

**Statement of
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Before the

**Subcommittee on Public Lands and Forests
Committee on Energy and Natural Resources
U.S. Senate**

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Concerning

S.409: A bill to secure Federal ownership and management of significant natural, scenic, and recreational resources, to provide for the protection of cultural resources, to facilitate the efficient extraction of mineral resources by authorizing and directing an exchange of Federal and non-Federal land, and for other purposes, and

S.1139: A bill to direct the Secretary of Agriculture to enter into a property conveyance with the city of Wallowa, OR, and for other purposes.

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to provide the Department of Agriculture's views on two bills that would legislate land transactions: S.409, would provide for an exchange of federal land containing a proposed copper mine for non-federal land containing riparian areas in Arizona and S.1139, would convey an administrative site in Wallowa, Oregon. We defer

to the Department of the Interior on provisions relating to lands to be managed by the BLM.

S. 409 – Resolution Copper Exchange

S.409 is a complex bill that directs the Secretary of Agriculture to convey to Resolution Copper Mining, LLC (Resolution Copper), lands on the Tonto National Forest if certain conditions are met. The federal lands to be exchanged may contain a sizeable copper ore body and are adjoining an existing copper mine. In exchange the bill provides the Forest Service certain lands in the state of Arizona. The Department has not completed its analysis of this complex bill and the Administration will provide its views and concerns to the Committee upon completion of this work. Nevertheless, there are still a number of preliminary concerns with the bill as introduced.

The bill requires the agency to conduct an environmental impact statement after the agency no longer owns the property on which the mine would be located. The purpose of the National Environmental Policy Act (NEPA) is to inform the decision maker about potential impacts prior to making a decision. Given the current language, we would assume that we would only be analyzing impacts from mining activities on the surrounding National Forest land, not the land to be conveyed. Consistent with Administration policy, NEPA should be done before moving forward on the land exchange.

The bill proposes to use any cash equalization payment for multiple purposes including management. Any equalization payment by the exchange proponent should be deposited into the Federal Land Disposal Account.

The bill proposes that Resolution Copper replace the Oak Flat Campground. We have been unable to locate a suitable replacement site for a campground in the vicinity. Funding provided in the bill to replace the campground provided to the Tonto National Forest should instead address deferred maintenance needs of existing recreation facilities.

The bill directs Resolution Copper to convey a parcel of land known as “the Pond parcel.” We are concerned about recreation related liability issues, access, and facilities needed to manage this parcel. A public interest determination analysis under NEPA should be required and provide the basis for determining whether to proceed with the conveyance.

We understand there are concerns about management of the Apache Leap area and in addition, the acreage that would be added to this area. We are concerned about adding another planning process as prescribed in the bill because it is duplicative of an ongoing Tonto National Forest Planning process which can analyze and provide for, if necessary and appropriate, a special management area.

Many of the lands to be exchanged in the bill hold significant cultural value to Indian Tribes. In particular, the Apache Leap area, the Oak Flat Campground, and Devil’s

Canyon are culturally significant to the San Carlos Apache Tribe and the Fort McDowell Yavapai Nation. There are also other neighboring Tribes with cultural interests in the area. We will continue to work with these Tribes as we move forward with the analysis.

The bill states that Resolution Copper will surrender the right to commercially extract minerals under Apache Leap “or” the Pond parcel but not both. This language should be clarified by changing the word “or” to “and.”

The bill would provide that it is the sense of Congress that the exchange to be completed in one year. We appreciate the sponsors’ interest in expediting this project. However, if an environmental impact statement is required on the mining operation on the parcel to be conveyed, prior to conveyance, we will most likely exceed this time frame. We anticipate that there will be considerable concern with any decision and there is a likelihood of administrative appeal and litigation.

S. 1139 – Wallowa Conveyance

S.1139 would require the Secretary of Agriculture to enter into a property conveyance with the City of Wallowa, Oregon to convey without consideration the Wallowa Ranger Station located at 602 West First Street, Wallowa, Oregon. The Department appreciates the Committee’s efforts to assist the City of Wallowa, Oregon with historic, cultural and economic development. However, we have significant concerns with conveyance of the Compound without compensation to the taxpayer and would ask the committee defer consideration of this conveyance at this time.

The Forest Service has identified the Wallowa Forest Service Compound as a site that should be sold under the Forest Service Facility Realignment and Enhancement Act (FSFREA), allowing the proceeds from the sale to be used to address other administrative site needs. Therefore, conveyance without consideration would remove the proceeds from the sale. In addition, the Forest Service has expended funds to repair and improve the Compound, as required by the FSFREA. The Forest Service desires to re-invest proceeds from the sale in other deteriorating infrastructure on the forest as provided for in the Act.

In addition, S.1139 includes a requirement for reversion to the Secretary if the facility is used for other purposes or managed by the City of Wallowa in a manner that is inconsistent with an interpretative center or non-profit status. Further, this bill would set a precedent for conveyance of similar properties across the nation contrary to the intent of the Facilities Realignment and Enhancement Act. Finally we would request that the subcommittee defer consideration of this bill while we continue to explore options with the City of Wallowa, in an attempt to address their interests.

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

