

**STATEMENT OF
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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE
UNITED STATES SENATE
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS
COMMITTEE ON ENERGY AND NATURAL RESOURCES
MAY 24, 2006
CONCERNING**

**S. 2466 – The Southeast Arizona Land Exchange and Conservation Act of 2006
S. 2567 – The Eastern Sierra Rural Heritage and Economic Enhancement Act**

Mr. Chairman and members of the Subcommittee:

Thank you for the opportunity to appear before you today in order to provide the Department's view on the S. 2466 and S. 2657.

S. 2466 – The Southeast Arizona Land Exchange and Conservation Act of 2006

I will limit my remarks to the provisions of the bill directly related to the National Forest System lands and will defer to the Department of the Interior on provisions relating to the lands managed by the Bureau of Land Management.

S. 2466 directs the Secretary of Agriculture to convey to Resolution Copper Mining, LLC the 3,025 acre "Oak Flat" Parcel all right, title, and interest of the United States, including a 562 acre conservation easement for the Apache Leap escarpment. This conservation easement would provide permanent protection for the parcel from surface

disturbance and ensure future public access and use. The bill directs simultaneous conveyance from Resolution Copper to the United States, Secretary of Agriculture the following five parcels of land: The 147-acre Turkey Creek parcel in Gila County; the 148-acre Tangle Creek parcel in Yavapai County; the 149.3-acre Cave Creek parcel in Maricopa County; and the 266 acre JI Ranch parcel in Pinal County (all located within the Tonto National Forest); and the 640-acre East Clear Creek parcel in Coconino County located within the Coconino National Forest.

S. 2466 also directs the Secretary of Agriculture to convey to the Town of Superior, upon receipt of a request, the 30-acre town cemetery, approximately 181 acres adjacent to the Superior airport, and Federal reversionary interest in the 265-acre airport site already owned by the Town.

It is our understanding that upon completion of the land exchange, Resolution Copper would explore the possibility of developing a very deep copper mine within the Oak Flat parcel.

The Department believes the acquisition of the non-federal parcels to be managed by the Forest Service is in the public interest and would provide protection for riparian habitat and water rights, archeological sites, lands along a permanently flowing stream, a year round pond and an endangered cactus species. In this context, the Department supports the exchange as well as the valuation provisions. We would like to work with the Subcommittee and the bill sponsors on several recommendations and amendments as follows:

Section 4(a) requires the Secretary to convey to Resolution Copper all right, title, and interest of the United States in and to the Federal land. However it only requires Resolution Copper to convey to the Secretary or Secretary of Interior title to the non-Federal Lands. To avoid any ambiguity in the nature of the titles to be conveyed by the United States and Resolution Copper the titles should be described the same. We

recommend Section 4(a) be amended to require Resolution Copper to also convey all right, title and interest to the non-Federal land.

Section 4(c)(1) states that “Not later than 60 days before carrying out the land exchange..., on receipt of a request from the Town, the Secretary of Agriculture shall convey to the Town...” Based on our experiences in land exchanges, standard land exchange procedures will not accommodate this prescribed time frame. Generally, requests for appraisal services and instructions to the appraiser are issued early in the exchange or sale process and many months in advance of closing. Normally, any request from the Town would have to come before the request for appraisal services is issued by the Forest to determine the value of the parcels. To allow these parcels to be considered in the exchange, and to facilitate a timely conveyance to the Town, we recommend that any appraisal of the lands be conducted concurrently with the appraisal of the lands identified in the exchange.

Section 8 (a) also directs the Secretary to design and construct a campground on the Globe Ranger District as a replacement for the Oak Flat campground. Preliminary indications are that it may be difficult to find a suitable replacement within the Globe Ranger District. In order to insure an appropriate campground replacement site can be located, we recommend the Secretary be provided the latitude to select a site within the Tonto National Forest. We are also concerned that the \$500,000 Resolution Copper is directed to pay for the replacement campground is unlikely to be sufficient, and suggest the legislation’s directed payment protect the taxpayer’s interest by reflecting the total costs of the campground replacement.

Section 8 (c) (3) identifies areas to be closed to public use on enactment of the Act. Both recreational and exploratory mining uses of the area have coexisted for many years. When mining activities make public safety an issue, temporary closures are made. We would recommend the area closure be negotiated based on the needs expressed in mining plans of operations during the period between bill enactment and consummation of the exchange.

We would like to work with the Subcommittee and the bill sponsors to insure the maps described in the bill are referenced and dated properly as well as some additional technically minor amendments as described in the attachment to this statement.

S. 2567 – The Eastern Sierra Rural Heritage and Economic Enhancement Act

S. 2567 provides for the designation of 39,680 acres of the Humboldt-Toiyabe National Forest as an addition to the Hoover Wilderness Area and 640 acres of the Humboldt-Toiyabe National Forest as an addition to the Emigrant Wilderness Area.

S. 2567 also provides for the continued operation and maintenance of the Piute Cabin located in the western portion of the Hoover Wilderness Addition as well as providing the appropriate direction for fire, insect and disease management activities, livestock grazing and fish and wildlife management.

The West Hoover area contains the headwaters of the West Walker River with outstanding examples of East-side Sierra Pine Forest leading up to the alpine crest of the Sierra's. In addition, portions of the Pacific Crest Trail, a nationally significant National Scenic Trail traverse through the area before entering Yosemite National Park. The area is replete with high mountain meadows, craggy mountain crests, and fishable streams.

The Department supports the designation of the wilderness additions since it is consistent with the Humboldt-Toiyabe Forest Plan direction which recommended the areas for wilderness designation.

Section 5 of S. 2567 provides for the designation of approximately 24 miles of the Amargosa River under the Wild and Scenic Rivers Act. Four separate segments of the Amargosa would be designated under S. 2567 including one wild segments, two scenic segments and one recreational segment. The Amargosa, the “Crown Jewel of the Mojave Desert, “ is the only free flowing river in the Death valley area and as such provides a rare and lush riparian space. These 24 miles flow through lands managed by the Bureau

of Land Management (BLM). The BLM supports the designation which is consistent with BLM planning and has strong local backing. The wild and scenic river designations in this bill are the result of a community based effort, and excellent example of cooperative conservation.

This concludes my statement and I would be happy to answer any questions you may have.

Attachment to the Department of Agriculture's Statement Pertaining to S. 2466

In Section 4(c)(1)(B) – Conveyance of Land to Town, in addition to the reversionary clause in the existing deed, there are some reserved mineral interests on the airport land. To eliminate potential future issues, we recommend amending the provision by inserting after the reversionary interest “and any reserved mineral interest...”

In Section 4(e)(2)(c) states that “any other cost agreed to by Resolution Copper and the Secretary of Agriculture” shall be the responsibility of Resolution Copper. To clarify that Resolution Copper is willing to pay costs of processing the exchange, we recommend including reasonable reimbursement to both the Secretary of Agriculture and Secretary of the Interior for the agency costs of processing this exchange.

In Section 5(a)(4) we recommend amending the provision by adding the following language at the end of the clause: “...and any other interests associated with the 1872 Mining Act.”

Section 8(a) requires the Secretary to operate the Oak Flat Campground for two years or less if a replacement campground is constructed. However, Section 8(c) directs the Secretary to manage the Oak Flats area for public access until the land is transferred. We recommend Section 8(a) be amended to “until the land is transferred.”