

MISCELLANEOUS NATIONAL FOREST BILLS

HEARING

BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS
OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON

S. 2466

TO AUTHORIZE AND DIRECT THE EXCHANGE AND CONVEYANCE OF
CERTAIN NATIONAL FOREST LAND AND OTHER LAND IN SOUTHEAST
ARIZONA

S. 2567

TO MAINTAIN THE RURAL HERITAGE OF THE EASTERN SIERRA AND
ENHANCE THE REGION'S TOURISM ECONOMY BY DESIGNATING CER-
TAIN PUBLIC LANDS AS WILDERNESS AND CERTAIN RIVERS AS WILD
AND SCENIC RIVERS IN THE STATE OF CALIFORNIA AND FOR OTHER
PURPOSES

S. 2788

TO DIRECT THE EXCHANGE OF CERTAIN LAND IN GRAND, SAN JUAN
AND UINTAH COUNTIES, UTAH, AND FOR OTHER PURPOSES

MAY 24, 2006



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MISCELLANEOUS NATIONAL FOREST BILLS

WEDNESDAY, MAY 24, 2006

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington D.C.

The committee met, pursuant to notice, at 2:36 p.m., in room SD-366, Dirksen Senate Office Building, Hon. Larry Craig presiding.

OPENING STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO

Senator CRAIG. Good afternoon. I want to welcome all of our witnesses who are here to testify today. While we only have a few bills to take testimony on, I see we have a lot of witnesses who are here to help us understand the strengths and the weaknesses of these bills.

It appears we are going to have three panels today. I first will call our Senate panel. Senator Kyl is with us to testify on S. 2466, the Southern Arizona Land Exchange; Senator Barbara Boxer is here to testify on S. 2567, the Hoover Wilderness expansion proposal; and Senator Robert Bennett is here to testify on S. 2788, the Utah Recreational Land Exchange.

I'll then ask the administration to come forward to testify on all three bills. I want to thank Joel Holtrop, Deputy Chief of the Forest Service for the National Forest System, and Chad Calvert, the Deputy Assistant Secretary for Land and Mineral Management at the Department of the Interior, who are with us today.

And finally, we have five witnesses who are here to testify on two bills I have already mentioned. We have Michael Hing, mayor of the town of Superior, AZ; along with Mr. Bill Williams, vice president for health and safety, environment and construction, from Resolution Copper Company, both here to testify on S. 2466, the Southern Arizona Land Exchange bill that Senator Kyl has introduced.

Well, with no particular order in mind, I guess we'll start and work our way across the table.

Senator Bennett.

STATEMENT OF HON. ROBERT F. BENNETT, U.S. SENATOR FROM UTAH

Senator BENNETT. Thank you very much, Mr. Chairman, for your consideration and for your attention to these bills. You are no stranger to the issue of School Trust Lands in Western States. The

question of trying to consolidate the School Trust Lands into economically viable clusters and at the same time turn over intelligent management to the Federal agencies that manage the land around the School Trust Lands is one that has been going on virtually all of my life.

When my father was the Senator from Utah, first elected in 1950, he sponsored some land exchange bills. They didn't get very far. The process continued when Scott Matheson, the Democratic Governor of the State of Utah made a significant effort to try to get things done in terms of land exchange. That didn't go very far. This has a long history. We finally broke through with the assistance of Secretary Babbitt, Governor Levitt and this Congress. We got some land exchanges going and we want to keep that going. And I believe that S. 2788, the bill that I have proposed along with Senator Hatch, will accomplish that purpose.

The legislation represents the consensus and compromised views across the State of Utah. Local communities, the recreation community, the environmental community have all had input into this bill, and as far as I know, all have support for the bill. Given the historical controversy over land use bills in Utah, that's saying something, to get that kind of consensus. It directs the exchange of approximately 40,000 acres of land that is currently under BLM management for the same number of acres that are currently under SITLA management. SITLA stands for the School and Institutional Trust Lands Administration, and as you know, all of the trust lands are, by law, set aside for use for Utah schools.

The final valuation will be made with an appraisal process to make sure that it is, in fact, an equal value exchange that fulfills the mandates of the BLM. The land exchange will consolidate BLM ownership of the wilderness area and several wilderness study areas and also land along the Colorado River corridor. These areas contain nationally recognized scenic vistas and some significant archeological and historic resources, along with the recreation lands that are enjoyed by hundreds of thousands of people every year. The bill provides what I believe is a common-sense way to value the minerals that are located in the lands to be exchanged. It contemplates the uncertainty involved with mineral appraisal and gives assurances that the public will not be shortchanged by an under-valuation of these lands.

I can go into the detail of how that is done, if you prefer, but basically, it holds the Federal Government harmless if, at some future time, some magnificent windfall is discovered in some of these lands that are exchanged and the State of Utah would pay the Federal Government at some point in the future.

Senator CRAIG. Well, Bob, I have reviewed that and I find it unique and I think very equitable. I think it's creative on your part, and everyone involved, on how to handle values. It certainly offsets the phenomenal difficulty of attempting to appraise and understand values that may not be there now, but could be there in the future.

Senator BENNETT. We were determined to try to slay that particular dragon because too often land exchange bills have been held up over the valuation issue. And we thought if we could solve that, then we could get on with that which everybody thinks is in the

best interest of Utah's school children as well as the Land Management Agency. So, Mr. Chairman, I thank you for the opportunity to testify and hope that the committee will look favorably upon our effort.

Senator CRAIG. Surely, you and any of the other Senators who want to stay, who might want to ask questions of the administration, feel free to do so. We have some questions and we'll pursue them, but thank you. Now let me turn to—

Senator BENNETT. Thank you, Mr. Chairman, I'll leave you my proxy.

Senator CRAIG. I'll use it wisely. Thank you.

Senator Kyl.

**STATEMENT OF HON. JON KYL, U.S. SENATOR
FROM ARIZONA**

Senator KYL. Thank you, Mr. Chairman. Let me begin by thanking you for chairing this subcommittee. You have enormous responsibility that affects millions of people in the western United States in particular, and as you noted from this full room here today, there are a lot of people who are counting on action on the legislation that's been introduced here, and I appreciate your attention to it and that of your staff and that of the minority as well.

You noted that we are going to hear testimony later from Mayor Hing of Superior and Bill Williams of the Resolution Copper Company with respect to the land exchange in the State of Arizona that will involve the Resolution Copper Company. Just a note at the outset. My full statement will be in the record, but the bill before you, as is usually the case here, has been the result of painstaking negotiation and compromise by all of the affected interests and I can tell you that the Federal—and I also thank the Federal Government officials, some of whom will be here today, they've worked very closely with the sponsors of this. They will testify, I believe, in support, but with some recommendations of things that will need to be modified. We'll continue to work with them, of course, on those matters.

But it also has the support of the Governor of the State of Arizona, the Pinal County Board of Supervisors, the Supervision Area Land Trust—Superstition Area Land Trust, Arizona Game and Fish Department and the Access Fund, just to name a few. And I will ask that both their statements and a resolution of the San Carlos Apache Tribe be included in the record.

I met with representatives of the San Carlos Apache Tribe for the first time yesterday. They expressed to me that they have some issues, some cultural and historic issues with this land exchange. I hope to be able to continue to work with them, but their resolution should be a matter of interest to the committee as well.

Just briefly, this involves a little over 3,000 acres of land, commonly called Oak Flat, which is controlled by the Forest Service near the town of Superior. That will be traded to the Resolution Copper Company, which hopes to explore and develop a significant, very deep copper mine under that land. They, in turn, will provide to the U.S. Government, the Forest Service and the Department of the Interior over 5,500 acres of very environmentally significant land, land which, for example, includes a riparian area of the San

Pedro River, which is a nationally recognized migratory bird corridor, a very high value riparian habitat for endangered and threatened species, the largest, last remaining, mesquite bosk in Arizona, magnificent canyons and forests that are home to other wildlife and game species. And there's a variety of environmental groups that have long advocated for the acquisition for the public of these lands, including the Sonoran Institute, the Nature Conservancy, Trust for Public Lands and Arizona Audubon.

The requirement for the transfer of the land is partially because Resolution Copper not only believes there is perhaps one of the largest ore bodies ever discovered in the United States or in North America underlying this land, but right now, the land patterns in the area are, as is frequently the case, checkerboarded. It lies within a mining district. It's adjacent to and intermingled with Resolution Copper's existing private land and the Magma Mine, which is in the same vicinity. And 75 percent of it is blanketed with un-patented mining claims that are held by Resolution.

So, this can minimize the conflict between the public and the private use of that, as well as provide an enormous asset to the Federal Government in over 5,500 acres of these environmentally sensitive lands. One of the most interesting features is a place called Apache Leap on the west side of Oak Flat. The stories may be apocryphal, but they dealt with large numbers of Apache, particularly women and children, leaping off the cliff to avoid capture by the people who were pursuing them. There is a great deal of obsidian at the bottom and those are thought to be the tears of the Apache who cried at their fate.

The campground there is going to be replaced at Resolution Copper's expense and the town of Superior will have the opportunity to acquire about 200 acres to include the town's cemetery and land near its airport for expansion there. There will also be recreation and public purpose conveyance of about 2,000 acres from the BLM to the Arizona Parks Department for the creation of a new State park, which focused on rock climbing. And this is one of the more innovative solutions to a problem that was brought to the attention of the copper company when rock climbers indicated that this was one of the world class rock climbing areas and they did not want to be denied access to the area. Well, they were provided some limited access to the area and an expert was brought in and identified another area that will be perhaps equally good and that will be developed as part of the State park so that the rock climbers will continue to have access to first class climbing opportunities.

Just a note about the appraisals. As Senator Bennett noted, we're well aware of the need to make absolutely certain that the public receives its fair benefits, and as a result the usual appraisal standards for Federal land acquisitions and uniform standards of professional appraisal practice will be applied here. There are also a couple of innovative things that are done to appraise the Federal land as if encumbered by—or I should say, excluding the encumbrance of the mining claims that would devalue the property.

So, it's going to be as if those potential easements—the conservation easement and the mining claims—are not a factor, so that the full value of the Federal land will be determined and it is that

value that will be put against the land that the Resolution Copper Company will be offering up to the Federal Government.

I know that you will have other questions Mr. Chairman, but this is one of those great win-win-win situations for everybody within the State, and I look forward to working with the committee to answer any questions or work out any issues that may come up in the future. But we're very, very pleased that all of the parties have gotten together and offered such a great opportunity for improvement in the State of Arizona.

[The prepared statement of Senator Kyl follows:]

PREPARED STATEMENT OF HON. JON KYL, U.S. SENATOR FROM ARIZONA, ON S. 2466

Mr. Chairman, Members of the Subcommittee, thank you for the opportunity to testify regarding S. 2466, the Southeast Arizona Land Exchange and Conservation Act of 2006. I introduced this bill, on behalf of myself and Senator McCain, in late March. It is a modified version of S. 1122, which we introduced in May of last year under the same title. This bill directs an important land exchange in our home state of Arizona. It is the culmination of negotiation with federal, state, and local officials, community, recreation, and conservation groups and other stakeholders. It will allow for the protection of some of the most environmentally sensitive lands in Arizona, enhance outdoor recreation opportunities, and provide a much-needed economic engine for the people of Superior, Arizona and the surrounding communities.

Let me briefly lay out the details. The exchange conveys approximately 3,025 acres of land controlled by the Forest Service to Resolution Copper Company. The acreage commonly called "Oak Flat" will be traded to Resolution Copper to facilitate future exploration, and possible development, of a large copper ore deposit discovered some 7,000 feet below the surface. Oak Flat is intermingled with, or abuts, private lands already owned by Resolution Copper Company. Approximately 75 percent of the Oak Flat federal parcel is already blanketed by unpatented mining claims. Given the ownership patterns; the public safety issues that may be associated with mining activities, and the significant investment Resolution Copper must make to even determine whether development of a mine is feasible, it makes sense, Mr. Chairman, for Resolution to acquire the entire mining area.

However, we also recognize that there are resource values associated with Oak Flat that would come into private ownership and, to the extent we can, we should protect and or replace these resources. This bill accomplishes that goal.

The Apache Leap Escarpment, a spectacular cliff area and important cultural resource site comprising approximate 562 acres on the western side of the federal parcel, is an area deserving of protection. The bill requires that a permanent conservation easement be placed over this area protecting the surface from mining and development.

The Oak Flat Campground, consisting of 14 rustic tent/RV sites, is located on the north side of the parcel, adjacent to U.S. Highway 60. Recognizing that the campground is used by the community and others, we are requiring that this campground be replaced on the Globe Ranger District at Resolution Copper's expense. Public access to this campground will not immediately terminate on enactment of the legislation: The bill allows for continued public access to the campground for two years after enactment.

We also heard from the public that climbing and bouldering were important recreational resources at the site. For this reason, we included a placeholder in S. 1122 for additional climbing provisions as a good faith offer to the climbing community to work with us and the proponent of this land exchange, Resolution Copper Company, to address the loss of public access to climbing at Oak Flat in a way that does not compromise public safety. I am happy to announce that discussions over the last eight months have been fruitful. Some of the climbing will remain open at Oak Flat temporarily and climbing areas on Resolution Copper's private land will be accessible through a license agreement executed by Resolution Copper and Access Fund, a national advocacy climbing organization. Access Fund has formally endorsed the exchange as a result.

I am also pleased to report that representatives of Resolution Copper, working in cooperation with climbers and federal land managers, have found an additional climbing gem about 20 miles from Oak Flat, near Hayden and Kearny, Arizona in the Tam O'Shanter Mountains. "Tamo," as it is now nicknamed, has the quality of rock and the elevation and diversity of cliffs, climbing walls, and boulders that rock climbers seek. Couple these characteristics with Arizona's mild weather and this

site has the potential to be a four season climbing destination and tourism draw for Arizona.

Recognizing this potential, Arizona State Parks, Resolution Copper, and the Bureau of Land Management, in cooperation with the communities and other mining interests, have been working together on a proposal to turn "Tamo" into Arizona's newest state park. This proposed state park would place a special emphasis on rock climbing, but would also have opportunities for camping and other outdoor recreation.

To turn "Tamo" into a state park is not an easy task. Currently, Arizona State Parks lacks the legal authority to acquire "Tamo," but it is seeking it through the Arizona state legislature. I am pleased to report that a state bill containing this authority is working its way through the Arizona state legislature and has the overwhelming support of the Sierra Club, Access Fund, and ASARCO, a mining company operating in the vicinity. The stakeholders tell me this issue and others concerning access to the site are close to being resolved. For this reason, the bill includes language that would facilitate a recreation and public purposes conveyance of "Tamo" to Arizona State Parks. This conveyance, of course, would be subject to solving these issues.

In return for conveying the federal land to Resolution Copper, the Forest Service and Bureau of Land Management will receive eight parcels of private land, totaling 5,539 acres. These parcels have been identified, and are strongly endorsed for acquisition by the Arizona Audubon Society, Nature Conservancy, Trust for Public Land, Sonoran Institute, Arizona Game and Fish Department and numerous others. They include lands along the San Pedro River, an important internationally recognized migratory bird corridor, riparian and wetland habitat for threatened and endangered animal and plant species, including the southwestern willow flycatcher and the hedgehog cactus, and magnificent canyons and forest that are home to big game species. Most of the parcels are in holdings that will allow for more effective management of the federal land. It is in the public interest to bring these conservation lands into federal ownership for the enjoyment of future generations.

Although the focus of this bill is the land exchange between Resolution Copper and the United States, it also includes provisions allowing for the conveyance of federal lands to the town of Superior. These lands include the town cemetery, lands around the town airport, and a federal reversionary interest that exists at the airport site. These lands are included in the proposed exchange to assist the town in providing for its municipal needs and expanding and diversifying its economic development.

Though I have described the many benefits of the exchange, Mr. Chairman, you may be asking why we are legislating this land exchange. There are many reasons, but I would like to highlight a few: First and foremost, as this exchange is assembled it can only be accomplished legislatively. The Forest Service does not have the authority to convey away federal land in order to acquire private land outside the boundaries of the National Forest System no matter how ecologically significant. Second, this bill provides additional safeguards to ensure this land exchange is fair and in the public interest.

