

**Written Comments from Roy C. Chavez  
of The Concerned Citizens and Retired Miners Coalition  
Regarding  
Hearing on S. 409 Southeast Arizona Land Exchange and  
Conservation Act of 2009  
Before the Public Lands and Forests Subcommittee of the  
Senate Energy and Natural Resources Committee  
Wednesday, June 17, 2009**

The Concerned Citizens and Retired Miners Coalition is a group of citizens who: 1) reside in Superior, Arizona, or do not reside in Superior, Arizona, but are affiliated with relatives who are residents; 2) are retired hard-rock miners who previously worked in the now non-operational mine in Superior, Arizona, and were displaced due to mine closure or personal disability; or 3) are individuals who are concerned that important U.S. public recreational land will be conveyed to a foreign mining company for private use.

The Concerned Citizens and Retired Miners Coalition realizes that Superior, Arizona, was born as a mining community and has lived through the mining booms and busts of the Silver King Mine, the Queen Mine, the Belmont Mine, the Magma Mine and the Broken Hill Proprietary Mine over the history of our 100 plus years. Because we recognize that mining is a large part of our history and will potentially be a larger part of our future, we are not opposed to mining. In fact, we strongly support responsible mining policies, and practices in and around our community. However, we believe that S. 409 is unacceptable as it presents serious negative impacts to us and our surrounding community as it seeks to circumvent the important National Environmental Policy Act (NEPA) review and analysis process. We also believe that there is no need for a land exchange for the mine to move forward with their plans to mine this area.

We appreciate and thank you for the opportunity to express our views and voice our concerns about S. 409, the Southeast Arizona Land Exchange and Conservation Act of 2009 (Oak Flat Land Exchange) that will profoundly affect our community.

**Oak Flat Land Exchange and Loss of Important Public Campground and Recreational Areas**

Resolution Copper Mining, LLC, owned by Rio Tinto based in the United Kingdom, and BHP-Billiton based in Australia, is planning a massive block-cave mine and seeks to acquire Oak Flat Campground and the surrounding public lands for its use through this land exchange bill. If they succeed, the campground and an additional 2,406 acres of the Tonto National Forest will become private property and forever off limits to recreationists and other users. Privatizing this land would end public access to some of the most spectacular outdoor recreation and wildlife viewing areas in Arizona. It would deprive the Town of Superior, currently land-locked at only 4 (four) square miles, from

economic diversification in and around our community. It would also deprive the San Carlos Apache Tribe of their religious and cultural attachments to the area.

Located just 5 miles east of Superior, Oak Flat and Devil's Canyon are recognized as some of the most unique, scenic, popular and unspoiled areas in the State of Arizona; and they are an important part of our history and our economic diversification. It has long been prized for its recreational variety. This area is exquisite and easily accessible to millions of visitors from the Phoenix and Tucson metropolitan areas, as well as the outlying areas of Gold Canyon, Queen Valley, Florence, Kearny, Winkelman, Hayden, Globe, Miami, Top of the World and Superior. It is significant to our neighbors, the Apache people, for their cultural values and religious heritage.

The Oak Flat Campground, Apache Leap, and the surrounding area are important to the Apaches who gather acorns and pine nuts that are used both traditionally and ceremonially. Apache Leap is an historical land known as the Apache's Masada. It is there that many Apaches leaped to their deaths rather than be captured by the U.S. Army approximately 125 years ago. One of our local historians, Christine Marin, PhD, Archivist and Historian for Arizona State University and who is a former resident of Globe, Arizona, and still has family in Superior, Arizona, published an article in the *Copper Country News* dated June 11, 2008. In her article entitled, "Apache Leap Legend: Now We Have 'The Rest of the Story'," Dr. Marin indicated that the story of the Apache warriors is verified by two historical publications. We believe that these lands have significant import to the Apaches and that their wishes should be carefully considered and respected. It is because of this that on March 18<sup>th</sup> of this year, The Concerned Citizens and Retired Miners Coalition joined in partnership with the San Carlos Apache Tribe in fighting to oppose S. 409.

You, our Federal legislators, are being asked to give up these publicly owned lands that have been in trust for the American and Native peoples since 1955, when President Eisenhower signed BLM Public Land Order 1229. This Order specifically put Oak Flat off-limits to all future mining activity. In 1971, President Nixon issued BLM Public Land Order 5132 to modify PLO 1229 and allow "all forms of appropriation under the public land laws applicable to national forest lands—except under the U.S. mining laws." These two executive orders from two different Republican administrations both mandated that these lands were to be preserved in perpetuity with special emphasis on prohibiting mining activities on Oak Flat. There is no compelling reason for these Orders to be overturned.

