

**TESTIMONY OF CHRISTOPHER KRUPP
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**BEFORE THE SENATE ENERGY & NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS**

**REGARDING S. 409
Southeast Arizona Land Exchange and Conservation Act of 2009
Hearing of June 17, 2009**

The Western Lands Project is a non-profit, membership organization founded in 1997 to conduct research, outreach, and advocacy for reform in federal land exchange policy. We also scrutinize a broad range of projects that propose to sell, give away, or relinquish public control of public lands. We have submitted testimony to this committee and corresponded with individual members many times regarding congressional land exchange and conveyance proposals, including an earlier version of the Southeast Arizona Land Exchange and Conservation Act.

We thank you for the opportunity to submit to the record our concerns regarding S. 409.

The primary concern with S. 409, as with previous versions of the bill, is that the exchanges and conveyances are not motivated by any larger concern for the public good. Rather, the bill's purpose is to give Resolution Copper sole title to Oak Flats, a much-loved piece of public land, and other federal lands so that it can more easily realize the profits from its mineral rights. The rest of the bill is mostly window dressing, designed to divert attention from this fact.

The importance of Oak Flats as a recreation area, as well as the need to safeguard it from harm, was recognized in 1955 with PLO 1229, an executive order protecting Oak Flats from future mining activity. S. 409 would effectively repeal that order, nullifying the foresight shown more than fifty years ago. As too often happens with legislated land exchanges and conveyances, yet another piece of public land "permanently" protected is being put on the market because a private interest has discovered the profits that can be wrung from it.

It is not clear whether the typical National Environmental Policy Act (NEPA) analysis process would apply to this exchange. On one hand, NEPA is not overtly waived in the bill, and the one-year deadline for completion allows time for NEPA implementation. However, the bill's language does not clearly require compliance with NEPA either, and if the process were followed it would lack much of its value—the bill mandates that the exchange occur and thus the outcome would be predetermined.

In the case of mining activity facilitated by the exchange, an analysis would have to look at possible groundwater depletion, wastewater disposal, surface impacts, and many other direct and indirect effects. Instead, S. 409 provides bland assurances by Resolution that it will minimize impacts. Congress is clearly out of step with the public's wishes and interests by considering bypassing analysis, disclosure, and the deliberative decision process for a project that privatizes a treasured piece of public land and has such great likelihood to do harm to the environment.

S. 409 also directs several sales of federal land to the Town of Superior, none of which can be said to serve any broader public interest. One sale is of a 30-acre cemetery, but it is not clear whether the parcel is entirely occupied by a cemetery or whether other future uses might be anticipated on some of the land. A second sale is of a reversionary interest covering 265 acres of land at the Superior airport. The airport land was originally conveyed by the Forest Service under an old statute aimed exclusively at providing land for community airports. Now, the reversionary clause—a mechanism designed to protect the public interest—would be bought out or possibly even given away, providing the town free rein to sell or develop the land for private economic development. A third sale would allow Superior to obtain up to 250 additional acres of federal land contiguous to the airport. Superior may not even have to pay for the land it has requested: if the appraised value of the Resolution Copper lands exchanged exceeds the value of the Federal lands traded, the difference in value will be subtracted from the price of the lands conveyed to Superior. To add insult to injury, S. 409's 90-day deadline for the Superior parcels' conveyance means there will be no NEPA analysis of this portion of the bill.

We urge the committee to stop further consideration of this bill. S. 409 provides Resolution Copper with environmentally and culturally important public lands from which the company stands to profit outrageously. The public benefits of this bill are comparatively trifling.

Thank you for considering these comments.