

Testimony of David Salisbury
President, Resolution Copper Mining, LLC
before the
U.S. Senate Sub-Committee on Forests and Public Lands
concerning
S. 409, Southeast Arizona Land Exchange and Conservation Act of 2009

June 17, 2009

Mr. Chairman and Members of the Subcommittee:

My name is David Salisbury. I am the President of Resolution Copper Mining LLC (“Resolution Copper”), which is a company headquartered in Superior, Arizona and owned by subsidiaries of Rio Tinto plc and BHP-Billiton plc. I am here in support of S. 409, and to briefly describe the efforts we have made to address various issues subsequent to Subcommittee hearings on similar legislation over the past three years.

The Southeast Arizona Land Exchange and Conservation Act of 2009, S. 409, represents an important step toward the development of a large, underground copper mine in a historic mining district.

This legislation would allow us to acquire sufficient acreage of National Forest land, known as the Oak Flat parcel, where much of our new underground mine will be located. Most of the land needed is already blanketed by unpatented mining claims which we or our predecessors have owned and maintained for decades. As you can see from the map attached to my testimony, the Oak Flat parcel abuts, or is intermingled with, private land we already own. That private land was the site of the Magma underground copper mine, which operated from 1912 to 1996, and produced 25 million tons of copper ore.

In the late 1990s, exploratory drilling revealed the existence of a very large copper deposit located adjacent to the old mine workings, but at a far greater depth of 4,500 to 7,000 feet below the surface. This will require us to sink deep shafts and tunnels to access the ore body. Once we have done this, we will complete a model of the precise geotechnical conditions and determine if it is feasible to construct the mine.

Developing a mine a mile to a mile and a half beneath the surface, where the temperatures are up to 175 degrees Fahrenheit, is not only technologically difficult, but also an extremely expensive and financially risky proposition. An investment of approximately \$1 billion is required to carry out exploration and feasibility study work with more that \$410 million having already been spent. If the mine is economically and technically feasible, Resolution Copper will spend at least \$4 billion toward capital investment before mine construction is finished and we ship our first load of copper. Resolution Copper has not made the final determination as to the economic and

technological feasibility of mining this ore body. Despite a high level of confidence on the part of our engineering team, it will require an additional investment of approximately \$530 million before we can make this determination.

To secure this type of investment, we believe it is critical both to possess an ownership interest in the land where we will be operating and to provide an adequate safety buffer around the mining area. Further, the area around the project is intermixed with public and Resolution's private lands preventing a safe and workable approach to mine permitting, development and operation. In addition, because we will intensively use the Oak Flat area for the mine, the land we are seeking to acquire will have a limited lifespan for continued public use in order to maintain safety for the public in proximity to the mine.

We realize that our land exchange will result in the loss of a Forest Service campground and some other public recreation, but believe that this legislation more than compensates for those losses with the conveyance of high quality ecological and recreational land to the United States. Once operational this mine would provide approximately 25 percent of the Nation's annual needs for copper from a safe, domestic source for approximately 50 years.

Building upon the national interest I have just outlined, allow me to explain the significant economic and fiscal impact the mine will have. The ore body is located in a region with over 100 years of mining history known as the "Copper Triangle." This region has suffered with high unemployment for a number of years and our mine is expected to bring 1,400 permanent, high quality, technical jobs directly affiliated with the mine (1,200 direct jobs and 200 contract jobs) and a large number (4,400) of service related jobs to the region. Further, we anticipate the creation of several thousand jobs during the construction phase of the mine.

Included with my testimony I have submitted the executive summary of an economic and fiscal impact study prepared in April 2008 by Elliott D. Pollack & Company, and I would like to provide you with a few highlights directly from that report:

- The mine impact is estimated to last 66 years, with 16 years of feasibility planning and construction in preparation for 50 years of mining operations.
- The total economic impact of the 66 year project on the State of Arizona, including the additional development of residential, commercial, and industrial land in Superior, is estimated to be \$46.4 billion. During the peak years of mine projection, the annual economic contribution of the mine itself is estimated to be \$536.6 million. If the additional development of residential, commercial and industrial land is considered, the peak annual economic contribution to the State is projected to be \$798.2 million. For a comparative perspective, studies have estimated the economic impact of an NFL Super Bowl type event to be approximately between \$250 million and \$500 million.

- In terms of fiscal impacts, the project is estimated to generate total federal, state, county, and local tax revenue in excess of \$10.7 billion.

It is important to understand that all of the fiscal and economic impacts were based on the assumption that copper is priced at \$1.30 per pound (which was based on the long term price as calculated by the Arizona Department of Revenue). Today, copper is trading at about \$2.20 per pound, so the assumptions in this study are very conservative and the economic benefits to both the U. S. and Arizona could be greater.

As I indicated, the planned mine will be a very deep underground mine utilizing a proven method of mining called panel caving. Unlike an open pit mine, it will have minimal waste rock dumps. We plan to ship the ore from Oak Flat via underground tunnel to an existing open pit mine site in the area. We then expect to process the copper ore at that site and deposit the tailings to fill one or more existing open pits from closed mines, and then reclaim and re-vegetate those backfilled pits. We believe that undertaking will significantly benefit the environment. In addition, Senator Kyl has included subsection 5(c) in this legislation to expressly confirm that before we open the mine, as already required by existing law, the entire operation and its environmental impacts will be subject to full review under the National Environmental Policy Act.