I will highlight some of the bill's safeguards: First, it requires that all appraisals follow standard federal appraisal practice and be performed in accordance with appraisal standards promulgated by the U.S. Department of Justice. All appraisals must also be reviewed and approved by the Secretary of Agriculture. Second, to ensure that the United States gets full value for the federal parcel it is exchanging, the federal parcel will be appraised to include the copper ore and appraised as if unencumbered by Resolution Copper's mining claims, which would detract from the market value of the land. This is significant given the fact that 75 percent of the land is encumbered by mining claims. Third, the Apache Leap Conservation Easement is expressly not included in determining the value of the federal land, preventing any possibility that this easement would further devalue the federal land. I believe by following the standard appraisal practices and including these safeguards in the valuation process, the United States, and ultimately the taxpayer, will receive full value for both the land and the minerals it contains.

I also want to note that I met with the San Carlos Apache Tribe yesterday. For the first time, the Tribe expressed to me that they have Apache cultural practices and traditions associated with portions of the Oak Flat federal parcel that they are concerned may be affected by this land exchange. I will work with the Tribe to try to find common ground to address these concerns.

With enactment of this legislation, we can preserve lands that advance the important public objectives of protecting wildlife habitat, cultural resources, the watershed, and recreation opportunities, while generating economic and employment opportunities for state and local residents. It is advantageous to our environment and

for our economy. Thank you again for holding this hearing and extending to me the opportunity to testify.

Senator CRAIG. Well, Jon, thank you very much for bringing this to the committee. We will continue to work with you as we work with the administration to sort out any difficulties on the margins we may have before we move this legislation. Again, thank you.

And now let me turn to Senator Barbara Boxer. Senator Boxer brings to us almost an anomaly. And I say that with a smile on my face, Barbara, because rarely does an environmental, or if you will, a wilderness bill come before this committee without controversy. And my staff tells me that it is, as best we can tell, without, at the moment, controversy. Please proceed.

**STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR
FROM CALIFORNIA**

Senator BOXER. Thank you so much. I just want to say to you and your staff thank you so much for all the work you do with us—not just on this, but on so many other issues—and I wanted to thank you particularly for your work on the Northern California Coastal Wild Heritage Wilderness Act, which the Senate passed with your leadership, and we're just waiting for the House to act. It's another one of those bills that is, as Jon Kyl says, a win-win, because it's not controversial.

And let me quickly say, I would like to put my full statement in the record.

Senator CRAIG. Without objection, it'll become a part of the record.

Senator BOXER. I'm going to be very brief, but I do want to lay out a few wonderful things and show you some beautiful pictures. This is S. 2567, a bill introduced by myself and Senator Feinstein. It's called the Eastern Sierra Rural Heritage and Economic Enhancement Act.

Senator CRAIG. Very creative.

Senator BOXER. Yes. Because, as you know, in your State as well as mine, beautiful areas attract tourism, and tourism is really one of our greatest economic businesses in California.

In April, I introduced this bill with Senator Feinstein, and then Representative Buck McKean, whose congressional district contains these special lands, introduced the companion bills. So this is a breakthrough because this is bipartisan. Buck is a Republican and Diane and I are Democrats, in case you weren't aware of that, Mr. Chairman. And what is so wonderful is we have the administration on our side as well. So, it's all very good.

What I want to do is show you some of these treasures, just for our fun, just to show you what we're looking at protecting.

Here's our first picture. The bill makes considerable additions to the existing Hoover Wilderness Area which border on Yosemite National Park. These additions will protect the stunning High Sierra landscape of 11,000-foot snow-capped peaks and valleys, lush meadows and deep forest that people around the world associate with the eastern Sierra.

They're home to an abundance of wildlife, including—that is breathtaking—including black bear, mountain lion, mule deer, water fowl and bald eagles. This land provides much more than

just visual beauty, however, it is a recreational paradise. Here is one of those happy recreators going fishing here.

Year after year, hikers enjoy the approximately 9 miles of the Pacific Crest National Scenic Trail that runs through the wilderness. Fishing anglers enjoy the clear lakes and streams that support a number of species of wild trout. The bill protects areas adjacent to the Emigrant Wilderness Area including another 2 miles of the Pacific Crest Trail.

And then the legislation designates about 24 miles of the Amargosa River as a wild and scenic river and here you see pictures of that. The only river flowing into Death Valley, the Amargosa is an ecologically important river in a very dry desert region. We can see the birds, the bird watchers abound in the area, coming from far and wide. So, I guess our last picture—I think if anyone ever questioned God's greatness, all they have to do is look at these photographs. Thank you, Jeff, very much for that.

Senator CRAIG. That's spectacular.

Senator BOXER. I know, it's just breathtaking, so we want to protect it forever, Congressman McKean, Diane and I, and I hope all of us here today. What a great, great heritage it would be for us.

The last thing I want to do is just put some statements in the record with your permission. I'll tell you what they are. The statement of Representative Buck McKean, the resolution of support from the Mono County Board of Supervisors, the resolution of support from the Inyo County Board of Supervisors, a letter of support from the mayor of Mammoth Lakes, a list of 171 local businesses who support this bill, and here's the best one, I saved it for last for you, Mr. Chairman, a resolution of support from the Mono County Republican Central Committee. I thought it would make you smile.

Senator CRAIG. I'll have to check out the legitimacy of that one.

[Laughter.]

Senator BOXER. We have so much support. We are thrilled to be here. And, again, we want to just thank you and your staff for your willingness to work with us. I look forward to celebrating when we all know that this is preserved for our grandkids and their kids and their kids.

[The prepared statements of Senators Boxer and Feinstein and Representative McKean follow:]

PREPARED STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA,
ON S. 2567

Thank you, Chairman Craig. Let me begin by thanking you for your great work on the Northern California Coastal Wild Heritage Wilderness Act you and your staff have been very helpful over the last few years on that effort and helped assure a swift Senate passage last year.

Today, I want to talk about a very special place—the Eastern Sierra—and a very special, bipartisan, bicameral, administration supported effort—"the Eastern Sierra Rural Heritage and Economic Enhancement Act."

In April, I introduced this bill with Senator Feinstein. Representative Buck McKeon, whose congressional district contains these special lands, introduced the companion bill in the House.

This bill will provide protection for thousands of some of the most pristine, wild, and beautiful acres in California's wild Eastern Sierra.

I would like to take a few moments and show you some of these natural treasures.

CHART—HOOVER My bill makes considerable additions to the existing Hoover Wilderness areas, which border on Yosemite National Park.

CHART—HOOVER These additions will protect the stunning High Sierra landscape of 11,000 foot snow-capped peaks and-valleys, lush meadows and deep forests that people around the world associate with the Eastern Sierra.

CHART—HOOVER These areas are also home to an abundance of wildlife, including black bear, mountain lion, mule deer, waterfowl, and bald eagles.

CHART—HOOVER—HIKER This land provides more than just visual beauty however, it is also a recreational paradise.

Year after year, hikers enjoy the approximately nine miles of the Pacific Crest National Scenic Trail that runs through this wilderness.

CHART—HOOVER—FISHING Anglers enjoy the clear lakes and streams that support a number of species of wild trout.

The bill will also protect areas adjacent to the Emigrant Wilderness area, including another two miles of the Pacific Crest Trail.

CHART—AMARGOSA My legislation will also designate about 24 miles of the Amargosa River as a Wild and Scenic River.

CHART—AMARGOSA As the only river flowing into Death Valley, the Amargosa is an ecologically-important river in a dry desert area.

CHART—AMARGOSA Birds and birdwatchers abound in this area, both coming from far and wide to enjoy the river.

In short, Mr. President, these places are not just California's natural treasures, they are America's natural treasures.

And that is why they deserve the highest level of protection possible. That is what this bill does.

I was proud to include most of these lands in my California Wild Heritage Act that I reintroduced in March of this year.

I thank you for holding this hearing and I look forward to working with you and all my colleagues, to protect these special places forever.

PREPARED STATEMENT OF HON. DIANNE FEINSTEIN, U.S. SENATOR FROM CALIFORNIA, ON S. 2567

I want to thank the Public Lands and Forests Subcommittee for considering S. 2567, the Eastern Sierra Rural Heritage and Economic Enhancement Act. I am proud to serve as an original cosponsor of this important legislation along with my colleagues Senator Boxer and Congressman Buck McKeon. I want to commend Senator Boxer and Congressman McKeon for their leadership on this issue.

This legislation expands the Hoover and Emigrant wilderness areas in Mono County and provides wild and scenic status for portions of the Amargosa River in Inyo County. Notably, this bill is a product of extensive local discussions resulting in broadly supported local agreements.

In the Eastern Sierra in Mono County, Congressman McKeon brought together local stakeholders to resolve a longstanding land use dispute in this beautiful portion of his Congressional District. The result was an agreement between local snowmobilers and local wilderness advocates that is unanimously supported by the Mono County Board of Supervisors.

In Inyo County, local residents worked with the County Board of Supervisors to develop a plan to permanently protect the natural values of the Amargosa River, a spectacular and rare desert river. Again, the legislation reflects the proposal approved by the Inyo County Board of Supervisors.

The Forest Service and the Bureau of Land Management have long recommended the land and river in this legislation for wilderness and wild & scenic designations, respectively. As such, these areas are already managed in a manner consistent with the wilderness and wild & scenic designations the legislation provides. This reassures me that grazing, horsepacking, and currently allowed recreational activities will be unaffected by this legislation.

Before supporting any wilderness legislation, I explore closely whether or not the designation will affect private property owners or in any way hinder fire suppression. In this case, there are no private inholdings within or adjacent to the wilderness designated by this legislation. Similarly, the Forest Service has indicated that there are no fuels treatment projects planned for this high elevation area. Furthermore, the bill contains language reiterating that the Wilderness Act provides land managers with the discretion to use any means necessary to fight and prevent wildfires.

I believe passage of this legislation will help maintain the rural, outdoors lifestyle that local citizens currently enjoy. The legislation protects scenic wonders in the Eastern Sierra and the world class outdoor recreational opportunities that draw visitors from all over the world to this beautiful region every year. This legislation

will also help ensure that visitors will continue to come to the Eastern Sierra and contribute to the region's tourism-based economy.

I look forward to working with my colleagues on this committee to ensure that this legislation is enacted as soon as possible.

PREPARED STATEMENT OF HON. HOWARD P. "BUCK" McKEON, U.S. REPRESENTATIVE
FROM CALIFORNIA, ON S. 2567

Mr. Chairman, today I take pleasure in voicing my support for the Eastern Sierra Rural Heritage and Economic Enhancement Act.

As you are aware, I am fortunate enough to claim the majority of California's Eastern Sierra Mountains as part of my district. The Eastern Sierra Rural Heritage and Economic Enhancement Act will protect some of the most pristine land in California for the enjoyment of my constituents in the 25th District, and the visitors we welcome to the Eastern Sierra's each year.

This legislation calls for three wilderness additions: the Hoover Wilderness Addition, the Emigrant Wilderness Addition, and the Amargosa Wild and Scenic River Addition. The Hoover Wilderness Addition rests between Yosemite National Park, the existing Hoover Wilderness, and the Emigrant Wilderness, and designates 39,680 acres of 11,000 foot mountain peaks, glacial valleys, alpine lakes, and conifer forests as protected wilderness area. The Emigrant Wilderness addition lies adjacent to the existing Emigrant Wilderness, and claims two miles of the Pacific Crest Trail. The Amargosa Wild and Scenic River Addition designates a twenty-four mile stretch of river as protected, and divides the section into three parts: wild, scenic, and recreational.

Given the popularity of these areas, it is necessary to find a compromise between protection of the land and local wildlife, and recreational sport. This legislation provides such a compromise, affording land for recreation and preservation. Preserving wilderness areas for future generations is imperative, and this bill as an opportunity to do so.

Mr. Chairman, this legislation is the result of a great deal of compromise, cooperation, and support. Assistance from the Mono County Board of Supervisors which claims the Hoover and Emigrant Wilderness Addition, and the Inyo County Board of Supervisors which claims the Amargosa River Addition has been vital to the introduction of this legislation. This bill required compromise and cooperation between the local environmental community and the Bureau of Land Management, and I am pleased with the agreement that has been reached by both parties. Energetic support from Senators Dianne Feinstein and Barbara Boxer, as well as my constituents in the 25th District make it a distinct pleasure to introduce this legislation in the House, and I encourage strong support of the Eastern Sierra Rural Heritage and Economic Enhancement Act.

Senator CRAIG. Senator Boxer, thank you very much for bringing this to the committee, it obviously will be a phenomenal addition to that wilderness. But without question, not only did you have a good photographer at hand, but the subject is phenomenal. Thank you.

Well, we appreciate the Senators' input. Now, let us turn to the second panel: Chad Calvert, Deputy Assistant Secretary, Land and Minerals Management, Department of the Interior; along with Joel Holtrop, Deputy Chief, National Forest Systems, Department of Agriculture. Gentlemen.

Chad, please proceed.

**STATEMENT OF CHAD CALVERT, DEPUTY ASSISTANT
SECRETARY FOR LAND AND MINERALS MANAGEMENT, DE-
PARTMENT OF THE INTERIOR**

Mr. CALVERT. All right. Thank you, Senator. I'm the Deputy Assistant Secretary for Land and Minerals Management, Department of the Interior, and I'm here to testify on two of the bills before us today, to give the perspective of the Interior Department and for the Bureau of Land Management. The first bill is S. 2466, the

Southeast Arizona Land Exchange and the second is S. 2788, the Utah Recreational Land Exchange Act. And for simplicity's sake, I'll just refer to these as the Arizona bill and the Utah bill.

Generally, let me begin by saying that both of these bills represent really remarkable achievements in negotiation and compromise. They bring together many interests and will make positive changes for all of the interested parties.

The Arizona bill will facilitate the opening of a new copper mine to employ thousands of Arizonans. The addition of the minerals to our economy will benefit both the State and the Nation. This bill will also give public lands to provide additional wildlife habitat and recreation.

For the BLM, it will add more than 3,000 acres along the San Pedro River near Mammoth to be managed for purposes similar to those in the San Pedro Riparian National Conservation Area. It will also add lands to BLM's Las Cienegas National Conservation Area in southern Arizona. It's 950 acres, 56 acres identified in the Sonoita Valley Acquisition Planning Area, which was created by the bill sponsored by Congressman Colby, which passed both the Senate and the House unanimously in the 106th Congress. The Arizona bill also will replace the existing recreation area with more than 2,000 acres of land for a new State park dedicated to rock climbing, and this was an important part of the impressive compromise achieved by the bill.

The Utah bill is also an impressive proposal that brings together several counties, the State and the State School Trust, and a number of environmental groups with a common purpose of improving land tenure in eastern Utah. The BLM manages nearly 23 million acres of land in Utah. This bill would exchange roughly 34,000 acres of that for approximately 45,000 acres of land managed by the School Trust.

Generally, the exchange will block up ownership patterns and provide more uniform management. The lands we acquired for the United States have primarily recreation, wildlife, riparian and cultural values. Lands to be conveyed are primarily mineral lands with some economic and agricultural development opportunities. The Department supports the purposes of both of these bills. We do have some concerns with a couple of provisions that mostly relate to management and/or public expectations, and these concerns are discussed in detail in my written statement. I would just take a moment to highlight a couple of them.

With regards to the Arizona bill, our primary concern relates to the exchange valuation. The Department appreciates the desire of the sponsors to ensure that the entire package of lands gets exchanged. It's important to note that the requirement in section 5(b)(2) for the Department of the Interior to pay an equalization in cash if the value of non-Federal land exceeds that of the Federal may actually inject uncertainty into the exchange. As stated in the written testimony I provided, in this instance, a more certain remedy, if this equalization problem arises, would be a simple authority to reduce the lands to be exchanged to bring them into an equal value situation.

The other principal concern relates to the Dripping Springs parcel that would be conveyed to the State of Arizona ultimately. Be-

cause there is an expectation from the bill that a rock climbing area would be developed, we would prefer that all the lands go straight to the State, so the acquired parcel is not directed through the Bureau of Land Management for simplicity's sake.

Throughout the Utah bill, the Department has worked very closely with the House Resources Committee and the proponents of the bill for almost a year. The bill introduced here by Senator Bennett reflects a lot of the progress that has been made. We've worked through a number of very difficult issues and I appreciate the proponents' and the committee staffs' patience and willingness to work with us. Nearly all of the administration's concerns have been addressed. We feel comfortable that the bill can be implemented according to the expectations of the sponsors.

