

Response to Gosar/Kirkpatrick “Dear Colleague” Letter on H.R. 687

When you cannot provide a fact-based and reasoned response to your opponent’s argument, the best thing to do is don’t try – instead, just make up a different argument that is much easier to refute – even if untrue. This classic “burn the straw dog” tactic deliberately mischaracterizes the opponents’ objections to H.R. 687 instead of meaningfully answering the many questions and concerns that this bill presents. In order to set the record straight, a brief response to these arguments is presented below.

Tactic #1: *The project is going to be operated by robots from China and lead to no U.S. jobs.*

Response: The Opponents of the H.R. 687 have never argued that RCM’s mine project will be operated “by robots from China.”

However, the fact is that the mine will be highly automated and require very few on the ground workers, in particular traditional miners from Superior.

Rio Tinto Ltd. has publicly made clear since as early as 2008 that its RCM mine will be highly automated and require few on the ground workers, much like many of their other mines around the world.

Rio Tinto refers to this extreme level of automation as its “Mine of the Future™.”¹ For example, Rio Tinto’s Pilbara automated mine has very few on the ground workers, as it is controlled almost entirely from its Remote Operating Center in Perth, Australia, more than 800 miles away.²

Rio Tinto explains that this extreme level of automation will be used at the RCM mine. *“There is no other mining operation anywhere in the world attempting this on this scale. Our driverless trucks, remotely operated drill and blasting, automated train systems and remote train loading functions are just the start of a revolution that is transforming the way we extract value from our resources. . . .”*³

In short, there are very few jobs for local people and traditional miners associated with this mine project, which will be one of Rio Tinto’s “Mines of the Future.”

Also, while there may not be any robots coming from China for this project, it should not be lost on anyone that China has a big stake in the Resolution Mine project! China owns part of Rio Tinto and has invested in the RCM mine project. Why? Because

¹ See Rio Tinto Press Releases (PR), 23 Feb. 2010; 25 June 2010; 21 Feb. 2012. <http://www.riotinto.com/media/media-releases-237.aspx>

² See PR 25 June 2010. <http://www.riotinto.com/media/media-releases-237.aspx>

³ See PR 25 June 2010. <http://www.riotinto.com/media/media-releases-237.aspx>

China desperately needs the copper ore and other resources that Rio Tinto hopes to mine and remove from our public lands at Oak Flat.

It is well documented that China is both stockpiling and consuming vast amounts of the world's resources to grow its economy, build cities and enhance its military. In 2010, it was estimated that China was using 41% of the world's copper supply.⁴ In fact, it has been estimated that China could use all of the known copper supplies in the world over the next decade.⁵

To ensure that the copper from Oak Flat will make its way to China, officials from Rio Tinto and RCM have been working with the Country of Mexico and its port authorities to expand the port of Guaymas, Mexico specifically so the copper concentrate from this mine can be shipped quickly and efficiently overseas, including to China.⁶ This means that if H.R. 687 is enacted, it is China and not the United States that will benefit from this Country's domestic copper supplies.

Tactic #2: *The mine will drain Arizona's water resources leaving the population high and dry!*

Response: Congressman Gosar and Congresswoman Kirkpatrick suggest that Arizona should not be "worried" about the impact of these foreign mining companies' massive proposed mine on Arizona's increasingly drought stricken and limited water supplies. Of course, we should be worried!

RCM has refused to provide their water studies for outside review and scrutiny. This is why it is so important that the NEPA process be completed before the land exchange, since under NEPA the forest service will engage in its own, independent and scientific study of the impacts of this mine to Arizona's water supplies.

Furthermore, while RCM may have "never planned on relying only on local groundwater resources" for their mine, the mine will nevertheless have a huge impact on these resources. A significant amount of water will not only be used in the mining process, it will also have to be pumped and permanently removed from the massive underground workings of the mine (located at well below 3,000 feet below sea level) over the entire

⁴ Sims, Glenys, Bloomberg News: "Copper Shortage Seen Extending as China Accelerates" (<http://www.bloomberg.com/news/2012-11-28/copper-shortage-seen-extending-as-china-accelerates-commodities.html>).

⁵ Bloomberg News: "China Can Use More Copper Than World Has Now With Yang's Stove" (<http://www.bloomberg.com/news/2010-11-02/china-seen-using-more-copper-than-world-produces-now-with-yang-s-new-stove.html>).

⁶Rico, Gabriela, Arizona Daily Star: "Port of Guaymas set to expand" (http://azstarnet.com/business/local/port-of-guaymas-set-to-expand/article_1faea8eb-20bf-5fa3-b22c-95d98727a374.html); also see Secretaría de Comunicaciones y Transportes PowerPoint: "Puerto de Guaymas: 2007-2011 Development" - slide 36.

40-50 year life of the project. This process, called “mine dewatering”, will result in an exponential depletion of groundwater supplies throughout the region and dry up the many important seeps, springs and other water features in the area.