In developing the land exchange proposal in S. 409, we have worked with the United States Forest Service, the Bureau of Land Management (BLM), the Arizona Game & Fish Department, and numerous Arizona conservation organizations to ensure that the lands we are conveying to the United States have greater environmental and other public values than the lands we are receiving at Oak Flat. In S. 409, Resolution Copper will convey ten parcels of land, totaling approximately 5,566 acres to the United States in return for the Oak Flat parcel. Whereas most of Oak Flat is relatively flat, and has no permanent water - the ten parcels we have assembled for exchange have exceptionally rich ecological, recreational and other values, and many of them have significant year-round water resources. I want to emphasize that these parcels were recommended to us by The Nature Conservancy, the Audubon Arizona, the Sonoran Institute and in consultation with the BLM and the US Forest Service. The attributes of these offered lands include:

- 1) A new rock climbing parcel near Oak Flat;
- 2) Seven miles of river bottom and riparian land along both sides of the free flowing San Pedro River, which is one of the most important migratory bird corridors in the United States. (As requested by the BLM at the November 2007 hearing on H.R. 3301 in the House Subcommittee on National Parks, Forests, and Public Lands, this parcel will be immediately added to the existing San Pedro Riparian National Conservation Area);
- 3) Two miles of trout stream and other fish and wildlife habitat along East Clear Creek in the Coconino National Forest;
- 4) Possibly the largest, and most ancient, mesquite forest (or bosque) in Arizona;

5) Nine hundred and fifty-six acres of extremely diverse grassland habitat in the Appleton-Whittell Research Ranch - an existing preserve jointly managed by the Forest Service, BLM and the Audubon Society inside the Las Cienegas National Conservation Area; and

6) Four in-holdings in the Tonto National Forest which have significant riparian, recreational, cultural, historic and ecological amenities including populations of the endangered Arizona hedgehog cactus.

S. 409 also provides that Resolution Copper must convey all ten parcels to the United States, regardless of value. If the ten parcels appraise at a higher value than the Oak Flat parcel, we will donate the excess value to the United States.

Accordingly, this land exchange will result in very significant net gains to the United States in: 1) river bottoms and riparian lands; 2) habitat, or potential habitat, for threatened, endangered and sensitive species; 3) public recreational opportunities; 4) habitat for innumerable species of flora and fauna; 5) important bird areas; and 6) year-round water resources - a rarity in many parts of Arizona. In light of this, we believe the exceptional quality and quantity of the non-federal lands that will be conveyed into Federal ownership more than off-set any expected surface impacts to the lands acquired by Resolution Copper.

Mr. Chairman, we have also agreed to several provisions in S. 409 that are designed to assure that the taxpayers receive full fair market value in this land exchange and that any facilities or activities we displace at Oak Flat land are adequately replaced, or improved upon. I will briefly describe these key provisions:

- S. 409 requires that the existing Forest Service campground at Oak Flat, which has 16 developed campsites, will be replaced with a new campground or campgrounds. Based on testimony presented at the hearing in the House in the fall of 2007 by the U.S. Forest Service, we have increased the amount we will pay for the replacement campground(s) from \$500,000 to \$1 million and increased the time for establishing the new campground from 2 years to 4 years. The bill now provides that the U.S. Forest Service will continue to own and operate the Oak Flat Campground for 4 years after bill enactment.
- Portions of the Oak Flat parcel and adjacent areas, including areas of our existing private land, are used for rock climbing. To accommodate these activities, we have agreed to several actions. First, as mentioned earlier, we have now added our 95 acre Pond parcel to the land exchange. Second, we have committed to keeping certain areas open for climbing for as long as it is safe to do so.
- Resolution Copper has committed to working with neighboring Native American communities. Resolution Copper also acknowledges the sovereignty of the San Carlos and respects their request for government-to-government discussions. As a result, S. 409 changes the previous legislation to leave the entirety of the Apache Leap in U.S. Forest Service ownership. Additionally we have added 110 acres of our own land at the south end

of Apache Leap to the package of lands that will be conveyed to the US Forest Service. Likewise, S. 409 requires that accommodations be made for the purpose of traditional acorn gathering in the area in and around the Oak Flat Campground upon request from the Apache or Yavapai Indian tribes.

- Finally, subsection 7(a) provides that all appraisals will be conducted in accordance with U.S. Department of Justice appraisal standards, which are used for all Federal land transactions. The Forest Service will write the appraisal instructions and all appraisals must be formally reviewed and approved by the agency. This means that the appraisal process will be under the government's complete supervision and control.

Finally, we are aware of the mining law reform legislation which passed the House last year and of Chairman Bingaman's bill in the Senate. While the Federal appraisal process to be used for this land exchange fully incorporates royalty considerations, as required by the Justice Department standards the lands and any cash equalization we convey to the United States in the exchange will constitute a full up-front royalty payment under the appraisal process, we have agreed to go a step further. Namely, section 12 of S. 409 now provides that if the cumulative production from our mine ever exceeds the production assumed by the appraiser, we will pay a value adjustment payment on any excess production. In doing that, the public will be protected in the event the appraiser errs in the mine production assumptions or if subsequent mining operations discover and produce more ore than originally assumed. We believe this is an eminently fair proposal which, by definition, fully protects against potential production errors in the appraisal process.

That completes my testimony. I very much appreciate the opportunity to testify before you today and stand ready to answer any questions the Subcommittee may have.

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