The most thorny issue, as Senator Bennett mentioned, has been valuation function, and the bill proposes some alternative methods of valuation that are addressed in more detail in my written statement. The Department's position on appraisals and valuation is laid out in the Secretary's policy concerning land valuation exchanges dated December 30, 2004, which is attached to my testimony for your review.

The positions in my statement have been both reviewed and approved by the appraisal services directorate at the Department of the Interior, the Inspector General and the Office of Management and Budget. I am happy to answer any questions you might have.

[The prepared statement of Mr. Calvert follows:]

PREPARED STATEMENT OF CHAD CALVERT, DEPUTY ASSISTANT SECRETARY FOR LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 2788

Thank you for the opportunity to testify on S. 2788, the Utah Recreational Land Exchange Act. The bill would legislate a large-scale land exchange between the Bureau of Land Management (BLM) and the State of Utah. We strongly support the completion of major land exchanges with the State of Utah. We look forward to working with the sponsors and the Committee on S. 2788 and could support the bill with some additional modifications. As a matter of policy, we support working with states to resolve land tenure and land transfer issues that advance worthwhile public policy objectives. A great deal of progress has been made on this legislation over the last eight months and the bill as introduced in the Senate reflects much of that work.

BACKGROUND

The Utah School and Institutional Trust Lands Administration (SITLA) manages approximately 3.5 million acres of land and 4.5 million acres of mineral estate within the State of Utah primarily for the benefit of the schools of the State of Utah. Many of these parcels are scattered and interspersed with public lands managed by the BLM.

Managing 22.87 million acres of land within the State of Utah, the BLM's mission is to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations. As the nation's largest Federal land manager, the BLM administers the public lands for a wide range of multiple uses, including energy production, recreation, livestock grazing, conservation use, forestry and open space. The Federal Land Policy and Management Act (FLPMA) provides the BLM with a clear multiple-use mandate which the BLM implements through its land use planning process.

Section 206 of FLPMA provides the BLM with the authority to undertake land exchanges. Exchanges allow the BLM to acquire environmentally-sensitive lands while transferring public lands into private ownership for local needs and the consolidation of scattered tracts. Over the past five years, throughout the bureau, nearly 550,000 acres of public lands were disposed of through exchange, while 370,000 acres were acquired by the BLM through this process. During this same time period in Utah, the BLM has disposed of 110,178 acres while acquiring 112,842 acres

through exchange. The vast majority of this was completed under the direction of Congress through the Utah West Desert Land Exchange Act (Public Law 106-301).

S. 2788

S. 2788 directs the exchange of approximately 40,000 acres of lands managed by SITLA for approximately 40,000 acres of BLM-managed Federal lands. Many of the lands that the State is proposing to transfer to the BLM are lands that the BLM has a high degree of interest in acquiring because they would consolidate Federal ownership within wilderness study areas, Areas of Critical Environmental Concern, or other sensitive lands. Among these are:

- 640 acres on the eastern boundary of Arches National Park which will provide important viewshed protections;
- 1,280 acres and 420 acres along the Colorado River west and east of Moab which includes Corona Arch and other popular recreation sites within the BLM's Colorado Riverway Management Area;
- 4,500 Acres within the Castle Valley watershed which also has important wild-life habitat and scenic values;
- 2,560 acres of land currently leased by the BLM and Grand County from the State for recreation-related activities associated with the Sand Flats Recreation Area and the famous Slickrock Mountain Bike Trail; and,
- 800 acres within the Nine Mile Canyon containing significant cultural and recreational resources.

We support the provisions of the bill that establish a phasing process for the transfer of lands from SITLA to the BLM. This will allow BLM to prioritize the use of Federal resources in the appraisal and review process on the lands with the highest resource value for acquisition.

The bill also identifies a number of parcels for transfer to SITLA from the BLM. Some of these would improve manageability and encourage appropriate local development, including:

- 2,800 acres of scattered parcels near the town of Green River which are suitable for private agricultural development; and
- 80 acres adjacent to Canyonlands Field municipal airport operated by Grand County, Utah which are suitable for private development.

In addition, some of the lands identified for transfer to SITLA from the BLM have high energy potential.

VALUATION ISSUES

In December of 2004, former Secretary of the Interior Norton issued policy guidance to all of the bureaus on legislative exchanges and land valuation issues. A copy of that guidance (Secretary of the Interior Order No. 3258) is included for the record. This policy was developed to ensure that land transactions are conducted with integrity and earn public confidence.

The policy states that all real property appraisals performed by the Department shall conform to nationally recognized appraisal standards (i.e., the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA) and the Uniform Standards of Professional Appraisal Practice (USPAP)). Accordingly, the policy specifically prohibits the use by the Department of alternative methods of valuation in appraisals. However, the policy recognizes there may be times when Congress will direct, or the Department will propose, the use of alternative methods of valuation other than, or in addition to a standard appraisal. Under the policy guidance, if Congress directs the Department to use an alternative method of valuation in a specific transaction, the Department will expressly describe the alternative method of valuation applied; explain how the alternative method of valuation differs from appraisal methods applied under the Uniform Appraisal Standards or the Uniform Standards of Professional Appraisal Practice; and, if so directed by Congress, provide this material to the appropriate committees prior to or after completion of the transaction, as required by the direction.

The Department's Inspector General has commented on the Department's appraisal reform efforts. In testimony given before the Senate Committee on Finance, he commended the Department for the significant changes it has made to the land appraisal program and process.

As stated, there are circumstances in which the Congress or the Administration may decide that alternative methods of valuation are appropriate for achieving worthwhile public policy objectives. It is our duty to be clear and transparent about the details of proposed exchanges and to be clear that an alternative method of valuation is being used.

S. 2788 is not an Administration legislative proposal. It is a legislative proposal from Congress. Its stated purpose is to facilitate the exchange of certain Federal lands for non-Federal lands to further the public interest by exchanging Federal land that has limited recreational and conservation resources and acquiring State trust land with important recreational, scenic, and conservation resources for permanent public management and use. To meet these legitimate public policy objectives, Congress may determine that alternative methods of valuation are consistent with the intent of the legislation.

S. 2788 directs that all appraisals shall be in accordance with the requirements of FLPMA and with the BLM's regulations governing appraisals. The bill further directs the use of two alternative methods of valuation for two different purposes. I will describe the Department's view of each of these and the relative benefits or risks of using these methods.

Sec. 5(b)(4) requires that, for Federal lands that are not under mineral lease at the time of appraisal, such lands shall be valued without regard to the presence of any minerals that are subject to leasing under the Mineral Leasing Act of 1920. This provision would not affect the appraisals for lands that contain no mineral values. Additionally, it would not affect the appraisals for those lands that are already under Federal mineral lease. Rather, this provision would modify a standard appraisal by directing a reduction in the value of any eligible parcel by the value of any present minerals which are subject to leasing under the Mineral Leasing Act of 1920, but not under lease. For such lands, the transaction value would be reduced by the value of those minerals. In exchange for this reduction in value, the State or its successors in interest to the property (by virtue of covenant language in Section 5(b)(4)(B)) would have to agree to pay the United States 50% of whatever bonus or rentals are paid to the State for any mineral development in the future; and an amount equal to the Federal royalties that would have otherwise been collected by any future mineral development conducted pursuant to the Mineral Leasing Act, minus amounts that would have otherwise been due to the State under Section 35 of that Act.

This is a complicated methodology that departs from a standard appraisal and valuation practice. We note that currently under standard appraisals oil shale, the mineral that, in addition to oil and gas, is likely to be found in the unleased lands that would be conveyed to the State, does not factor into the value because there are no comparable oil shale transactions, or there is no reasonably foreseeable oil shale development on the property. The result of using a standard appraisal process might therefore be that properties with significant oil shale resources will probably have no additional value attributed to them by virtue of the presence of this resource. This could lead to the criticism that the United States is "giving away" potentially millions of dollars in oil shale. The material purpose of the provisions contained in section 5(b)(4) is to address that risk by ensuring that the United States receives the value for any future oil shale or other leasable mineral development it would have received if the Federal government had retained the lands and leased them.

We would like to work with the Committee to further refine this section. In particular, we would like the bill to clarify that under Section 5(b)(4), the royalty rate for which the State would compensate the Federal government in the event that currently unleased minerals are eventually developed is the standard Federal on-shore rate established at the time the resource is developed. Also, it may be more appropriate to narrow the scope of this provision expressly to oil shale and allow for an appraisal that would capture the value of any other leasable minerals according to general appraisal standards. In addition, as currently drafted, the provision conditions the use of the alternative method of valuation on an agreement the State would make after conveyance of the lands. The lands, however, cannot be conveyed until they are valued.

The second alternative method of valuation is found in Sec. 5(b)(6)(B). This provision would apply only to parcels under Federal mineral lease at the time of the appraisal. Clause (ii) in that subparagraph would direct the BLM to reduce the value of an applicable appraisal by an amount equal to what would be the State's share under Section 35 of the Mineral Leasing Act. A standard appraisal would identify the value of the parcel based on a net present value of the future royalty stream. That valued revenue stream would comprise the entire Federal collection, without an offset or reduction for the portion of the revenue stream that the Federal government remits to a state. It is the Department's understanding that this provision is included to recognize that the Mineral Leasing Act currently provides that 50% of all the money received by the United States in accordance with Section 35 of the Mineral Leasing Act shall be paid to the State within the boundaries of which the leased lands or deposits are or were located.

This provision would reduce the net present valuation by an amount equal to what would be the State's share under the Mineral Leasing Act.

The overall result of the proposed valuation methods will be a greater number of Federal acres exchanged for a lesser number of state acres. This may be the desired outcome given Congress' stated public policy objectives.

OTHER CONCERNS

The Department opposes section 5(d) of the bill requiring a "resource report" on the lands to be transferred out of Federal ownership. Under S. 2788 the Secretary has no discretion regarding the lands to be transferred out of Federal ownership; therefore the intent and usefulness of this section is unclear. Resource reports on the parcels will be time-consuming and costly, will delay the purposes of the bill, and will not ultimately affect the directed exchange. We urge the Committee to delete this provision.

Additionally, the Department has serious concerns with section 6(a)(2)(B) which places permanent withdrawals from the mineral leasing and mineral materials laws' on certain state parcels once they are transferred to the Federal government. We would support the short term withdrawals envisioned in 6(a)(2)(A) because they are consistent with the present public planning process. Generally the Department prefers to identify lands for permanent withdrawal from mineral entry or leasing through the public land use planning process because it gives all interested parties an opportunity to be heard. A short-term withdrawal of these lands from mineral leasing would preserve the option of more permanent withdrawal for any final record of decision. This is standard BLM practice.

We would like the opportunity to continue to fine tune some technical provisions, including section 4(a), to insure that the implementation of the exchange is correctly and appropriately completed.

Finally, we understand that the current maps created by the BLM, dated March 16, 2006, are works in progress. We look forward to the opportunity to finalize these in the coming weeks in coordination with the sponsors and the Committee.

CONCLUSION

The Department of the Interior supports the intent of this legislation. Large-scale land exchanges can resolve management issues, improve public access, and facilitate greater resource protection, and we support such exchanges. To that end, we are ready to work with the Committee and the sponsor to resolve remaining issues in the bill. I would be happy to answer any questions.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, December 30, 2004.

ORDER NO. 3258

Subject: Policy Guidance Concerning Land Valuation and Legislative Exchanges

Sec. 1 *Purpose*. This Order provides policy for land valuation issues, real property appraisals, and legislative land exchanges.

Sec. 2 *Background*. During the past year, the Department has taken significant steps to ensure that land transactions are conducted with integrity and earn public confidence. These steps include implementing reforms to improve the management of real property appraisals, establishing the Appraisal Services Directorate, and issuing the Land Transaction Principles. This Order provides the following: (a) a policy on alternative methods of valuation (AMV) that addresses the need to comport with nationally applicable appraisal standards; (b) a policy on appraisals prepared for third (i. e., non-Federal) parties; and (c) a policy on legislative exchanges that reinforces existing Departmental guidance and further provides for a Departmental determination on how to review such proposals internally to ensure appropriate coordination and decision making. The legislative exchange policy also underscores the importance of adhering to applicable appraisal standards in developing applicable legislative provisions.

Sec. 3 *Authority*. The policy in this Order is being issued in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

Sec. 4 *Policy*.

a. *Alternative Methods of Valuation*.

(1) All real property appraisals performed by the Department shall conform to nationally recognized appraisal standards (i. e., the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice, as applicable). Accordingly, the use of public interest value, contingent valuation, habitat equivalency analysis, and any other AMV in appraisals is expressly prohibited.

(2) If Congress directs the Department to utilize AMV other than or in addition to an appraisal in a specific transaction, the Department shall (a) expressly describe the AMV applied; (b) using the assistance of the Appraisal Services Directorate (ASD), explain how the AMV differ from appraisal methods applied under UASFLA or USPAP; and (c) upon Congressional direction, provide this material to the appropriate committees prior to or after completion of the transaction, in accordance with such direction.

(3) Requirement for Congressional Authorization or Notification.

(a) If the Department proposes to utilize AMV other than or in addition to an appraisal in a specific transaction that requires Congressional authorization, the Department shall expressly describe to the appropriate committees of Congress the AMV applied and, using the assistance of the ASD, explain how they differ from appraisal methods applied under UASFLA or USPAP.

(b) If the Department proposes to utilize AMV other than or in addition to an appraisal in a specific transaction that does not require Congressional authorization, the Department shall notify the appropriate committees of Congress and the Office of the Inspector General prior to the completion of the transaction and, upon Congressional direction, explain, using the assistance of the ASD, to the appropriate committees how the AMV differ from appraisal methods applied under UASFLA or USPAP.

(4) The Associate Director, ASD, has overall authority and responsibility to ensure the effective implementation of this policy, in coordination with the Office of the Special Trustee for American Indians (OST), as applicable, and the Office of Congressional and Legislative Affairs (OCL).

b. *Appraisals Prepared for Third (i.e., non-Federal) Parties.*

(1) Appraisals prepared for third (i. e., non-Federal) parties may assist in achieving mutually beneficial outcomes for the Department and the proponent. The Department of the Interior, however, is not obligated to review land transaction proposals supported by such appraisals that do not comport with its land management missions, priorities, and plans.

(2) Upon bureau request, the Department, acting through the ASD or the OST, as applicable, shall review a third party appraisal if: (a) the third party consults with ASD or OST prior to the initiation of the appraisal on the scope of work and the selection of the appraiser, and agree that ASD or OST, as applicable, is both the client for and an intended user of the appraisal; (b) a senior bureau or Departmental manager (i. e., Senior Executive Service level in the field or headquarters, as applicable) has transmitted the appraisal with a determination that the land transaction proposal supported by the appraisal comports with applicable missions, priorities, and plans; and (c) ASD or OST, as applicable, has determined that the appraisal was prepared by a certified appraiser and meets applicable appraisal standards.

(3) ASD or OST review of an appraisal does not create an expectation that such appraisal will be approved.

(4) In cases where an appraisal is reviewed by ASD or OST, a second appraisal may be required. If so, ASD or OST shall conduct or oversee that appraisal, which shall be performed in accordance with procedures determined by ASD or OST, as applicable.

(5) The Associate Director, ASD, has overall authority and responsibility to ensure the implementation of this policy in coordination with OST, as applicable, and the OCL.

c. *Legislative Exchanges.*

(1) All officials and employees of the Department shall adhere to 461 DM I, which addresses requests for information, drafting, or other assistance regarding legislation from sources outside the Department, and specifically requires coordination with the Legislative Counsel in OCL.

(2) Similar coordination with the OCL shall occur on legislative exchange proposals initiated by any entity, official, or employee of the Department.

(3) The OCL shall determine the appropriate means for the review of each legislative exchange proposal, including the involvement of appropriate policy officials of other offices (e.g., the ASD or the OST as appropriate, and the Solicitor).

(4) Appropriate documentation shall support the key provisions of all legislative exchange proposals.

(5) All appraisals used in legislative exchanges shall conform to nationally recognized appraisal standards (i. e., the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice, as applicable). When the Department proposes the application of alternative methods of valuation other than or in addition to an appraisal for a legislative exchange, it shall expressly describe the alternative methods of valuation and explain how they differ from methods utilized in an appraisal consistent with nationally recognized appraisal standards (i. e., the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice, as applicable).