Besides, the water that the mine is “stockpiling” for mine use by purchasing Central Arizona Project water supplies comes from the Colorado River – the very same River that the U.S. Bureau of Reclamation recently determined will have a shortfall of 3.2 million acre-feet of water by the year 2060.⁷ This water is short supply and it is desperately needed for the future of farmers, cities and towns across the State, not mines.

Of course, RCM promises to protect Arizona’s fragile water supply, but in the end, they don’t come from Arizona – and their highest priority is to mine this place for the benefit of foreign countries (like China) and to deliver the highest amount of profits to their foreign shareholders around the world. This may indeed leave Arizona “high and dry”!

Tactic #3: *The RCM Mine will cause Apache Leap to collapse.*

Response: RCM has openly admitted that it “anticipates that there will be surface subsidence and cracking above the mine area,” though they acknowledge “*it is difficult to say how much surface impact there will be*” until studies are complete.⁸ Certainly, RCM has acknowledged that “[s]urface subsidence is an environmental risk” of the proposed mine.⁹

It is for this reason, that opponents of H.R. 687 have consistently raised concerns about the mine’s plans to use the cheapest and oldest mining technology available (block and cave) to extract copper ore and other resources from under the sacred site and environmentally important area of Oak Flat. This mining method causes substantial surface subsidence and caving throughout the mining area!

Those who value Oak Flat and Apache Leap are right to be concerned that the massive and unprecedented size and depth of this mine will cause areas throughout Oak Flat, including Apache Leap, to cave in or collapse. In fact in a recent 2012 publication by Rio Tinto (the primary owner of the RCM mine project) Rio Tinto explains the impacts of block and cave mining this way:

Block cave mining is based on the principle that, once a sufficiently large area of a block has been undercut by drilling and blasting, the overlying block of ore will start to cave under the influence of gravity. The process

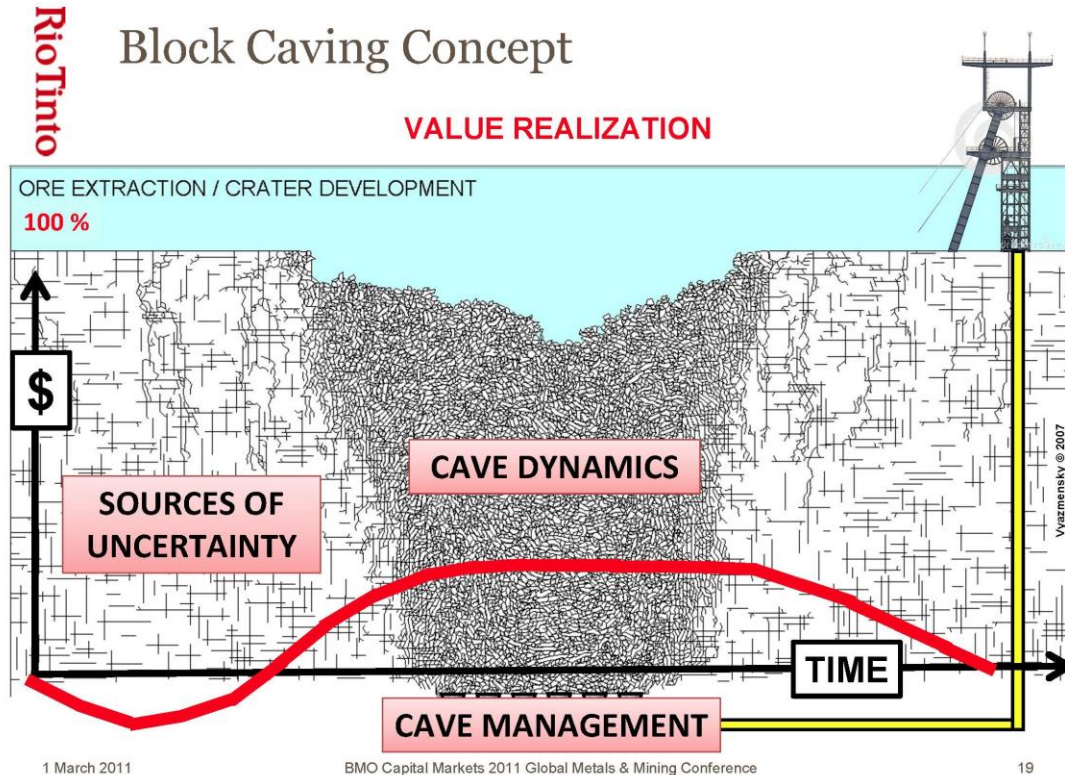
⁷ See Colorado River Basin Water Supply and Demand Study (Dec. 2012) found at <http://www.usbr.gov/lc/region/programs/crbstudy.html>

⁸ <http://resolutioncopper.com/faq/>

⁹ <http://www.resolutioncopper.com/sdr/2011/environment#managing-subsidence>

will continue until caving propagates through the entire block to surface or to the open pit above.¹⁰

They use various graphics, like this, to explain the concept further:



Because of the caving and subsidence associated with this type of mining, Tribal opponents have asked that the United States Geological Survey be engaged to perform independent studies to examine the potential impact of the mine on the Oak Flat area, including Apache Leap.¹¹ At minimum, these impacts should be examined through the NEPA before Congress permits the proposed exchange in H.R. 687. No amount of legislation can protect Apache Leap if, in fact, the realities of the mining process on the ground result in an even greater amount of subsidence than originally "anticipated" by RCM that damages or destroys Apache Leap.