A decision regarding these public lands should be made with utmost knowledge and care. Once these lands are lost to the public, they can never be regained.

We are particularly concerned that this legislated land exchange of the Oak Flat Campground and surrounding area would bypass critical environmental impact studies. We fear that cultural resources will not be protected. We know, without a doubt, that subsidence will occur and that it will adversely affect our community. We don't have any information regarding RCC's proposed disposition of the massive amounts of tailings that will be produced and where they will reside. We are terrified that downstream pollution will affect the Town of Superior and everyone who depends upon the nearby

aquifers for drinking water. Our local water supplier recently imposed an additional “arsenic surcharge.” While The Magma Mine was operational, local residents were told that there was no pollution or effects on the water supply. Now, 20 years later, we find that there was—and continues to be—a price to pay for giving a foreign-owned mining company carte blanche because we trusted the mine explicitly. We are also worried that a mine would dry up not only the town of Superior’s water supply, but a portion of the water supply for the Phoenix metropolitan area. We also have good reason to believe that mining at Oak Flat will destroy the riparian habitat not only at Oak Flat, but the nearby Devil’s Canyon which is one of Arizona’s great undiscovered riparian treasures. It is for these reasons and many more that we oppose the Oak Flat land exchange legislation.

### **Water, the Environment, and Destruction of Land Surface**

The Concerned Citizens and Retired Miners Coalition believes it is critical that Hydrology Surveys, Environmental Impact Studies, Subsidence Analyses and Transportation and Circulation Plans be conducted PRIOR to discussion of **any** land exchange and/or different use.

Resolution Copper Company’s Environmental Impact Assessment Manager, Bruce Marsh, indicated to one of our Coalition Members that the new mine would utilize 40,000 acre feet of water per year. He further indicated that they would be buying excess water from the tribes and other sources, however, they are merely banking those water rights and the sources are not secured. This is a concern because: 1) Arizona is still in the grip of a 14-year drought with dwindling Central Arizona Project supplies, and we do not have any assurances that water will still be available when Resolution Copper Company begins mining in the next ten (10) years; 2) Superior is located in the Maricopa AMA rather than the Pinal AMA, and Phoenix metropolitan area water supplies depend upon the Queen Creek aquifers; 3) The close proximity of the Queen Creek aquifer to a massive mining operation will negatively disrupt the underground water flow and negatively impact hundreds of thousands of residents; and 4) Neither the State of Arizona nor the local residents should have to bear the burden of restoring clean and sustainable water utilized by mining.

RCC has already begun to dewater the #9 shaft to prepare for additional exploration of the ore deposit. We fear that in removing the more than 2 billion gallons of water that have accumulated in the mine since it was last shut down in 1996 will upset the water balance of the Oak Flat, Apache Leap, and Devil’s Canyon riparian areas. In 1946, Queen Creek was called a perennial flowing stream. Our members tell us that when the Magma Mine was in full production during the 60s and 70s, riparian areas at Oak Flat and in the Town of Superior dried up. An analysis of the impact of a potential mine at Oak Flat to the water balance of the entire region should be conducted before this bill should even be considered by Congress.

The Concerned Citizens and Retired Miners Coalition have been alarmed about the issue of subsidence from Resolution Copper Company’s proposed block-cave mining method and its effect on Oak Flat Campground, Apache Leap escarpment, US Highway 60, and the Town of Superior. Resolution Copper Company has finally admitted to only

“minimal subsidence.” However, they admittedly chose this method of mining as it is the least expensive and quickest method to approach this massive ore body. However, experts have demonstrated that there will be irreparable destruction to the surface utilizing the block-cave method of mining. This is absolutely unacceptable.

Resolution Copper Company has not yet determined the manner in which the tailings will be accumulated. Since there will be a considerable volume of tailings that will be created by this method of mining, The Concerned Citizens and Retired Miners Coalition is concerned about the contamination associated with this activity. We are also concerned regarding reclamation of these tailings upon mine closure.