(6) The Director, OCL, has overall authority and responsibility to ensure the effective implementation of this policy, in coordination with the Associate Director, ASD, as applicable.

Sec. 5 *Expiration Date*. This Order is effective immediately. It will remain in effect until its provisions are converted to the Departmental Manual or until it is amended, superseded, or revoked, whichever occurs first. In the absence of any of the foregoing actions, the provisions of this Order will terminate and be considered obsolete on July 30, 2006.

GALE A. NORTON,
Secretary of the Interior.

Senator CRAIG. Chad, thank you very much.
Joel, please proceed.

STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, DEPARTMENT OF AGRICULTURE

Mr. HOLTROP. Mr. Chairman, thank you for the opportunity to appear before you today in order to provide the Department's views.

S. 2466, The Southeast Arizona Land Exchange and Conservation Act. 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, 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 U.S. Secretary of Agriculture five parcels of land.

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.

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 such as:

In section 4(a), which 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 of the 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. So, we recommend, for instance, section 4(a) be amended to require Resolution Copper to also convey all right, title and interest to the non-Federal land.

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 ensure 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, recognizing the desirability of doing it near the town of Superior as much as possible. 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.

We would like to work with the Subcommittee and the bill sponsors to work on these and other recommendations.

Regarding S. 2567, The Eastern Sierra Rural Heritage and Economic Enhancement Act, this act 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.

The Act 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 Sierras. In addition, portions of the Pacific Crest Trail traverse through the area. The area is replete with high mountain meadows, craggy mountain crests, and fishable streams, as we saw in the pictures from Senator Boxer.

The Department supports the designation of the wilderness additions since it is consistent with the Humboldt-Toiyabe Forest Plan direction, which recommended the area 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. The Amargosa 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, and 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 an excellent example of cooperative conservation. This concludes my statement and I would be happy to answer any questions you may have.

[The prepared statement of Mr. Holtrop follows:]

PREPARED STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM,
DEPARTMENT OF AGRICULTURE, ON S. 2466 AND S. 2567

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 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."

Senator CRAIG. Gentlemen, thank you both. Let me ask a couple of questions here. Chad, as it relates to S. 2466, I'm a little confused with the testimony about wanting to be responsible for a parcel that would go to the State of Arizona for State parks for up to 5 years. I understand that a good portion of the land, 2,000 acres

out of 2,160 acres that will become State park is currently BLM; yet I hear the BLM is concerned about maintaining responsibility for lands it already has responsibility to manage.

While I can understand your concern about having to build or reconstruct a road in there, it seems a small price to pay when the agency is getting 2 acres for every 1 acre you're giving up. When did the Department of the Interior, or for that matter the BLM, begin assessing land exchange based on what is good for the BLM instead of what is good for the public?

Mr. CALVERT. Well, thank you, Mr. Chairman. That's a good question. Actually, the 2,000 acres the BLM currently manages is obviously not the problem for the BLM. The question that we have is, there is an expectation in the bill that a climbing park will be developed and BLM does not have the capacity to develop or manage or oversee a climbing park in that area right now. Really, the concern is about the 160 acres coming in and then passing along and it was simply our preference that that happened immediately, and if the conveyance of the 2,000 acres is to be envisioned as it is in the bill, that it just all happen at once and not have the BLM holding onto some land that is to be developed as a climbing park.

Senator CRAIG. OK. Well, I think you can see my concern, because I recognize that agencies hold land in trust for the citizens and not necessarily for the benefit of the agencies and I was having a little more difficult time understanding that, if you will.

On S. 2788, the Utah Recreational Land Exchange, I understand that there have been substantial negotiations on the House side of this legislation. Has the Department been involved in those negotiations and have changes occurred to address the Department's concern?

Mr. CALVERT. Yes, sir, as I've said, we've been working with the committee and with the sponsors of the bill on the House side to address a number of issues we raised in testimony last year. We have made considerable progress and a number of provisions of the bill have been modified substantially to address the concerns that we had that were primarily raised by the our Solicitor's Office and our Office of Appraisal.

Senator CRAIG. OK. Under the provisions dealing with valuation of un-leased minerals, the Department of the Interior, and therefore the U.S. Government, would receive exactly what they would receive if those lands were leased by the BLM under the Mineral Leasing Act or under acts where the Federal Government receives royalties. Is this accurate and why would there be any concern over such a provision other than it is different than trying to appraise unknown minerals?

Mr. CALVERT. Thank you, because this is one of the issues we grappled with for months. And I think Senator Bennett put it best in saying this was a compromise achieved to meet a need. And the need is, how do you value. Primarily what we were concerned with was oil shale. There are massive oil shale resources in eastern Utah that would probably have no value in an appraisal because they are not foreseeable in the development and there would be no comparables by which to compare the property to. So this compromise was put together in an effort to hold the Federal Government harmless in the event that oil shale is developed because it

wouldn't show up in a—likely show up in an appraisal. We worked with them and the Secretary. Policy on appraisals is set up in such a way that we prefer using the standards, the appraisal standards, but where there may be an alternate method of valuation, such as here, it is simply our duty to tell you how we read it and how it would be implemented and how it might differ from standards and I think we tried to do that in the written statement for you.

Senator CRAIG. I think you have, and I'll leave it at that. I understand that there is a uniqueness to this, a newness, and I think it was very creative. The unknown is out there, yet there is a reality that some day it may be of substantial value, and if there is one thing that you are responsible for, that's making sure that the public trust is held whole here, and I appreciate that.

Joel, let me turn to you on S. 2466, the Arizona Resolution Copper Exchange. I see the Forest Service is concerned with the time allowed to identify and construct a replacement campground and the restriction that it be located in the Globe District. I'm told that two potential sites have already been identified and that, as part of the exchange, the Forest Service will be receiving the JI Ranch Parcel just up the road from Oak Flat, which was a water source that the Oak Flat site does not have. Can you provide me a detailed description of why you think it could take more than 2 years to get this done?

Mr. HOLTROP. I'd be happy to do so. And, actually, my understanding is there are three sites that the Forest is indicating to me that they are considering as potential sites on the Globe Ranger District. The circumstance is, each one of those parcels, including the JI Ranch Parcel, each one of those sites do have some issues associated with them. They might be issues around having the access necessary to access the campground. There are some issues around hazardous materials from former, prior mining activities in the area with a couple of cases. And then there are circumstances around cultural or heritage sites that would need to be mitigated along with the development of the campground. So it's the thought that we would need to do the NEPA analysis to select the most appropriate site to do the associated environmental analysis, including looking at the heritage sites, and then the site design, perhaps an access road design, contracting for all that. I thought it was appropriate to at least express a concern that the 2 years might be a short period of time for all of those steps to be taken.

Senator CRAIG. Can you tell me when the last time was that a private entity has proposed to pay a half a million dollars to build a new campground in the National Forest System?

Mr. HOLTROP. I'm not aware of any time that that's happened.

Senator CRAIG. I didn't think you were. And neither am I. And I think this is obviously a due diligence and a commitment on the part of the private entity to do the right thing.

The Eastern Sierra Rural Heritage and Economic Enhancement Act, I'm fascinated by the title. Per the statement of the act, if I understand it, the Forest Service was directed in the early 1980's to manage this area as if it were wilderness until the Humboldt-Toiyabe National Forest plan was completed. Then, in the 1986 forest plan, the area was recommended to be designated as a wilderness. If I am correct, it has been managed as a wilderness since

then. In fact, the September 2000 Clinton administration roadless map showed this as wilderness. Thus, I am struggling to understand what the economic enhancement could be if this legislation is passed.

The question is this, if Congress were to earmark \$2 million each year to manage the wilderness addition without increasing the overall recreation wilderness and heritage budget, a line item, how would that affect the agency's ability to manage other wildernesses?

Mr. HOLTROP. Well, maybe one of the best ways to think about the effect that that might have is the entire recreation and heritage and wilderness budget for the Humboldt-Toiyabe National Forest in this year is \$2.3 million. Obviously, if \$2 million were earmarked without any additional increase for the management of the areas around the Hoover Wilderness addition, that would leave \$300,000 remaining for the rest of the recreation, wilderness and heritage programs of the Humboldt-Toiyabe that are currently requiring about \$2.3 million. So, it would have an effect on the Humboldt-Toiyabe.

We would almost certainly make a decision not to have the Humboldt-Toiyabe National Forest accept all of that additional responsibility, so it would be spread to the other areas, either throughout the inter-mountain region, or perhaps more likely, nationally. So it would have an effect on our ability to manage the rest of the system.

Senator CRAIG. OK, if it is wilderness, and it hasn't had the title put to it, it's a wilderness study area. How much change will occur? How much more additional expense will occur if Congress so designates?

Mr. HOLTROP. I'm not aware that there would be significant additional expense because we are, as you indicated, instructed in our managing the area as wilderness at this time. The formal designation, there might be some additional expenses of signing and posting and boundaries and some of those types of things. There's an ongoing issue that—again, I'm not sure the formal designation changes the management of snowmobile use adjacent to the area, but that would be something that would continue to be an issue for us. But the actual designation would probably have a very limited impact on the use of the area.

The Hoover Wilderness, the existing Hoover Wilderness is an area that is under a quota system, a recreation quota system on the trailheads. What would likely occur if this legislation were to pass, we would look at that quota system and add the trailheads that have been added to that and there may be some redistribution of the use. Those quotas on the trailheads generally fill up to capacity on weekends during the summers and early fall. So there might be some redistribution.

Senator CRAIG. Well, I'm curious, because I understand when you hang a sign up you get greater attention, but I'm also curious as to how much the current use levels would change based on the reality of what we're actually proposing to do here, or is being proposed, from what it is to what it would be.

Mr. HOLTROP. I would certainly think that use that is local and regional in context, to those who are already aware of the area and

recognize it as an area being managed as wilderness, would have—there would be very little difference with the wilderness designation. I would also think that there may be some national perspective, or people just traveling through the area, recognizing it as a nationally designated area. There may be some additional interest because of that.

Senator CRAIG. Some of that happens. Well, gentlemen, thank you both. We'll work with you as we move toward a mark-up on these bills, too, and, of course, with the sponsors to make sure we get it right. We thank you both.

OK. Now, let me call our final panel up. Mayor Michael Hing, mayor, town of Superior, AZ; Ms. Laura Kamala, director, Utah Lands—excuse me, director of Utah programs, Grand Canyon Trust, Castle Valley, UT; Bill Williams, vice president for health, safety, environment and construction, Resolution Copper Company, Phoenix, AZ; and John Anderson, associate director, School and Institutional Trust Lands Administration, Salt Lake City, UT.

Mayor, we'll start with you. Please proceed.

**STATEMENT OF MICHAEL HING, MAYOR,
TOWN OF SUPERIOR, AZ**

Mr. HING. Thank you, Mr. Chairman. I am Michael Hing, mayor of Superior, AZ. I am pleased to submit this testimony on behalf of the town of Superior concerning S. 2466.

My roots in Superior are deep. I was born and raised there. My grandparents opened their grocery store in the 1920's and I operate it now, with other members of my family. As a small businessman and active community member, I witnessed the town's success during boom times and its decline during busts. I plan to usher in a positive future for the town, and this land exchange is critical to that future.

Please allow me to explain what I mean. When the Magma Mine was operating, our town was prospering and grew to 7,500 people. Jobs were plentiful and Superior made a name for itself. But we depended on the mine for our well-being. Then, in 1987, Magma closed. Our community was devastated. The effects are lingering to this day. Our population shrank by more than half, to 3,500 residents. Major social problems surfaced as employment plummeted and people lost hope. Crime and drug use skyrocketed. Schools for our children lost funding, compromising our ability to provide a solid education. The mine left an environmental mess for others to clean up.

As mayor, I've absorbed important lessons from witnessing that civic trauma. I know to never rely completely on mining again. Our economy needs to be diversified.

That's why I am so pleased that Resolution Copper Company has come to Superior. The company's discovered a significant ore body 7,000 feet below the old Magma Mine. With such a major discovery, Resolution could've swept into Superior with a flourish of promises and new mining jobs and then abandoned us when the ore was exhausted. From the day company representatives first arrived, they looked to the town's future. They approached me with ways to build up our economy and to do it right. The company is just in

the early stages of eventually extracting the ore, but its representatives are already helping the town plan for the day the mine closes.

The company works with the schools, boosting math and science education to elementary-age children and providing summer jobs and college scholarships to our older youth. They have spent and are continuing to spend millions in voluntary efforts to clean up, reclaim and improve their lands and facilities. They have helped arrange economic development meetings with the Arizona Department of Commerce to shape an affordable plan that will diversify our economy in mining services, manufacturing, tourism, recreation and other businesses. They have hired local contractors, provided job training to local citizens. They are working to beef up our infrastructure, including establishing Superior as a wireless Internet zone. If the land exchange legislation is successful, Superior will gain valuable property and we can use it for even more economic development. In short, from the beginning, Resolution has worked with Superior and other communities with a vision of sustainable development.

The company's willingness to build Superior's future is very important to our partnership. But even more important, company officials have been completely transparent about their operations. The company formed a citizens' committee to help town residents stay informed of company activities and give our input. They routinely ask our opinions and include us in critical decisions.

I testify before you today as a partner with Resolution. The land exchange legislation before you is critical to our shared vision of the future. Resolution must complete the land exchange before it invests \$2 billion in mine development.

I will not bore you today with every detail of the exchange, which will streamline the now-fragmented ownership of 3,000 acres in the Oak Flat area. Suffice it to say that the town, the State, the Governor, and members of our congressional delegation, including Senator Jon Kyl and Senator John McCain and Representative Rick Renzi, agree that Resolution Copper should acquire the land, including campgrounds and rock-climbing areas. In return, the non-Federal properties that Resolution has assembled to convey to the United States for the exchange are spectacular in its contribution to wildlife habitat, protection of streams and other water resources, endangered species habitat, land conservation, and opportunities for recreation.

Allow me to explain some of the other environmental benefits of S. 2466, which will include for Superior, surrounding communities and the State of Arizona.

First, section 6 of S. 2466 permanently protects the Apache Leap escarpment, an environmental landmark above Superior that dominates our landscape. The Superstition Land Trust and Resolution Copper, working with the town, support the language of S. 2466, which ensures that the Apache Leap escarpment is never disturbed by development and remains as it is today. Additionally, Resolution will spend up to \$250,000 to provide public access, trails, or trailheads to Apache Leap, if the Land Trust, local Indian tribes and town deem it appropriate.

Second, Resolution, the town, and the U.S. Forest Service have been working together to identify a new campground or camp-

grounds for an existing 14-site Forest Service campground at Oak Flat. S. 2466 requires the Secretary of Agriculture to design and construct one or more replacements in the Globe Ranger District, and requires Resolution to pay up to \$500,000 for them.

Third, Resolution will compensate for the loss of recreational rock climbing at Oak Flats. The company funded a large-scale search to find a bigger and better climbing area. The resulting find, less than 20 miles away, at Tam O'Shanter Peak, has sparked interest from climbers all over the world. The Arizona State Parks Board and the Arizona Legislature have recognized this incredible find and are pursuing a new State park there to devote to climbing. A bill is moving through the Arizona Legislature to authorize the park's creation, assuming that S. 2466 is enacted.

The land exchange also creates a new economic opportunities for Superior, which, as you can see from the map attached to testimony, is largely surrounded by the Tonto National Forest. S. 2466 provides the town with an opportunity to acquire some of the adjacent property from the United States to meet anticipated growth.

Also, the town's 30-acre cemetery is located on an isolated parcel of Federal land managed by the Tonto National Forest. While hundreds of our forefathers have been buried there for the past century, no authorization exists for our cemetery. S. 2466 will allow the town to acquire the parcel at fair market value from the Forest Service.

Additionally, the town owns a 265-acre parcel, which has a small landing strip. The property has a reversionary interest, so if it ever stops being used as an airport, it will be returned to the U.S. Government. The town wants to acquire the reversionary interest, and S. 2466 provides for a sale of the interest to the town at fair market value. Moreover, S. 2466 provides that the town may acquire up to 181 additional acres of land contiguous to the airport, also at fair market value, and in a manner that provides the United States with manageable boundaries on retained parcels. These airport parcels represent a significant opportunity for the town in terms of future growth, economic diversification and development. The future airport use has been protected by the Arizona Department of Transportation. The Department's 5-year capital improvement plan includes the ability to relocate the airport if we choose.

