

Statement of Senator Jon Kyl
Before the
Subcommittee on Forests and Public Lands
Committee on Energy and Natural Resources
United States Senate

Concerning:

S. 409 – Southeast Arizona Land Exchange and Conservation Act of 2009

June 17, 2009

Mr. Chairman and Members of the Subcommittee,

Thank you for the opportunity to testify regarding S. 409, the Southeast Arizona Land Exchange and Conservation Act of 2009. Senator McCain and I introduced this bill on February 11, 2009. A similar bill, H.R. 2509, has been introduced in the U.S. House of Representatives by Congresswoman Ann Kirkpatrick.

S. 409 may be a new bill, but this land exchange is not. Senator McCain and I first introduced the land exchange over four years ago in the 109th Congress. Since that time, the land exchange has been subject to intensive review, public consideration, and modification. It is now time to report this bill out of Committee, pass it, and enact it into law.

The hearing today is the fourth public hearing on this land exchange (three in the U.S. Senate and one in the House of Representatives). So as not to belabor the basic details of the exchange, I submit my past testimony for the record.

I have reviewed the testimony of the Administration and I am disappointed to see that it has essentially reversed course on this legislation by asking for more time to review it. At each of past three hearings, the agencies affected, the Forest Service and the Bureau of Land Management, have testified in support of the land exchange. The Forest Service has also testified that the exchange as a whole is in the public interest and why¹. Mr. Joel Holtrop, who is here with us today, stated:

It is the Department's view that, on balance, the exchange as a whole is in the public interest. The National Forest System lands identified for exchange contain significant ore deposits of copper, silver and gold. This area is historically important to the economic vitality of Arizona and today remains an active mining area, contributing significantly to the nation's mineral production.

¹ S. Hrg. 110-572, Statement of Joel Holtrop, Deputy Chief, National Forest System, Forest Service, Department of Agriculture, page 21 S. Hrg 109-582, Statement of Joel Holtrop, Deputy Chief, National Forest System, Forest Service, Department of Agriculture, page 17.

In addition, most of the non-federal properties that would be acquired have high public resource values and would benefit from public ownership. The Forest Service could protect the riparian habitat, archeological sites, two miles of permanently flowing trout stream, a year-round pond, and an endangered cactus species on the acquired lands. Further, as part of the exchange, a conservation easement for the Apache Leap escarpment would be transferred to the federal government by Resolution Copper.²

In addition, the Secretary of the Department of Agriculture also explained why the exchange is in the public interest. Secretary Johanns stated:

It is the Department's view that the exchange as a whole is in the public interest. The National Forest System lands identified for exchange are within the "Globe Copper District," a highly mineralized area in the State of Arizona of national significance for ore deposits containing copper, silver and gold. This area's importance to the economic vitality of Arizona is historical and today remains a very active mining area, providing a major contribution to the country with copper, which will in turn benefit the community of Superior economically. Additionally, there may be a benefit to the Gila County tax base if the federal land is conveyed into private ownership. Most of the non-federal properties which would be acquired have high public resource values and would provide benefits in public ownership.³

So what is new since the last public hearing in July 2008? Nothing whatsoever. If anything there is even more reason to support and move forward with this legislation. I will highlight some of those key reasons: first, both the President and Congress have placed a policy emphasis on "going green." In fact, this Committee is working on an energy bill right now that would mandate renewable energy production from solar, wind, geothermal and other technologies. To "go green," however, you need copper. All these systems will depend heavily on copper to transmit the energy they generate with maximum efficiency and minimum environmental impact. Let's look at wind. A large wind-driven turbine alone incorporates more than a ton of copper. Alternative transportation systems will also increase our domestic demand for copper. For example, electric and hybrid car production use twice as much copper as traditionally designed vehicles. Where is this copper going to come from to meet this demand? The mine envisioned in this legislation could supply as much as 25 percent of the United States' demand for the next 50 years.

Second, we have an economy in need of a stimulus. This legislation could produce a significant return to the Federal Treasury and the economy of the State of Arizona. It is my understanding that this mine, once in operation, could have a total economic impact of more than \$50 billion, \$800 million per year if the price of copper were only \$1.30 per pound. (As of yesterday it was \$2.38 per pound.)

² S. Hrg. 110-572, Appendix I, page 71.

³ S. Hrg. 109-582, Appendix I, page 45.

Third, we need to put Americans back to work. The mine made possible by this legislation would create jobs. The mine is expected to create 1,400 permanent, high quality, technical jobs directly affiliated with the mine (1,200 direct jobs and 200 contract jobs). Further, it is anticipated that several thousand jobs will be created during the construction phase of the mine. These jobs are especially important to this region in Arizona where unacceptably high unemployment has become the norm.

Ultimately, as you know, it is Congress's job to determine what is in the public interest as the branch of government closest to the people and answerable to them. Meeting our copper demand with a domestic supply, stimulating our economy, and creating jobs demonstrate that the public interest would be well served by this land exchange. But that is not all that makes this land exchange in the public interest. The land exchange would require Resolution Copper to convey to the federal government approximately 5,634 acres (9 parcels) that are exceptional in resource values and would secure such important objectives as protection of fish and wildlife habitats and cultural and historic resources, enhancement of recreational opportunities, and consolidation of lands for more logical and efficient land management.

Despite the fact that this bill is overwhelmingly supported in Arizona, there is a vocal minority that is resorting to scare tactics to kill this bill. They say allowing this project to go forward circumvents environmental reviews, destroys cultural resources, and gives away a valuable mineral resource. I want to assure everyone here today that none of this is true.

- (1) Environmental compliance is important and there are numerous provisions in this bill that require it. For example, an Environmental Impact Statement would be required prior to commencing production in commercial quantities of any valuable minerals.⁴ The bill also requires that any land surveys, required clearances, reviews, mitigation activities, and approvals relating to threatened and endangered species, cultural or historic resources, wetlands or floodplains or hazardous materials be completed before the exchange can take place.⁵ Additional environmental compliance requirements will also have to be addressed at the state and local levels in order for this mine to be developed.
- (2) Protection of cultural resources and respect for Native American customs and traditions in the land exchange area are a priority. The bill contains an entire section that would permanently protect Apache Leap⁶; it also allows for continued acorn gathering at Oak Flat and requires management of the J-I Ranch parcel to allow for traditional activities relating to acorn gathering⁷.
- (3) Ensuring this is a fair value exchange for the American taxpayer is a must. For this reason, the bill requires Resolution Copper to make a cash payment called a "value adjustment payment" to the United States on any production from the mine that exceeds the production assumed in the appraisal.⁸

⁴ See S. 409 Section 5(c).

⁵ See Id. Section 5(b).

⁶ See Id. Section 8.

⁷ See Id. Section 9 (a) (3).

⁸ See Id. Section 12.

After four years of working on this bill with the people of Arizona, the Arizona delegation, the agencies, and your staff, I am hopeful we can get this bill done quickly. Thank you for holding this hearing and for your time and attention.