementation of the NorthMet Mine Project pending full compliance with the ESA.

4. The following map shows the location of the Plant Site, Mine Site, and Transportation/Utility Corridor for the proposed NorthMet Mine Project:



1           5.       The following is an aerial view of the Partridge River in northeastern Minnesota,  
2 near the proposed NorthMet Mine Site (photo by Rob Levine).  
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17                               **JURISDICTION**

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19           6.       Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331; 28 U.S.C. §  
20 1346; 5 U.S.C. §§ 551 *et seq.*; and 16 U.S.C. § 1540(g) because this action involves the United  
21 States as a defendant and arises under the laws of the United States, including the ESA, 16  
22 U.S.C. §§ 1531 *et seq.*, and the APA, 5 U.S.C. §§ 551 *et seq.* On November 10, 2021, Plaintiffs  
23 provided Defendants with notice of Plaintiffs' intent to file suit pursuant to the ESA citizen suit  
24 provision. 16 U.S.C. § 1540(g)(2). An actual justiciable controversy exists between Plaintiffs  
25 and Defendants. The requested relief is proper under 28 U.S.C. §§ 2201 & 2202; 5 U.S.C. §§  
26 705 & 706; and 16 U.S.C. § 1540(g). The challenged agency actions are final and subject to this  
27 Court's review under 5 U.S.C. §§ 702, 704, and 706.  
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**VENUE**

7. Venue is proper pursuant to 28 U.S.C. § 1391(e) and 16 U.S.C. § 1540(g)(3)(A), because a substantial part of the events giving rise to Plaintiffs' claims occurred in the District, Defendants have offices in the District, Plaintiff Center for Biological Diversity has an office in the District, and Plaintiffs Save Lake Superior Association, Save Our Sky Blue Waters, Friends of the Cloquet Valley State Forest, and Duluth for Clean Water reside in the District.

**PARTIES**

8. Plaintiff Center for Biological Diversity ("the Center") is a nonprofit corporation headquartered in Tucson, Arizona, with offices in a number of states and Mexico. The Center has an office in Duluth, Minnesota. The Center works through science, law, and policy to secure a future for all species, great or small, hovering on the brink of extinction. The Center is actively involved in protecting threatened and endangered species, and their habitat, nationwide and in Mexico. The Center has over 89,000 members throughout the United States and the world.

9. Plaintiff Save Lake Superior Association is a nonprofit organization based in Two Harbors, Minnesota. The Association, which originated in 1969, is the oldest citizen group working exclusively to preserve and protect Lake Superior. It was organized to help stop the dumping of taconite tailings into Lake Superior by Reserve Mining, whose tailings were threatening human health and contaminating the water and aquatic life.

10. Plaintiff Save Our Sky Blue Waters is a nonprofit public interest corporation based in Duluth, Minnesota. Save Our Sky Blue Waters is a grassroots organization that seeks to protect the ecological integrity of Minnesota's Arrowhead Region. From Lake Superior to the Boundary Waters, the Arrowhead Region is one of the most magnificent areas of the country, for

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