Finally, S. 2466 provides that if any land offered by Resolution exceeds the appraised value of the Federal Oak Flat parcel, any excess value can be applied to the town's purchase of the cemetery and airport parcels. Both Resolution and the town are anxious for the town to acquire these properties.

Mr. Chairman, as our Governor has stated, the new mine is projected to produce 1,000 jobs during construction and 400 to 600 permanent jobs, plus more than a 1,000 related and indirect jobs. The economic impact of the new mine will allow us to grow in a way that ensures our future for our children and grandchildren. The possibilities the mine holds for Superior and Arizona are among the many reasons that Governor Napolitano is joining us in strongly supported this land exchange.

Thank you for the opportunity to testify today. And I would like to thank the members of our congressional delegation, including Senator Kyl, Senator McCain, and Representative Rick Renzi, for

their efforts in bringing this legislation to fruition and our State delegation for providing this, the creation of a State park. The town of Superior urges your thoughtful consideration and timely passage of S. 2466, so that the land exchange, which is so important to our future, can be implemented at the earliest possible date. Thank you.

Senator CRAIG. Mayor, thank you very much.
Mr. Williams, please proceed.

**STATEMENT OF BILL WILLIAMS, VICE PRESIDENT,
RESOLUTION COPPER COMPANY, LLC, PHOENIX, AZ**

Mr. WILLIAMS. Mr. Chairman, thank you for the opportunity to appear before you. My name is Bill Williams, I am the vice president for Resolution Copper. I am here in support of S. 2466 and I'd like to take a few moments to describe to you the activities and the efforts that we've been engaged in over the last several years to get us to this stage, and hopefully be able to describe to you how we've tried to address the best interests of all parties involved.

I know you have my written comments, so I'll just focus on a few key points.

Senator CRAIG. If you would, please, yes. All of your full statements will be a part of record, so brevity is appreciated.

Mr. WILLIAMS. Thank you. The purpose of this bill, of course, is to authorize the land exchange between Resolution Copper and the U.S. Government, the Forest Service and BLM. There are about 5,500 acres of Resolution property to be exchanged for about 3,025 acres of Forest Service lands, known as Oak Flats.

And I'll point to the map here and just ask Mr. Poe to point out the town of Superior. The yellow area is our property and the green area that he's describing right there is actually the Oak Flats boundary limits. So, you can see that the property is directly adjacent to, and in some cases underneath or around—the ore body is around our property.

Mining has been in the area, as you've heard, for almost 100 years. The Magma Copper operations ran until 1996 and over the course of their operations produced some 25 million tons of copper. In about 1996 those operations shut down, and after that operation ceased to exist, further exploration was undertaken by my company looking for a deposit or looking at a deposit that was, again, near and underneath the old Magma mine. The scale of this ore deposit, as we currently see it, is quite significant. As you've heard before, it may be one of the world class ore deposits.

However, it's risky. There's both technical risk and financial risk associated with this, as you've heard. Our depths are below 7,000 feet below surface. Rock temperatures in the mine, as we've measured with the drilling, exceed 180 degrees Fahrenheit. So, it would be both technically challenging and financially challenging. But if we're successful, we expect that we will see some 200 to 400 full-time employment jobs, more than 1,000 construction jobs during the period of construction, and at least 1,500, and perhaps more, service industry jobs that will be associated with the mining itself.

However, we need to secure that property to be able to move the project forward. The Forest Service property, as I've indicated, is both adjacent to and intermingled with our own property. Consoli-

dation of our holdings for this operation will promote an efficient operation for exploration and potential development and will ensure public safety occurs during the time that we're active on the site.

We understand that we have an obligation to offer lands that are of great value to the public, at least as great as the property that we receive. And I'd like to highlight, on the next map, eight parcels which we bring to the table for exchange purposes.

The first is 7 miles of river bottom and riparian lands along the San Pedro River. Quite a unique environmental habitat in of itself. Two miles of riparian aquatic habitat along the Clear Creek and Coconino National Forest, one of Arizona's largest and perhaps most ancient mesquite forests. Almost 1,000 acres of diverse grassland in the Appleton-Whittell Research Ranch. This property is jointly managed by the Forest Service, BLM and the Audubon Society. Four parcels in the Tonto National Forest, which have very significant riparian and ecological and cultural and historic amenities, including a population of the endangered Arizona hedgehog cactus, and 160 acres, as you've heard, for rock climbing and perhaps another 160 acres to come in.

In summary, the gain for the people of United States is river bottoms and sensitive riparian lands, habitat and potential habitat for threatened, endangered and sensitive species, public recreational opportunities, cultural historic resources, habitat for a large variety of flora and fauna and a year-round water resource.

Sir, we also, though, understand that the appraisal process is a sensitive matter. The appraisal process will be under the control of the Forest Service and under the direction of the Secretary of Agriculture with the final approval resting there. All appraisals will be conducted in accordance with U.S. standards, appraisal standards. And even though mineral appraisal is difficult, we don't want any allegations that the taxpayers may not be getting full, unrestricted value. Therefore, all the land will be appraised as if no mineral existed on property.

I'd like to just close, sir, by indicating that we think we have engaged in an effort to engage stakeholders around the area. We're aware that there are a few issues that remain both with the Federal Government as well as with the Apache Nation. I'm confident that we have the people in place and the process is in place to resolve those issues. Thank you for your time, and thank you for the courtesy of your staff. I am happy to answer questions.

[The prepared statement of Mr. Williams follows:]

PREPARED STATEMENT OF BILL WILLIAMS, VICE PRESIDENT, RESOLUTION COPPER MINING, LLC, ON S. 2466,

Mr. Chairman and Members of the Subcommittee, my name is Bill Williams, and I am Vice President of the Resolution Copper Company, a limited liability corporation headquartered in Superior, Arizona. I am here in support of S. 2466, and to briefly describe the activities and efforts we have engaged in over the past several years to insure that the land exchange and other provisions of S. 2466 are in the best interest of all the parties involved, and the general public.

The primary purpose of S. 2466 is to authorize, direct and expedite a land exchange between Resolution Copper and the U.S. Forest Service and Bureau of Land Management. The goal of the land exchange, from our perspective, is for us to acquire approximately 3,025 acres of National Forest land known as Oak Flat. As you can see on the map attached at the end of my testimony, Oak Flat either abuts, or is heavily intermingled with, private land which Resolution Copper *already* owns.

That private land was the site of the Magma underground copper mine, which operated from 1912 to 1996 and produced 25 million tons of copper ore. After the Magma Mine was shut down in 1996, further exploratory drilling revealed the existence of a potentially very significant, and large, copper deposit located not just under our old mine, but also under the intermingled National Forest lands we are seeking to acquire in the exchange. As our Governor, Janet Napolitano, has indicated in endorsing our land exchange, if the copper ore body we have discovered can be developed into a mine, it will generate nearly 1,000 construction jobs; 400 permanent, high quality technical jobs; and nearly 1,500 service related provisions.

Despite the fact that we currently hold unpatented Federal mining claims on most of the National Forest land we are seeking to acquire, the fragmented and interspersed nature of our lands and the National Forest lands makes it far preferable for us to own and control all the land where we could potentially be mining in the future. Developing an underground mine—this one would be a mile and a half beneath the surface—is an *extremely* expensive and financially risky proposition—involving \$200–400 million in exploration and feasibility work . . . and \$1 billion, or more, before mine construction is finished, and minerals are produced in commercial quantities. We want to own the land on which we will operate, because fragmented land ownership simply does not promote efficient mine permitting and development. In addition, as we will be intensively using the National Forest land for exploration and mine development, it will become unusable by the general public due to safety and operational concerns. In summary, Mr. Chairman, for safety and many other reasons, we would like to own and control the lands where we will be exploring, and hopefully re-opening, our mine.

Now, we realize that when we are asking to take land out of public ownership, it is our duty, both under existing law and policy, to try and return to the public lands that have even *greater* public values than the lands we are receiving. We think we have done that.

As S. 2466 now stands, Resolution Copper has either purchased or optioned 8 parcels of land, totaling approximately 5,539 acres, to convey to the United States in the exchange. Whereas most of the Oak Flat parcel, as its name implies, is relatively flat, and has no permanent water—the 8 parcels we have assembled for exchange are exceptionally rich in ecological, recreational and other values . . . and many of them have significant water resources. Their attributes include: 1) seven miles of river bottom and riparian land along both sides of the free flowing San Pedro River; 2) two miles of riparian and aquatic habitat along East Clear Creek in the Coconino National Forest; 3) one of the largest, and possibly most ancient, mesquite forests (or bosques) in Arizona; 4) almost 1000 acres of extremely diverse grassland habitat in the Appleton-Whittell Research Ranch—which is an existing preserve jointly managed by the Forest Service, BLM and Audubon Society inside the Las Cienegas National Conservation Area; 5) four inholdings in the Tonto National Forest which have very significant riparian, ecological, cultural, historic and recreational amenities, including populations of the endangered Arizona hedgehog cactus and a rare pond fed by a year-round stream; and 6) a 160 acre parcel with cliffs for rock climbing that will be added to the proposed rock climbing State Park which S. 2466 will help establish. We are still working at acquiring a ninth parcel, which will be added to our exchange package, and to the rock climbing State Park, if we are successful.

All told, therefore, this land exchange will result in very significant net gains to the United States in: 1) river bottoms and sensitive riparian lands; 2) habitat, or potential habitat, for threatened, endangered and sensitive species; 3) public recreational opportunities; 4) cultural and historic resources; 5) habitat for innumerable species of flora and fauna; and 6) year-round water resources—a rarity in many parts of Arizona.

At this point, I would like to submit letters for your record from Arizona Audubon, the Trust for Public Land, the Nature Conservancy, the Sonoran Institute, the Arizona Game and Fish Department, and the Superstition Area Land Trust further describing the ecological and other benefits of the lands we have acquired for this exchange, and strongly endorsing their acquisition by the public.

Mr. Chairman, we have also agreed to several provisions in S. 2466 which are designed to insure that the taxpayers get full fair market value in this land exchange . . . and that any facilities or activities we displace in acquiring the Oak Flat land are adequately replaced or improved upon. I will briefly describe those provisions in the order they appear in S. 2466:

- Subsection 5(a) of S. 2466 provides that all appraisals will be conducted in accordance with U.S. appraisal standards, *and* in accordance with Forest Service issued appraisal instructions. Further, the appraisals must be formally re-

viewed and approved by the Secretary of Agriculture, meaning that the appraisal process will be under the Forest Service and Secretary's of Agriculture's complete supervision and control.

- We realize that mineral appraisals can be difficult, especially where unpatented Federal mining claims are involved. Accordingly, we have agreed in subparagraph 5(a)(4) of S. 2466 to have the Oak Flat parcel, which is 75% overlain by our mining claims, appraised as if our mining claims *do not exist*. We believe that is an *extremely* significant concession on our part. We agreed to it because we do not want any allegations that the taxpayers are not getting full, unrestricted fair market value for the land they are giving up in the exchange.
- To protect the portion of the Oak Flat parcel that comprises the famous Apache Leap—a dramatic cliff area that is the scenic backdrop to Superior, Arizona—we have agreed in Section 6 of the bill to a permanent 562 acre conservation easement that will prevent us from ever disturbing the surface area of Apache Leap. We have also agreed to have the entire 562 acre conservation easement area appraised as if the easement were *not* required. Once again, that guarantees that the United States will receive full, unrestricted value for its land.
- Another issue which arose in our deliberations was the replacement of the Forest Service's Oak Flat Campground, which has 16 developed campsites on the land we are seeking to acquire. To address that, subsection 8(a) of the bill provides for a replacement campground or campgrounds, with Resolution Copper paying up to \$500,000 of the costs thereof.
- Lastly, Mr. Chairman, we are aware that the Oak Flat area, as well as areas of our *existing* private land adjacent to Oak Flat, are areas currently used for rock climbing. To accommodate the loss of rock climbing, we have agreed to three separate actions. First, subsection 8(b) of S. 2466 facilitates the establishment of a new State Park in the Arizona State Parks System near Hayden and Kearny, Arizona,

The Park will be dedicated to rock climbing and other outdoor recreation. To assist in the Park's establishment, we have agreed to pay up to \$500,000 for a road to access the Park . . . and as previously mentioned, we have already optioned a 160 acre parcel of land for inclusion in the Park, and are working on acquiring a second 160 acre parcel.

To further accommodate rock climbing, we have just signed a private license agreement with the Access Fund, which is an organization representing U.S. rock climbers. The license authorizes continued rock climbing on two parcels of our existing private land, and one parcel we will acquire from the Forest Service. In that regard, I would like to submit a letter we have just received from the Access Fund endorsing the bill

Thank you for the opportunity to testify today. I would be happy to answer any questions the Subcommittee might have.

Senator CRAIG. Mr. Williams, thank you very much.
Now, let us turn to you, Laura.

**STATEMENT OF LAURA KAMALA, DIRECTOR OF UTAH
PROGRAMS, GRAND CANYON TRUST, CASTLE VALLEY, UT**

Ms. KAMALA. Mr. Chairman, thank you for the opportunity to speak on behalf of S. 2788, the Utah Recreational Land Exchange Act, which my organization strongly supports.

The Grand Canyon Trust, now in our 21st year, is a non-profit conservation organization headquartered in Flagstaff, AZ with an office in Moab, UT. Our mission is to protect and restore the Colorado Plateau, its spectacular landscapes, flowing rivers, clean air, diversity of plants and animals, and areas of solitude and beauty.

S. 2788 will protect valuable recreational lands, critical watersheds, cultural resources, essential wildlife habitat, lands of extraordinary scenic beauty and lands in Wilderness Study Areas by conveying sensitive State-owned lands in the Colorado River corridor and near Dinosaur National Monument and in the Butte cliffs to the Bureau of Land Management. This area is currently a check-board of Federal lands and Utah State Trust Lands, which the State is mandated to manage for benefits of Utah's school children

by raising dollars for the Permanent School Fund. This is accomplished primarily through leasing the lands for minerals development or selling the lands for private development. Since conservation dollars cannot keep pace with the disposition of State lands, the proposed land exchange is the only viable way to keep such a broad and cherished landscape from becoming fragmented. Preservation of this landscape is in the interest of members of the Grand Canyon Trust and the American public, since the existing Federal estate in southeast Utah is a national treasure.

I would also like to submit, if I may, to you, Mr. Chairman, a copy of this book by the photographer, Tom Till, "In the Land of Moab", which illustrates many of the properties that are proposed for exchange.

Senator CRAIG. Thank you. We'll make that a part of the record.

Ms. KAMALA. In addition, protecting the above stated land values is consistent with Grand County's economy, which is based on tourism. In 2005, the Governor's Office of Planning and Budget reported the tourism industry provided \$100 million to Grand County's economy, which is significant for a small Utah town. And I've also heard from business owners in town, this year, that their business is up 10 to 15 percent.

SITLA, or Utah State Trust Lands, will receive Federal oil and gas development property in Uintah County, slated for development regardless of ownership, ensuring new revenues for the beneficiaries. We support this public benefit for education in the State of Utah. In Uintah County, minerals development is the primary force in the local economy.

Cooperating with Grand Canyon Trust, Southern Utah Wilderness Alliance and Utah Wilderness Coalition, Utah State Trust Lands vetted the proposed exchange lands, and these groups now approve of the map and the selected lands. Grand Canyon Trust also worked with The Nature Conservancy and the Utah Natural Heritage Program to map threatened, endangered and sensitive species, both plant and animal, on the proposed exchange lands, and using current data, we found no habitat overlap on lands that SITLA would acquire for development, while TES species do exist on lands being conveyed to the BLM, where they would better protected under Federal law.

Since the House hearing on the proposed legislation in September 2005, Grand Canyon Trust has attended meetings of the House Subcommittee on Forests and Forest Health and we are very grateful to the staff and the agencies for their cooperation with one another and the many hours of time that were devoted to making a better bill, which is reflected in S. 2788.

Grand Canyon Trust supports the fair and equal exchange of values for the trade. We also support the rolling conveyance of the lands as provided in the legislation.