S. 409 mentions the National Environmental Policy Act (NEPA) but the bill does not provide for even the most basic study and analysis of these issues and concerns **prior to** obtaining the land exchange. Furthermore, if the land exchange is granted, the “NEPA” language in the bill is so vague that the company could easily avoid doing any “NEPA” analysis. Even if a “NEPA” study were to be conducted after the land exchange went into effect, the results would be meaningless as the outcome of the study would already be mandated by law.

The Concerned Citizens and Retired Miners Coalition believes that Resolution Copper Company should not be exempt from the required national permitting studies and analyses that have been required of the other mines in the area by virtue of a land exchange. **No other mining corporation in this area has been allowed to bypass the Federal permitting and NEPA process.**

If the start-up timeframe proposed by Resolution Copper Company is correct, then there is plenty of time to conduct the full public review process. Additionally, if Resolution Copper Company is as “transparent” as they profess, they should welcome this endeavor to put all the “cards on the table” and hear everyone’s input.

We also believe that details of the project and potential impacts (Mining Plan of Operation) should be made available to our residents and to the general public up front. We continually hear that Resolution Copper Company will make this plan available later—after the Oak Flat land exchange. We feel that if the land exchange is of utmost importance, Resolution Copper Company should accelerate production of their plan NOW—before the Oak Flat land exchange.

### **Public Response Opposing the Federal Land Exchange of Oak Flat Campground, and Surrounding Areas**

The Concerned Citizens and Retired Miners Coalition began gathering signatures opposing the Federal Land Exchange of Oak Flat Campground and surrounding areas in March of 2007 and obtained 90 pages of hard-copy petitions from the public over a 4-month period. Of the 692 individuals who signed, 315 were Superior residents and 377 were concerned citizens residing outside of Superior, Arizona. Additionally, we initiated an on-line petition process and to date have gathered 4,047 signatures world-wide opposing the Oak Flat land exchange.

## **Threat to the Town of Superior's Economic Diversification and Sustainability**

Many members of our Coalition have lived through the boom and bust cycle of mining. After closure of the Magma/BHP mine in the 1990s, many people fled the community in search of jobs, medical treatment facilities and amenities that were not available in Superior. Voters taxed the political body to create a more diversified and sustainable economic basis for its residents. The Town received grants to develop an Industrial Park, a low-income housing subdivision, a new swimming pool, second fire station, airport, rest stop and numerous parks and trails. These projects were initiated to create jobs for our local residents, to increase state-shared revenue and local taxes and to encourage ecotourism.

The Concerned Citizens and Retired Miners Coalition believes that in order to sustain growth and development, *we cannot rely on any **one** industry to support us*. Mining has an allure and historical ties in our community. However, just as in the past, mining has a short life. We cannot base our future on one single industry or employer.

While Resolution Copper Company has promised great hope for another “boom,” they do not willingly embrace annexation into our town limits, they have purposely depreciated their land values in anticipation of the land exchange and they have strong-armed our government officials and management into accepting less than adequate compensation for future use of the Town's services and support.

### **Summary**

Resolution Copper Company has divided this community by demanding that the Town Council speak for the residents of Superior in unwavering support of a land exchange that is not necessary in order for Resolution Copper Company to mine. Behind the scenes, their representatives have attempted to force the firing of individuals opposing the Land Exchange. Those individuals who question Resolution Copper Company in any fashion are deemed to be “anti-mine.” Businesses deemed “anti-mine” are not supported by Resolution Copper Company, their employees or agents—in fact RCC employees are urged to boycott! These strong-arm tactics should not be allowed to pervade a community already distraught from previous “boom and bust” mining cycles.

S. 409 does not represent a land exchange that is in the broader public interest. It is clear to The Concerned Citizens and Retired Miners Coalition that Presidents Eisenhower and Nixon believed that they were protecting Oak Flat from big business interests in acquiring public lands for development, mining and transportation. Oak Flat has been important enough to protect from mining and other elements for over 50 years, and it should not be so easily conveyed to a foreign-owned mining interest. This land exchange would set a terrible precedent.

The Concerned Citizens and Retired Miners Coalition strongly urges the Public Lands and Forests Subcommittee of the Senate Energy and Natural Resources Committee to ensure that **the concerns of all public interests** are addressed prior to consideration of any Federal land exchange. We believe you should protect these public lands for the

public's future use and preserve the unique opportunities for Arizonans—and especially Superiorites—that the Oak Flat area provides.

For these and many other reasons, we oppose S. 409, the Southeast Arizona Land Exchange and Conservation Act of 2009 and feel that it should be rejected.

Thank you for your time and consideration.

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