Tactic #4: *The exchange and subsequent mine will destroy Native American lands.*

¹⁰ Slide, 17, Federation of European Mineral Programs, "An Introduction to Block and Panel Caving" (<http://www.femp.org/wp-content/uploads/2011/07/CAT-workshop-Rio-Tinto-Block-Caving.pdf>)

¹¹ See, e.g., March 16, 2011, Letter from Shan Lewis, President Inter Tribal Council of Arizona, Inc. to Secretary Tom Vilsack at 1-2.

Response: Tribal opponents of H.R. 687 have never argued that the proposed mine will destroy current Native American or Reservation lands. Similarly, Tribes have not asserted “sovereign” jurisdiction over these lands.

The Tribal opponents have always been very clear that the area to be mined under H.R. 687, often referred to as “Oak Flat”, is today located on U.S. Forest Service lands, but within the Tribal ancestral lands of the Western Apache, Yavapai and Zuni People.

Oak Flat continues to play an important role, even today, in the religious practices and traditional and cultural life ways of these Tribal people. Because of their continued connection to these lands, Tribes are entitled to government-to-government consultation on the proposed mine project and they are entitled to have their concerns about the potential destruction of this historic and sacred sites heard. Courts have said as much, noting that “[t]he fact that the properties are not on the Tribe's own land doesn't affect this status.”¹²

Tribal cultural resources and religious sites will most certainly be impacted by the proposed mine project. This existence of these sites has been explained in detail by Tribal people, acknowledged by Secretary Vilsack and Mary Wagner, Associate Chief of the Forest Service and many others. It is difficult to understand how anyone can suggest that these sites do not exist or that they will not be impacted by the massive project to be facilitated by H.R. 687.

Ironically, in the very same Environmental Assessment (EA) and FONSI cited by Congressman Gosar and Congresswoman Kirkpatrick (which in no way looked at the impacts of the proposed mine project), the local Forest Service also concluded:

“The TNF (Tonto National Forest) in general, and Oak Flat specifically, continues to be used by Apache and Yavapai Tribes, including the San Carlos Apache Tribe, for resource gathering and the TNF is known by virtue of previous Forest Service contacts and consultations to contain sites of traditional and religious significance to them.” EA at 3-62.

The Forest Service has also contracted a number of Class III cultural resource surveys for the Oak Flat area that similarly document extensive cultural and archeological resources throughout the area of the proposed mine. All of the resources and sites are within the footprint of the massive mine project and it is impossible to see how they will not be impacted by the mine.

Tactic #5: *This land exchange is a raw deal for taxpayers.*

Response: This is a raw deal for taxpayers and for the American People! The repeated assertions by legislation proponents that this is legislation is a good idea and

¹² *Quechan Tribe v. U.S. Dep't of Interior*, No. 10cv2241 LAB (CAB), 2010 WL 5113197, at *fn.4 (S.D. Cal. Dec. 15, 2010).

will create jobs are belied by the facts – facts that if studied and considered lead to the clear conclusion that H.R. 687 should be rejected by this Congress.

For example, the mining project would require the U.S. and nearby communities to spend federal and local revenues to repair crumbling roads, clean and treat water and sewer systems, and address shortfalls to community services. Only approximately 4% of mineral value would flow to local residents in terms of wages. While H.R. 687 will create some jobs, the costs to the U.S. taxpayer far outweigh any benefits. RCM says the mine will operate for approximately 50 years. After that, RCM will leave with no obligations, dumping this inevitable and massive Superfund site on the local communities to deal with.

The Superior Town Council testified before Congress any possible jobs would not be worth the damage to the Town's water supply, adverse impacts to long-term sustainability and economic diversification/tourism caused by destruction of site, and the impacts of hazardous/toxic substances that will result from this project.

Finally, nothing in H.R. 687 requires RCM to hire locally or even use U.S.-made products when implementing their Mine of the Future™. In the 112th Congress, RCM opposed a House amendment that would have required the remote operations center to be based in AZ, would have required minerals to remain the U.S., and would have required the use of Made in America equipment for the project. See House floor debate, Congressional Record H7106 (Oct. 26, 2011). Rio Tinto instead will sell its copper primarily to China. Rio Tinto also is a joint owner of a uranium mine with Iran in Namibia.