There have been numerous acquisitions of SITLA lands in Grand County in recent years by individuals and conservation organizations for the purpose of preserving open space and recreational lands, for protecting watersheds and wildlife habitat. This reflects a very strong desire and commitment of private resources for protecting this spectacular landscape.

As Director of the Southeastern Branch of Utah Open Lands, I was deeply engaged in several conservation initiatives, raising millions of dollars to purchase SITLA lands. In the current economy, it has become difficult to procure funding for conservation initiatives, and legislative land exchanges are now a very important conservation tool.

The Grand Canyon Trust also supports the withdrawal of oil and gas leasing on BLM lands in the Castle Valley municipal watershed where 5,280 acres of SITLA lands are slated to be conveyed to the BLM. The town of Castle Valley has a Sole Source Aquifer designation from the Environmental Protection Agency and a Pristine Water designation from the Utah Department of Environmental Quality. Recent hydrological studies by the Utah Geological Survey show that the aquifer is vulnerable to contamination due to fractured geology. We also support oil and gas leasing withdrawals on recreational lands in the exchange where mineral values are low to negligible, as under section 6(a)(2)(b) of the bill.

And in closing, Mr. Chairman, the Utah Recreational Land Exchange Act has a very broad coalition of support, from rural Republican county commissioners to conservation organizations. In the State of Utah it is rare to have consensus of this kind for a public lands proposal. Our colleagues at The Nature Conservancy, Utah Open Lands, Red Rock Forests, and the Southern Utah Wilderness Alliance are supporting this bill, S. 2788. Grand, Uintah and San Juan counties, the town of Castle Valley, the city of Moab, the Governor's Task Force on Outdoor Recreation, Utah Guides and Outfitters and tourist-dependent businesses in southeast Utah all support the legislation. The Grand Canyon Trust believes that S. 2788 provides the opportunity for a successful legislative land exchange to take place and we look forward to that eventual outcome. Thank you, again, for the opportunity to speak.

[The prepared statement of Ms. Kamala follows:]

PREPARED STATEMENT OF LAURA KAMALA, DIRECTOR OF UTAH PROGRAMS,
GRAND CANYON TRUST, ON S. 2788

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to speak on behalf of S. 2788 the Utah Recreational Land Exchange Act of 2006, which my organization strongly supports.

The Grand Canyon Trust, now in our 21st year, is a non-profit conservation organization headquartered in Flagstaff, Arizona with an office in Moab, Utah. Our mission is to protect and restore the Colorado Plateau—its spectacular landscapes, flowing rivers, clean air, diversity of plants and animals, and areas of solitude and beauty.

S. 2788 the Utah Recreational Land Exchange Act of 2006 will protect valuable recreational lands, critical watersheds, cultural resources, essential wildlife habitat, lands of extraordinary scenic beauty and lands in Wilderness Study Areas by conveying sensitive state-owned lands in the Colorado River corridor to the Bureau of Land Management. The area is currently a checkerboard of federal lands and Utah State Trust Lands (SITLA) which the state is mandated to manage for benefit of Utah's school children by raising dollars for the Permanent School Fund. This is accomplished primarily through leasing the lands for minerals development or selling the lands for private development. Since conservation dollars cannot keep pace with the disposition of state lands, the proposed land exchange is the only viable way to keep such a broad and cherished landscape from becoming fragmented. Preservation of this landscape is in the interest of members of the Grand Canyon Trust and the American public, since the existing federal estate in southeast Utah is a national treasure.

In addition, protecting the above stated land values is consistent with Grand County's economy, which is based on tourism. In 2005, the Governor's Office of

Planning and Budget reported that the tourism industry provided \$100 million dollars to Grand County's economy. This year, tourism related business owners have told me their business is up 10 to 15 percent.

SITLA will receive federal oil and gas development property in Uintah County, slated for development regardless of ownership, ensuring new revenues for their beneficiaries. We support this public benefit for education in the state of Utah. In Uintah County, minerals development is the primary force in the local economy.

Cooperating with Grand Canyon Trust, Southern Utah Wilderness Alliance and Utah Wilderness Coalition, SITLA vetted the proposed exchange lands and these groups now approve of the selected lands. Grand Canyon Trust worked with The Nature Conservancy and the Utah Natural Heritage Program to map TES (Threatened, Endangered, Sensitive) species, both plant and animal, on the proposed exchange lands. Using current data, we found no habitat overlap on lands SITLA would acquire for development while TES species do exist on lands being conveyed to BLM where they would ostensibly have better protection under federal laws.

Since the House hearing on the proposed legislation in September 2005, Grand Canyon Trust has attended meetings of the House Subcommittee on Forests and Forest Health. Committee staff and officials from Department of the Interior, Bureau of Land Management and Utah State Trust Lands have revised HR 2069 the Utah Recreational Land Exchange Act of 2005, to address issues raised at the House hearing. We are grateful to the staff and agencies for their cooperation with one another and many hours of time devoted to drafting a better bill which is reflected in S. 2788.

Grand Canyon Trust supports the fair and equal exchange of values for the trade. We also support rolling conveyance of the lands as provided in the legislation.

THE LANDSCAPE

In southeast Utah, the spectacular 1200 square mile basin of Canyonlands National Park lies at the geographic heart of the Colorado Plateau. Here, 300 million years of geologic history are revealed in the deep canyons of the Colorado and Green Rivers. The downward cutting movement of the rivers and their tributaries, through layers of sedimentary rock, continues to form one of the largest and most intricate canyon systems on earth. Upstream on the Green River are Labyrinth and Stillwater Canyons, and on the Colorado River, the twin jewels of Arches National Park and Westwater Canyon. S. 2788 will consolidate federal lands for consistent management in this landscape of the Colorado River corridor.

This extraordinary geologic province is filled with the greatest density of natural arches in the world; Morning Glory Arch and Corona Arch will be conveyed to the federal estate in the proposed exchange. Pinnacles, rock fins, grottos, balanced rocks, hoodoos and natural bridges abound, sheltering a richness of species in diverse habitats. Mountain ranges provide watersheds that give life to the adjacent desert country. Vast expanses of bare red rock are broken by lush riparian areas, ephemeral pools, grassland and sage steppes. In this land of extremes, temperature fluctuations of 50 degrees in one day are common, animals and plants have evolved unique adaptations to survive and many of these species are endemic to the region. In addition, southeast Utah contains one of the world's great archaeological districts where priceless treasures from the past are abundant. S. 2788 will convey lands like these to the BLM where they can be managed to protect their values for the American public.

CONSERVATION VALUES

There have been numerous acquisitions of SITLA lands in Grand County in recent years by individuals and conservation organizations for the purposes of preserving open space and recreational lands, for protecting watersheds and wildlife habitat. This reflects a very strong desire and commitment of private resources for protecting this spectacular landscape. Lands offered in the exchange will have higher or lower conservation values; it is the appraiser's job to determine these values. Developers and even Off Highway Vehicle groups have outbid conservationists and purchased SITLA lands in the area for their private uses. Conservation sales can be comparable sales in a very competitive market.

As Director of the Southeastern Branch of Utah Open Lands, I was deeply engaged in several conservation initiatives, raising millions of dollars to purchase SITLA lands. In the current economy it has become difficult to procure funding for conservation initiatives, legislative land exchanges are now a very important conservation tool. Approximately 350,000 acres of SITLA lands remain in Grand County and some naturally possess conservation values, such as those adjacent to Arches National Park. It would be impossible to purchase all sensitive SITLA lands to pro-

tect them, therefore the Grand Canyon Trust and other conservation organizations working in the state support successful land exchange legislation as a common sense solution for protecting these important landscapes.

MANAGEMENT OF CONVEYED LANDS

Southeast Utah's living Eden of canyons mesas and deep river gorges attracts recreational users from all over the world who come to hike, mountain bike, climb, run rivers, ride horses, ski and explore via jeeps and all-terrain vehicles. In recent years, an exponential increase in visitation to the public lands has demonstrated the necessity for good planning to accommodate the multiple use mandates on federal lands.

The Moab BLM Field Office is currently revising its Resource Management Plan. Lands being conveyed to the BLM in the exchange will be managed according to the plan that is now being designed for lands currently in BLM ownership which surround the proposed exchange parcels. The Moab BLM planning team has stated that, in the Colorado River corridor, they are working to be consistent with the Three Rivers withdrawal signed by Secretary Norton in September 2004. This withdrawal protects two hundred miles of Colorado, Green and Dolores River corridors and an additional fifty miles of side canyons from nuisance mining claims on locatable minerals for twenty years. Moab BLM planners have written special management designations into their preferred alternative, which they revealed at a Grand County meeting this Spring, to protect scenic and recreational values in the river corridor.

Grand Canyon Trust supports the withdrawal of oil and gas leasing on BLM lands in the Castle Valley municipal watershed where 5,280 acres of SITLA lands are slated to be conveyed to the BLM. The Town of Castle Valley has a Sole Source Aquifer designation from the Environmental Protection Agency and a Pristine Water designation from the Utah Department of Environmental Quality. Recent hydrological studies by the Utah Geological Survey show that the aquifer is vulnerable to contamination due to fractured geology. We also support oil and gas leasing withdrawals on recreational lands in the exchange where mineral values are low to negligible.

CLOSING

The Utah Recreational Land Exchange Act of 2006 has a very broad coalition of support, from rural Republican county commissioners to conservation organizations. In the state of Utah it is rare to have consensus of this kind for a public lands management proposal. Conservation organizations were involved early on with the design of the legislation and the process has been transparent. Our colleagues at The Nature Conservancy, Utah Open Lands, Red Rock Forests and Southern Utah Wilderness Alliance join us in supporting S. 2788. Grand, Uintah and San Juan counties, the Town of Castle Valley, the City of Moab, the Governor's Task Force on Outdoor Recreation, Utah Guides and Outfitters and tourist dependent businesses in southeast Utah also support the legislation. The Grand Canyon Trust believes S. 2788 provides the opportunity for a successful legislative land exchange to take place and we look forward to that eventual outcome.

Senator CRAIG. Thank you very much.

Now let's turn to Mr. Andrews, associate director, School and Institutional Trust Lands Administration, State of Utah. John, welcome to the committee.

STATEMENT OF JOHN W. ANDREWS, ASSOCIATE DIRECTOR, UTAH SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Mr. ANDREWS. Thank you, Mr. Chairman, for the opportunity to testify. I'd also like to thank Senator Bennett and his staff for their long and tireless efforts in bringing this proposal to where it is today.

The School and Institutional Trust Lands Administration, SITLA, manages 3.5 million acres of State lands in the State of Utah that are dedicated to the financial support of public schools and other public institutions. Most of the State Trust Lands in

Utah are checkerboarded among BLM lands. That has created the significant management problems over the years, both for BLM and for the State. The BLM's management objectives are multiple use, often including recreation and conservation. Our mandate is to provide revenue for the public school system.

Those conflicts have, as Senator Bennett indicated, created a situation where large-scale land exchanges are a necessary solution for resolving significant, long-standing problems. This exchange is a proposal that meets that goal. As Ms. Kamala and other witnesses have indicated, this is the rare situation in Utah Public Lands Management where there is a broad consensus. The Utah Public Lands are notoriously controversial among the various constituencies. We have found unity here.

Particularly since the time that the House bill was heard last September, we have worked for many hours and we greatly appreciate the large amounts of time that the Department of the Interior, the BLM, the environmental community, and both the majority and minority staff on the House side have spent to bring this legislation along.

In particular, since that hearing, we have added significant lands to the exchange. We have added lands that are valuable open space in the vicinity of the city of Moab. We've added lines in the Behind-the-Rocks Wilderness Study Area and other scenic areas. Where we did identify lands that might have a conflict with threatened and endangered species, we removed those from the exchange.

Similarly, we have added very significant provisions for public input and review of appraisal documentation and for the creation of resource reports that will permit the relevant Congressional Committees and the general public to have review of specific resources on the Federal lands that are being conveyed. That has been a major change.

Finally, we have dropped previously controversial language dealing with the valuation of conservation lands. We have instead incorporated the provisions of the Federal Land Policy and Management Act and the associated valuation regulations. The result is that we will have a very transparent and independent valuation process that will both involve the Interior Appraisal Services Directorate and independent appraisers. A clear and transparent and independent valuation will be the model in this exchange.

We recognize that there will remain a few minor questions and concerns, which I can address, although, to some extent, Mr. Calvert particularly has addressed some of the mineral valuation issues. But we believe that, even at this point, we've come 98 percent of the way.

There is another reason, though, that there's a broad consensus on this exchange and that's the lands that are involved. The lands that will be exchanged to the United States are truly spectacular. I think that anywhere but in Utah, they would, in themselves, be a national park. Our testimony has appended to it, and Ms. Kamala has also provided, additional photographs that show the outstanding nature of the lands. Corona Arch, Morning Glory Arch, they're some of the largest free-standing natural arches in the United States.

At the current time, of course, in school trust ownership, the lands are dedicated by Federal law and by the Utah Constitution to the production of revenue. We recognize that these lands are best suited in Federal ownership and this exchange is designed to promote that.

I would be happy to answer any questions that the committee would have with respect to mineral valuation. Our proposal, as Mr. Calvert has noted, and Senator Bennett, it's a simple and fair solution for complicated problem. It will keep the U.S. Treasury whole, for as long as minerals are produced, it will keep revenues flowing into the Federal Treasury, as would have been the case had the lands had been retained in Federal ownership.

We ask for the committee's support for that provision particularly and for the legislation in general. Thank you very much.

[The prepared statement of Mr. Andrews follows:]

PREPARED STATEMENT OF JOHN W. ANDREWS, ASSOCIATE DIRECTOR, UTAH SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION, ON S. 2788

Mr. Chairman, and members of the Subcommittee, thank you for the opportunity to testify today. I would also like to thank Senators Bennett and Hatch of the Utah Congressional delegation, and their colleagues in the House of Representatives, for their work and assistance in connection with the legislation now before the Subcommittee.

My name is John W. Andrews, and I am the Associate Director of the Utah School and Institutional Trust Lands Administration ("SITLA"), an independent state agency that manages more than 3.5 million acres of state school trust lands within Utah that are dedicated to the financial support of public education.

THE PROPOSED LAND EXCHANGE

I encourage the Subcommittee, and Congress, to act favorably on S. 2788, the Utah Recreational Land Exchange Act of 2006. This legislation is the product of several years of discussions between the State, local governments, the environmental community, and federal land managers. At a time when most issues relating to Utah's public lands are accompanied by controversy and dispute, the proposed exchange is supported by rural county governments, various environmental groups, representatives of the outdoor recreation industry in Utah, and the Utah legislature. We have worked hard to put together an exchange that will be fair and transparent financially, workable in implementation, and conducive to more effective land management by both state and federal governments. We believe that the Utah Recreational Land Exchange Act meets all of these goals.

In summary, S. 2788 authorizes the conveyance to the United States of approximately 42,342 acres of Utah state school trust lands and minerals within and near Utah's Colorado River corridor, the Book Cliffs, and areas near Dinosaur National Monument. In return, the State of Utah will receive approximately 40,335 acres of federal lands in eastern Utah with lesser environmental sensitivity but greater potential for generating revenue for Utah's public education system—the purpose for which Congress originally granted trust lands to Utah and the other western states.

REVISIONS TO PREVIOUSLY-INTRODUCED LEGISLATION

The proposed Act was originally introduced in 2005 as S. 1135, and companion legislation was introduced in the House of Representatives as H.R. 2069. The House Subcommittee on Forests and Forest Health held a hearing on H.R. 2069 on September 27, 2005. In response to testimony from the Department of the Interior ("DOI") and several environmental organizations at that hearing that raised concerns about specific provisions of H.R. 2069, the House Subcommittee invited interested parties to work with subcommittee staff and the State to attempt to resolve these concerns. The committee discussions included both majority and minority subcommittee staff, representatives of DOI and the Bureau of Land Management ("BLM"), Utah state government, and several environmental organizations.

