

Grijalva #3

**SUBSTITUTE OFFERED BY REPRESENTATIVE GRIJALVA FOR
THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3195 OFFERED BY REPRESENTATIVE STAUBER**

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Boundary Waters Wilderness Protection and Pollution Prevention Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Boundary Waters Canoe Area Wilderness is a 1,090,000-acre Federal wilderness area, located within the Superior National Forest, that was originally designated in the Wilderness Act of 1964 (Public Law 88–577).

(2) The Forest Service manages the Boundary Waters Canoe Area Wilderness, which includes—

(A) nearly 2,000 pristine lakes ranging in size from 10 acres to 10,000 acres, and more than 1,200 miles of canoe routes;

(B) 1,500 cultural resource sites including historic Ojibwe village sites and Native American pictograph panel sites; and

(C) 150 miles of land and water on the international border with the Government of Canada.

(3) In 1978, Congress passed the Boundary Waters Canoe Area Wilderness Act (Public Law 95–495) to remove incompatible uses, prohibit mining within the Boundary Waters Canoe Area Wilderness and on 220,000 acres of the Superior National Forest, and to provide management guidance to protect, preserve, and enhance the lakes, waterways, and forested areas of the Boundary Waters Canoe Area Wilderness to enhance public enjoyment of the unique landscape and wildlife.

(4) The federally recognized Grand Portage Band of Lake Superior Chippewa, the Fond du Lac Band of Lake Superior Chippewa, and the Bois Forte Band of Chippewa retain hunting, fishing, and other usufructuary rights throughout the entire northeast portion of Minnesota, including the Boundary Waters Canoe Area Wilderness, under the 1854 Treaty of LaPointe. All Bands have a legal interest in protecting natural resources and the Forest Service shares in the Federal trust responsibility to maintain treaty resources.

(5) The Rainy River Watershed lies within the Superior National Forest, which contains 20 percent of the fresh water supply in the entire National Forest System.

(6) The Rainy River Watershed headwaters begin in northeastern Minnesota and flow north through the Boundary Waters Canoe Area Wilderness and Voyageurs National Park and into Canada along the shared international border. These international waters are governed by the 1909 Boundary Waters Treaty, which states that “boundary waters and the waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other”.

(7) The waters of the Boundary Waters Canoe Area Wilderness and Voyageurs National Park are classified as Outstanding Resource Value Waters under Federal and State law, and degradation of water quality is prohibited. A risk of mining development is acid mine drainage which generally occurs when sulfide minerals are exposed to air and water creating sulfuric acid, which decreases water pH and leaches harmful metals such as copper, zinc, lead, cadmium, iron, and nickel.

(8) Acid mine runoff from sulfide-ore copper mining entering groundwater, rivers, streams, and lakes harms aquatic life, degrades water quality, and results in potential severe environmental impacts.

(9) A peer-reviewed study of water quality impacts from 14 operating United States copper sulfide mines found 100 percent of the mines experienced pipeline spills or accidental releases: 13 mines experienced failures of water collection and treatment systems to control contaminated mine seepage resulting in significant negative water quality impacts.

(10) The mining of copper and other metals in sulfide bearing ore on Federal lands in the Superior National Forest, within the Rainy River Watershed, poses a direct and long-term threat from sulfide-ore mining contamination to the pristine water and air quality and healthy forested habitat of the Boundary Waters Canoe Area Wilderness and Voyageurs National Park.

(11) The likely contamination of the air, water, and forested habitat of the Boundary Waters Canoe Area Wilderness and Voyageurs National Park from the mining of copper, nickel, platinum, palladium, gold, and silver on Federal lands within the Rainy River Watershed puts at risk—

(A) the nationally recognized natural resources of the area; and

(B) the region’s amenity-based and tourism industry, which if protected by a mineral withdrawal, would grow by 1,500 to 4,600 more jobs and \$100,000,000 to \$900,000,000 more income over the next 20 years than if such mining were not banned.

(12) In 2016, the Forest Service issued a Record of Decision which found “unacceptable the inherent potential risk that development of a regionally untested copper-nickel sulfide ore mine within the same watershed as the Boundary Waters Canoe Area Wilderness might cause serious and irreplaceable harm to this unique, iconic, and irreplaceable wilderness area”. The Forest

Service subsequently proposed a 20-year mineral withdrawal of 234,328 acres of Federal lands and waters in the Rainy River Watershed.

(13) In 2018, approximately 20 months into a 24-month review period of the Rainy River Watershed mineral withdrawal proposal, the Department of Agriculture abruptly canceled the withdrawal application and abandoned the Environmental Assessment.

SEC. 3. WITHDRAWAL OF CERTAIN FEDERAL LANDS AND WATERS IN THE STATE OF MINNESOTA.

(a) **DEFINITION OF MAP.**—In this Act, the term “Map” means the map prepared by the Forest Service entitled “Superior National Forest Mineral Withdrawal Application Map ” and dated December 5, 2016.

(b) **WITHDRAWAL.**—Except as provided in subsection (d) and subject to valid existing rights, the approximately 234,328 acres of Federal land and waters in the Rainy River Watershed of the Superior National Forest in the State of Minnesota, as located on the Map and described in the Federal Register Notice of Application for Withdrawal, dated January 19, 2017 (82 Fed. Reg. 6639), are hereby withdrawn from—

- (1) all forms of entry, appropriation, and disposal under the public land laws;
- (2) location, entry, and patent under the mining laws; and
- (3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(c) **ACQUIRED LAND.**—Any land or interest in land within the area depicted on the Map that is acquired by the United States after the date of enactment of this Act shall, on acquisition, be immediately withdrawn in accordance with this section.

(d) **REMOVAL OF SAND, GRAVEL, GRANITE, IRON ORE, AND TACONITE.**—The Chief of the Forest Service is authorized to permit the removal of sand, gravel, granite, iron ore, and taconite from national forest system lands within the area depicted on the Map if the Chief determines that the removal is not detrimental to the water quality, air quality, and health of the forest habitat within the Rainy River Watershed.

(e) **AVAILABILITY OF MAP.**—The Map shall be kept on file and made available for public inspection in the appropriate offices of the Forest Service and the Bureau of Land Management.