After multiple meetings and telephonic conferences, and many hours of discussions and negotiations, the various parties reached compromise legislative language that we believe resolves all of the primary concerns raised by DOI and the environmental community in connection with H.R. 2069. These compromises are reflected

in the proposed legislation now before the Senate as S. 2788. In particular, S. 2788 incorporates the following changes from H.R. 2069:

(1) S. 2788 drops controversial language providing for exceptions from appraisal standards for lands with “conservation values”, instead requiring for such lands the use of the same appraisal standards utilized in BLM regulations for land exchanges conducted under the Federal Lands Policy & Management Act (“FLPMA”). These regulations allow the consideration of non-economic values such as scenery, wilderness and other aesthetic factors when determining the value of land, to the extent that such factors add value in the marketplace, without the necessity of special legislative exceptions.

(2) The revised legislation adds various additional lands to the land exchange package, including state lands requested for transfer into federal ownership by the BLM and the environmental community. These additional state lands include popular recreation lands in Mill Creek Canyon outside Moab, state lands in Mineral and Horseshoe Canyons above the Green River, and lands in the Behind-the-Rocks wilderness study area. Some federal lands were also dropped from the exchange to prevent conflicts with other resource values, such as rare plant populations and wild horses.

(3) S. 2788 also adds provisions for public notice of the availability of the independent appraisals to be conducted as part of the exchange process, and for the completion of resource reports detailing, for each parcel of land being conveyed out of federal ownership, significant resource values, based on resource information and inventories currently possessed by DOI. These resource reports will also be made available to the public. The exchange legislation does not require NEPA compliance, but the resource report provisions will provide detailed resource information to Congress and the public as this transaction works through the exchange process. The legislation also now contains requirements to notify the relevant Congressional committees and publish in a newspaper of general circulation if any lands are added or subtracted from the exchange during the equalization of value stage of the exchange.

(4) In response to concerns raised by the environmental community, the revised legislation also contains provisions for the permanent withdrawal from mineral entry of certain of the most sensitive lands being conveyed by the State to the United States. All other lands will be withdrawn pending completion of revised land use plans by BLM to determine appropriate management of the lands.

REASONS FOR THE LAND EXCHANGE

It is worthwhile and necessary to describe the lands that are involved in the exchange, although the accompanying photographs make it clear that these lands are in many ways beyond description. The Colorado River corridor is a uniquely scenic area in a state known for its scenic beauty. Huge redrock arches such as Corona and Morning Glory arches are found in proximity to the deep canyons carved by the Colorado river as it winds downstream from the Colorado border to Canyonlands National Park. The area supports thriving recreational activities, including white-water rafting in the Westwater wilderness study area and downstream, mountain biking on the famous Kokopelli and Slickrock bike trails, and myriad other activities. The importance of outdoor recreation in the area to local economies and the state as a whole has led the Utah Governor’s task force on outdoor recreation to designate the area as one of Utah’s critical focus areas for promotion and protection of recreation opportunities.

The majority of land in the Colorado River corridor is federal land managed by BLM. A notable exception is the Utah school trust lands scattered in checkerboard fashion throughout the area. As the Subcommittee is aware, state school trust lands are required by law to be managed to produce revenue for public schools. Revenue from Utah school trust lands—whether from grazing, surface leasing, mineral development or sale—is placed in the State School Fund, a permanent income-producing endowment created by Congress in the Utah Enabling Act for the support of the state’s public education system.

In contrast to state lands, BLM lands are managed for multiple use, with an emphasis in this area on recreation and conservation use. Limitations on the use of surrounding federal lands, through establishment of wilderness study areas, areas of critical environmental concern, or mineral withdrawals can limit the usefulness of the inheld state trust lands for economic uses such as mineral development. Likewise, state efforts to generate revenues from its lands through sale of the lands for

recreational development and homesites have been viewed by federal land managers as conflicting with management of the surrounding federal lands. Over the years, disputes over access to and use of state school trust lands within federally-owned areas have generated significant public controversy, and often led to expensive and time-consuming litigation between the State of Utah and the United States.

Land exchanges are an obvious solution to the problem of checkerboarded state land ownership patterns. Exchanges can allow each sovereign—the State of Utah and the United States—to manage consolidated lands as each party's land managers deem most advisable, without interference from the other. In the last eight years, the State of Utah and the United States worked successfully to complete a series of large legislated land exchanges. In 1998, Congress passed the Utah Schools and Land Exchange Act, Public Law 105-335, providing for an exchange of hundreds of thousands of acres of school trust lands out of various national parks, monuments, forests and Indian reservations into areas that could produce revenue for Utah's schools. Then, in 2000, Congress enacted the Utah West Desert Land Exchange Act, Public Law 106-301, which exchanged over 100,000 acres of state trust land out of proposed federal wilderness in Utah's scenic West Desert for federal lands elsewhere in the region.

The hallmark of each of these exchanges was their "win-win" nature: school trust lands with significant environmental values were placed into federal ownership, while federal lands with lesser environmental values but greater potential for revenue generation were exchanged to the State, thus fulfilling the purpose of the school land grants—providing financial support for public education.

RESPONSE TO LAND EXCHANGE CONTROVERSIES

More recently, a proposed state-federal land exchange involving state trust lands in Utah's San Rafael Swell area failed due to questions raised about its financial fairness and environmental effects. We recognize that the controversy over the San Rafael proposal raised many questions about land exchanges generally. In working to develop the current exchange proposal, the State of Utah has worked hard to address the issues raised in the aftermath of the San Rafael proposal. In particular, we have sought to work closely with local governments and citizens, the environmental community, and local BLM offices to obtain consensus about the lands to be included in the proposed exchange. On the issue of valuation, we are committed to an independent and transparent appraisal process that will fully involve the Department of the Interior's new Appraisal Services Directorate ("ASD") in developing and reviewing appraisals for the properties involved in the exchange. As noted above, since the time that this legislation was originally introduced, we have continued to work with Congressional staff from both parties, DOI and the BLM, local communities, and the environmental community to ensure that any questions or concerns are addressed. With the various changes from the original legislation, we believe that S. 2788 would authorize and direct a fair and equitable land exchange that is clearly in the interest of both the citizens of the United States and of Utah's school children.

VALUATION

The legislation contemplates that all lands included in the exchange will be subject to independent appraisals using the existing appraisal standards contained in FLPMA and its implementing regulations prior to conveyance, and that the lands to be exchanged will be conveyed on an equal value basis. The independent appraisal will be subject to review by each party (including the DOI-ASD), and any disputes over valuation will then be subject to resolution through established dispute resolution mechanisms.

The legislation contains two valuation provisions that may require some further explanation. The first relates to mineral lease revenue sharing under the federal Mineral Leasing Act. Certain of the federal lands are prospective for oil & gas development, and are currently under federal mineral lease. Under section 35 of the federal Mineral Leasing Act (30 U.S.C. § 191), the federal government is required to pay 50 per cent of all bonus, rental and royalty revenue from federal lands to the state in which the lands are located. Under Utah statute, these revenues are largely distributed from the state Mineral Lease Account to local counties to mitigate community impacts of energy development. These distributions are a crucial funding source for rural public land counties.

The proposed legislation would keep this revenue stream to rural counties intact by adjusting values proportionately to reflect the United States' obligation to share 50% of all revenue from the lands. Put another way, those federal lands found to have mineral values would be valued taking into account the United States' existing

statutory obligation to pay 50% of the revenue from the lands to the State for distribution to the counties. Utah's school trust would collect these revenues and distribute them in the same manner as federal mineral lease funds, so the school trust would not receive any additional benefit from this provision. Similarly, the proposed legislative language would be revenue-neutral to the United States, because the United States currently retains only 50% of mineral revenue from the subject lands.

There is specific precedent for adjustment of mineral land valuation to take into account the preexisting obligation of the United States to share revenue with the states under the Mineral Leasing Act. For example, section 8(c) of the Utah Schools and Lands Improvement Act of 1993, Pub. L. 103-93, provides that if the State shared revenue from selected federal properties, the value of the federal properties would be adjusted downward by the percentage of state revenue sharing. The Utah Schools and Lands Exchange Act of 1998, Pub. L. 105-335, ratified an agreement between the State of Utah and the Department of the Interior containing similar provisions. State revenue sharing payments have also been recognized and protected in land exchange legislation involving states other than Utah. *See e.g.* 16 U.S.C. 46011-3(b)(3) (Montana's right to receive cash payment for coal tracts used as exchange consideration protected).

A second mineral issue involves the bill's provisions obligating the State to pay to the United States future mineral revenues from currently unleased federal lands, in a share equal to what the United States would have received had the lands been retained in federal ownership. This payment obligation eliminates the need to appraise leasable mineral values under those lands, since the United States will continue to receive all leasable mineral revenues it would have received notwithstanding the exchange.

Significant portions of the federal lands to be transferred to Utah are currently not leased for oil, gas or other hydrocarbon minerals (e.g. tar sands, oil shale), but are thought to be prospective for such minerals. Appraisals of prospective but non-producing mineral lands are expensive and inherently unreliable due to the many unknowable variables involved in determining potential resources and their likelihood of production. To avoid the expense and potential controversy that could arise from appraisal of these non-producing resources, section 5(b)(4) of the proposed legislation (page 9, line 24 of S. 2788) proposes an alternative means of compensating the United States for leasable minerals underlying currently unleased federal lands. The lands will be appraised for surface values and for all minerals other than minerals leasable under the federal Mineral Leasing Act. Upon acquisition of the lands, the State also commits to pay the United States all revenue that the United States treasury would have received from leasable minerals had the U.S. retained ownership of the lands, i.e. 50% of bonuses and rentals, and a share of royalties equal to the federal share of production royalties (6.25% in the case of oil and gas, less for tar sands and oil shale). The U.S. treasury is thus held harmless with respect to the exchange. The State of Utah's school trust would also continue to pay the 50% state share to the Utah mineral lease account.

These provisions leave Utah's school trust with a commitment to pay the United States and the State of Utah's mineral lease account all amounts that could be derived from the lands under federal law. However, because the school trust has legal flexibility to issue leases for royalty rates greater than permitted under existing federal law, it hopes to achieve some economic return from leasable minerals on the subject lands based upon this flexibility. This risk is solely borne by the Utah school trust; the legislation commits the required payments to the United States as a covenant running with the land. The U.S. is thus compensated for leasable minerals on the subject lands as if it retained ownership (as well as being paid appraised surface values and non-leasable mineral values. Again, this provision is revenue neutral to the United States.

POST-EXCHANGE LAND MANAGEMENT AND WILDERNESS

Substantial portions of the state trust lands to be exchanged to BLM are located in wilderness study areas ("WSAs") created under Section 603 of FLPMA, or areas proposed for wilderness in pending federal legislation. Other portions are not within proposed wilderness. The legislation provides that exchanged lands that lie within existing WSAs or other formally-designated federal areas will automatically become part of those areas upon conveyance. For other state lands exchanged to BLM, some lands recognized by the parties to have special significance, as designated on the exchange map, will be withdrawn from mineral entry by the terms of the legislation. For all other state lands exchanged to BLM, the lands will be withdrawn pending revisions of BLM's resource management plans to determine appropriate management of the lands. The proposed exchange is not intended as an endorsement of any

particular configuration of wilderness, which is a matter that is for Congress to decide at some future time. Rather, the intent of the exchange is to allow BLM land managers to determine, on a landscape scale, how best to manage the lands without having to deal with inheld state trust lands.

CONCLUSION

S. 2788 represents a significant great step toward simplifying land management in Utah, protecting Utah's natural heritage, supporting local economies through increased opportunities for outdoor recreation, and adequately funding public education. It is the product of public outreach and compromise that has led to a better proposal than originally crafted. I respectfully urge the Subcommittee to approve it expeditiously.

Thank you again for the opportunity to testify today.

Senator CRAIG. John, thank you very much for that testimony.

A few questions of the panel. Mayor, let me turn to you. I can see why you and the entire town of Superior are so supportive of this exchange. I also note that you will be involved in helping the Forest Service identify a new campground to replace Oak Flats. You've heard that the Forest Service wants to expand the area to find a replacement campground from the Globe District to the entire Tonto National Forest, as well as their desire to have more time to get the campground identified and built. If they can't find a replacement area on the Globe District, how would you feel about that?

Mr. HING. Well, I would strongly disagree moving the campground site outside the Globe District. I think the whole purpose was that the town was willing to give up the Oak Flats area, which was kind of a refuge place for the town, as a gathering point for the community. And to see it move further away, out of the Globe District, to me, is not—at this time is suitable, because the fact is we look at that campground as an area that is a gathering point for our community.

My understanding is that the time when the campground sites became an issue, the company showed us the JI Ranch, which was spectacular, because of the fact that it was just a few more miles up the road, beautiful scenery, and water, which the Oak Flats didn't have. And at the time, the council was actually torn between two areas. I favored a campground site near the town of Superior because the fact is we could develop it economically for our community as a place rather than a "place for us just to feel good about." And Resolution came back to us and said, well, let's do two. I was like, OK, you mean two campgrounds? And they said, sure.

So I'm pleased to say that they're willing to finance two new campground sites. To me, that is very amazing. One, a place up the road from the Oak Flats area and a place west of town, which initially was possibly the Arizona Trail Area, which the Governor designated as one of the view points for the State of Arizona. But I recently have been working with the U.S. Forest Service in that area and they're trying to develop the protection of an existing old community that existed west of the town, which was called Pinal City or Pinal Town. And talking with them, I just suggested, why don't we look at moving the campground site near what you want to propose to protect, which is the Pinal Town site, and we can run this as a project together?

Knowing that, south of the Pinal Town site is water and trees and they call that the Green Gates Area, which is a beautiful area

also, and to develop that and then border our town, the town can work with the U.S. Forest Service in managing it. So, to me, to have the idea to move it out of the Globe District, I would oppose that, because the fact is, we are willing to work with the Forest Service on an adjacent campground site near Superior, as well as the town giving up Oak Flats, and the JI Ranch seems to be a very suitable spot for the replacement.

Senator CRAIG. OK. Well, Mayor, thank you for those observations. I think they're important for the record.

Mr. Williams, as I see it, your company has turned somersaults and is willing to do back flips to facilitate this exchange. You've offered to build roads, trails, campgrounds and find an alternative rock climbing area, not to mention the number of private parcels you've offered in exchange. Given the flexibility your company has shown in working with Senators Kyl and McCain and the Congressmen on this proposal and the town, a skeptic can conclude that there is something more than copper in the ground under Oak Flats campground. I also checked the price of copper. So, I understand—and I mean this very sincerely—there is substantial values there, again, today. What would happen if everything but the Oak Flats Campground could be included in the exchange?

Mr. WILLIAMS. Thank you, Mr. Chairman. As I indicated earlier—and thank you for those kind words, by the way. As I indicated earlier, we consider this to be a high-risk project. We do not, in fact, know if there is mineral under the campground. That is one of the reasons we seek to explore in that area, because of the high-risk nature. And there is high financial risk, high technical risk, and there is certainly a public safety risk associated with that. We really believe we need to have secure title on the entire parcel. I think one of the reasons that you see the flexibility we've demonstrated is really our commitment to that goal. And therefore we would compromise the entire project, I believe, if we were not successful in this land exchange.

Senator CRAIG. OK. Am I correct that under current law you would mine under most of the 3,025 acres other than the Oak Campground withdrawal, even if the exchange did not go forward?

Mr. WILLIAMS. There is an option. One of the three options available to us certainly would be to file a plan of operations with the Forest Service and proceed in that direction. Once again, we believe that the secure title to the site really gives us the ability to mine. Whether we would mine under the full acreage or not is uncertain. We know for certain one thing: that we've established a conservation easement along significant features, including the Apache Leap, which would forever bar any sort of mineral interference with that rather notable feature. There are some other aspects of that agreement that would make certain that those key natural resources are always left in tact.

Senator CRAIG. OK.

Mr. WILLIAMS. I wonder if I could just add one other thing, if I could.

Senator CRAIG. Please do.

Mr. WILLIAMS. I think I misspoke when I described our appraisal process. I think I said that the property would be appraised as if

no minerals were on the properties, and I should've said as if no mineral claims were on the property. I'd just like to correct that.

Senator CRAIG. OK. Well, gentlemen, thank you very much.

Now let me turn to the Utah Recreational Land Exchange Act. Laura, it's my understanding that there is broad support within the environmental community on this legislation. Do you and your organization feel that the process thus far and the public notification provisions of the legislation have been—are sufficient for the public to be informed regarding the transaction?

Ms. KAMALA. We do now, Mr. Chairman. That has been amended since the introduction of H.R. 2069 in the House, and that was part of the work that was done in the Subcommittee meetings and we're satisfied that it's in good shape now.

Senator CRAIG. OK. Should this legislation become law, are you satisfied that there will be adequate opportunity for additional public review and input as these exchanges are finalized?

Ms. KAMALA. Yes. There is a provision in the bill for public input when the lands are being conveyed, rolling conveyances, and the public will be able to comment during that process when the appraisal process is going on and if, to equalize valuation, lands will need to be either dropped from the map or added. That's a point where we could have continued input.

Senator CRAIG. OK. Well, thank you for your involvement in this.

John, please explain to the committee the public outreach and the process that the—what's the acronym here? How do you pronounce it?

Mr. ANDREWS. School and Institutional Trust Lands Administration, SITLA.

Senator CRAIG. SITLA, all right. And the process SITLA has performed that brings this land exchange before the Senate.

Mr. ANDREWS. We recognized that past land exchange proposals have been controversial and one of the controversies has been claims that there was not adequate public process. Almost 4 years ago, we began community outreach in Grand County, UT, where the bulk of the lands are located. We convened a community meeting. We involved representatives of the environmental community, the Grand Canyon Trust, the Southern Utah Wilderness Alliance, the Sierra Club, and just plain old interested citizens. It was advertised locally and we asked for a round-table, anyone who wanted to attend, could attend. We also, of course, brought in interested members of the Grand County Council. As we moved forward in those discussions over a period of a year or two, we realized that an administrative land exchange, under current processes, did not and would not work given the scale of what everyone hoped could be accomplished. And that was the point at which we went the legislative route.

Once we made that determination, we involved a variety of other groups: certainly, the other affected county commissions in Utah; our Governor—first Governor Levitt, and now Governor Huntsman—have convened the Governor's Task Force on Outdoor Recreation, very broadly represented—county commissioners, the outdoor industry, everyone from ATV users to wilderness users and everyone in between. We have been involved with that group, and

similar groups had public hearings at the Utah legislature and obtained Utah legislative support of this. We've run the gamut.

Senator CRAIG. Good, good. Could you further explain the mineral valuation process relating to the un-leased lands as part of the exchange and how they differ from traditional mineral appraisals?

Mr. ANDREWS. Certainly. Both Senator Bennett and Mr. Calvert have also touched on this, but I'll try to clearly respond. Traditional mineral appraisals for undeveloped speculative minerals can be very, very uncertain. There is no way to know what the value of the minerals will be until they are produced. That inherently leads to both great expense in trying to guess and leads to conflict because the answer is unknowable until the production occurs. This bill's provisions would provide that the U.S. Treasury would receive—collected by the State of Utah and distributed to the U.S. Treasury—all revenue that the United States would have received had the lands remained in Federal ownership at the current royalty rate.

So, the United States gets X amount in royalties. We would make a commitment to pay that identical amount in perpetuity for as long as those minerals were produced. In fact, that could lead to significantly increased cash-flow to the Treasury because of that long-term commitment. I think what Mr. Calvert and DOI's testimony recognized is that under traditional appraisal methodology, the United States would essentially receive zero for any oil shale resources on the lands or any tar sands resources on the lands because production of those is a number of years out. This would allow them to—

Senator CRAIG. That's correct, we don't understand values there.

Mr. ANDREWS [continuing]. To receive that. That is the difference.

Senator CRAIG. OK. Your testimony discusses appraisal language that tells appraisers to utilize their own regulations to consider non-economic values. Can you explain this further? Are we asking appraisers to put a value on scenic quality?

Mr. ANDREWS. The current Federal regulations provide that the appraiser will consider scenic and natural wilderness and other values to the extent that those values can demonstrably be linked to prices paid for similar properties in the marketplace. That is the valuation process that will be used. We're essentially doing exactly what the existing BLM regulations provide, rather than anything new or different from that accepted standard.

Senator CRAIG. John, thank you very much.

To all of you, let me thank you for your presence here and to the extent to which you've worked to not only participate in preparing this legislation, but also your testimony today. It's valuable to the committee and the record as we move forward on this legislation. Again, thank you very much and we will accept any additional information into the file of the committee on these pieces of legislation. The committee will stand adjourned.

[Whereupon, at 4 p.m., the hearing was adjourned.]

APPENDICES

APPENDIX I

Responses to Additional Questions

RESPONSES OF HON. MIKE JOHANNIS TO QUESTIONS FROM SENATOR BINGAMAN

S. 2466—SOUTHEAST ARIZONA LAND EXCHANGE

Question 1. Your testimony states that the “Department believes the acquisition of the non-federal parcels to be managed by the Forest Service in is the public interest . . .” Just to clarify, is it the Department’s view that the exchange as a whole, including the conveyance of National Forest System lands to Resolution Copper, is in the public interest?

Answer. It is the Department’s view that the exchange as a whole is in the public interest. The National Forest System lands identified for exchange are within the “Globe Copper District,” a highly mineralized area in the State of Arizona of national significance for ore deposits containing copper, silver and gold. This area’s importance to the economic vitality of Arizona is historical and today remains a very active mining area, providing a major contribution to the nation’s mineral production.

Resolution Copper intends to construct a mine to provide the country with copper, which will in turn benefit the community of Superior economically. Additionally, there may be a benefit to Gila County tax base if the federal land is conveyed into private ownership. Most of the non-federal properties which would be acquired have high public resource values and would provide benefits in public ownership.

National Forest System land in the Oak Flat area is not identified by the Tonto National Forest as base-for-exchange or otherwise considered for disposal. In addition, in 1955 the Forest acted to protect the Oak Flat Campground by withdrawing it from mineral entry (P.L. 122) under the *1872 Mining Act*.

Question 2. You indicate that it may be difficult to find a suitable replacement for the Oak Flat Campground within the Globe Ranger District. How much use does the current campground receive and how detrimental will it be for public recreational opportunities in the area if you are unable to find a suitable replacement campground?

Answer. Oak Flat Campground is the only campground providing overnight single family camping between the Phoenix metro area and Globe. The 16 campsites within the campground are not under a reservation system, so use figures can only be estimated. The campground is used year-round by single family campers and heavily used in spring and fall by groups of 50-100 people associated with churches, family reunions, and organization such as the Boy Scouts. Most users come from the Phoenix metropolitan area. Two permitted commercial outfitter-guide operations lead bouldering and rock climbing clients in the Oak Flat area. The Phoenix Boulder Blast event is held at Oak Flat, drawing 800-1000 people annually. The Central Arizona Trials Association (an off highway vehicle organization) uses Oak Flat twice a year for events with 40-50 people each. Off highway vehicle users make extensive use of the motorized trial system accessible only through the Oak Flat area.

The Tonto National Forest has aggressively sought a replacement location for the Oak Flat Campground to meet the needs of users who would be displaced should S. 2466 become law. Options are limited by terrain and access. Resolution Copper suggested locating replacement facilities on one of the non-federal properties (II Ranch) in the legislated exchange proposal. However, this location is adjacent to a residential area and current residents have voiced their opposition to a campground bordering their property.

There are currently two locations near Superior being considered. One, on National Forest System land, would require about one mile of access road construction, which would likely cost more than the \$500,000 identified in the bill for campground replacement. This campground location would not provide the same caliber of rock climbing/bouldering and off highway vehicle opportunities currently available at Oak Flat and may not be accessible during winter months. Another site has been located south of Superior that may better meet user needs.

Question 3. In your opinion, if this legislation is enacted in its present form, will the exchange be subject to the laws typically applicable to land exchanges, including the National Environmental Policy Act, the Federal Land Policy and Management Act, the Endangered Species Act, and National Historic Preservation Act?

Answer. While S. 2466 does not expressly exempt this land exchange from NEPA, FLPMA, ESA or NHPA, the non-discretionary nature and prescribed timeframes preclude the full process typically used to analyze and approve a land exchange. The Department does intend to fulfill its government to government and NHPA consultation responsibilities with affected Tribes and State Historic Preservation Officer. This will be achievable due to the amount of fieldwork already accomplished related to cultural resources on the federal lands. Processing requirements of FLPMA will be met if possible, where not in conflict with the Act, and within the limitations of the one year timeframe.

Question 4. The San Carlos Apache tribe has submitted a resolution opposing the exchange and I understand that the tribe considers areas within the Oak Flats site to be of cultural and religious importance. Has the Forest Service consulted on a government to government basis with the tribe concerning the proposed exchange? Does knowledge of the tribe's concerns change the Forest Service's view of the appropriateness of transferring the Oak Flats site out of Federal ownership?

Answer. Since January 2004, the Tonto National Forest has consulted with several tribes, including the San Carlos Apache tribe, on a government-to-government basis during development of this proposal. The tribes (white Mountain Apache, San Carlos Apache, Tonto Apache, Yavapai-Apache Nation, Yavapai-Prescott, Fort McDowell Yavapai Nation, Gila River Indian Community, Salt River Pima-Maricopa Indian Community, and the Hopi and Zuni tribes) were provided copies of the archaeological survey report for comment, initiating formal and informal consultation that continues.

The Forest is currently engaged in a series of ongoing meetings with elected tribal representatives, cultural representatives, council members, and elders to discuss and identify appropriate research questions and methods for conducting the next phase of archaeological and ethnographic investigation.

Question 5. Section 5(a)(4) of S. 2466 directs that the value of the Federal land conveyed to Resolution Copper shall be determined "as if the land is unencumbered by any unpatented mining claims of Resolution Copper." Is that standard agency appraisal practice?

Answer. The Forest Service has appraised a number of mineralized properties, either encumbered or unencumbered with unpatented mining claims. It is standard agency practice to appraise the property in the condition that title will be conveyed from the United States to the non-Federal party. The Forest Service appraises mineralized properties using the *Uniform Appraisal Standards for Federal Land Acquisitions*. Section D-11 specifically addresses *Valuation of Mineral Properties*. Appraising this specific property considering the proposed language cited—above may make the assignment less complex and could result in a more reliable opinion of market value.

Question 6. The bill calls for the United States to convey its reversionary interest in the 265-acre Superior Airport tract. Would you please describe the reversionary interest and its history?

Answer. The United States Conveyed the property now known as the Superior Municipal Airport to Pinal County in 1952 under authority of the Federal Airport Act of 1946 (60 Stat. 170). The deed of conveyance contained the following stipulation:

" . . . The property interest herein conveyed shall automatically revert to the United States of America pursuant to Section 16 of the Federal Airport Act, *supra*, in the event that the lands herein described are not developed, or cease to be used, for airport purposes; and the party of the second part, for itself and assigns, agrees by the acceptance of this deed, or the rights granted herein, that a determination by the Administrator of Civil Aeronautics, United States Department of Commerce, or his successor in function, that the lands have not been developed, or have ceased to be used, for airport purposes shall be conclusive of such fact . . ."

In 1997 Pinal County transferred ownership of the Airport to the Town of Superior. The Town has expressed interest in developing the parcel for other than airport use. The Forest Service has advised the Town that such action would not be consistent with the terms of the airport deed. The language in S. 2466 would therefore, be necessary for the Town of Superior to make use of the tract

Question 7a. As I understand it, the copper deposit that underlies the Federal land is reportedly a world-class deposit. At the same time, Resolution Copper has described the considerable technical and financial challenges associated with mining it. Resolution Copper is reportedly prepared to invest billions of dollars in the effort.

Are the agency's uniform appraisal standards and practices well-suited to accurately value this exchange?

Answer. The agency's appraisal standards are the *Uniform Appraisal Standards for Federal Land Acquisitions* (UASFLA). The Forest Service also has supplemental standards for appraisal of mineralized properties that are consistent with the umbrella UASFLA. Whatever opinion of market value is approved for agency use will be supported and will be a reliable opinion of market value.

Question 7b. Has the Federal Government ever conducted an appraisal of an ore body of this magnitude and complexity?

Answer. There has been considerable speculation about the characteristics of this ore body and the appraisal assignment. The requisite mineral reports that must be prepared as part of the appraisal assignment will help define both the magnitude and complexity of the assignment. The Forest Service has reviewed appraisals of large-scale ore bodies that were very complex appraisal assignment.

Question 7c. Will the appraisal likely be based in part on consideration of royalty rates charged on private and/or State lands?

Answer. Section D-11 of the UASFLA discusses how a proper royalty rate should be derived from comparable transactions and how those data must be evaluated in the income capitalization approach. The appraiser will seek to abstract royalty rate information from the private market and will analyze those data in that context.

Question 8. Do you believe that S. 2466's provisions in section 6 governing the conservation easement for Apache Leap ensure adequate protection of the cultural, scenic, historic, recreational, and natural resources of the Apache Leap area?

Answer. Section 6 of S. 2466 is not specific in regard to the protections provided in the conservation easement.

However, the scenic resource of Apache Leap, as viewed from a distance, will probably be adequately protected by this provision. Some recreational interest, although probably not all, will likely be protected.

The conservation easement provisions appear limited regarding future protection of cultural, historical, traditionally gathered resources and natural resources of the Apache Leap area. The boundaries of the conservation easement are not specific. Management principles for the easement that call for specifically protection and preserving significant natural resources, tribal places, Traditional Cultural Properties or archaeological sites are not addressed. Additionally, more specific restrictions could be identified to protect these resources. The conservation easement allows for development of administrative and recreational facilities, including motorized access roads, with no stated criteria for their development or placement beyond a determination made by Resolution Copper and the easement grantee based upon unspecified consultation with the Town of Superior and unspecified "*other interested parties.*" If the rationale for the conservation easement is to mitigate potential effects of removing the parcel from federal ownership and protection, then those parties whose interests might be affected by the conveyance should be identified and involved in consultations on easement management.

RESPONSES OF LAURA KAMALA TO QUESTIONS FROM SENATOR BINGAMAN

S. 2788—UTAH RECREATIONAL LAND EXCHANGE ACT

Question 1. Section 4 of S. 2788 requires the Secretary of the Interior to accept an offer from the State of Utah to exchange the lands described in the bill "notwithstanding any other provision of law." This provision appears to waive many of the laws generally applicable to land exchanges, including the National Environmental Policy Act, the Federal Land Policy and Management Act, the Endangered Species Act and the National Historic Preservation Act, among others. Does the Grand Canyon Trust support the waiver of these laws with respect to this land exchange? If so, why?

Answer. As a rule, Grand Canyon Trust does not support the waiver of NEPA, FLPMA, ESA, NHPA or any other laws designed to protect natural and cultural re-

sources and ensure public participation. In the present case, we note that the proposed exemption from these laws affects only the selection of the lands for exchange, not their management. The process for identifying lands suitable for exchange under S. 2788 has had a great deal of public scrutiny and input over nearly three years, and that public involvement is extensively embedded in the legislation. Groups reviewing and commenting on the process and legislation include Grand County, Uintah County, San Juan County, Castle Valley Town, Moab City, Governor Huntsman's Task Force on Outdoor Recreation, Utah Open Lands, The Nature Conservancy, Utah Natural Heritage Program, Center for Native Ecosystems, Utah Wilderness Coalition, Southern Utah Wilderness Alliance, Grand Canyon Trust, Utah Guides and Outfitters, Outdoor Industry Association, affected ranchers, Grand County resort and tourist business owners, Moab Field Office Bureau of Land Management and the Utah Division of Wildlife Resources. In the case of S. 2788, we believe there has been more than adequate public participation and oversight in the selection of lands proposed for the exchange. Once lands are exchanged between SITLA and the BLM, the agencies will still be required to manage conveyed lands in accordance with the above statutes and other applicable laws. For example, SITLA is subject to the provisions of the Endangered Species Act with respect to threatened and endangered species of animals (we note that our organization and others have conducted extensive surveys with respect to threatened, sensitive and endangered plants, and determined that no such species will be negatively affected by the exchange.) We also understand that BLM will in fact engage in a NHPA process in connection with the exchange, and SITLA is in any event subject to state-level cultural resources protection statutes and regulations that provide a process analogous to NHPA.

Question 2. Your testimony states that S. 2788 "will protect valuable recreational lands, critical watersheds, cultural resources, essential wildlife habitat, lands of extraordinary scenic beauty and lands in Wilderness Study Area by conveying sensitive state-owned lands in the Colorado River Corridor to the Bureau of Land Management." Most of the lands to be acquired by the United States are not permanently withdrawn from oil and gas development and nothing in the bill requires the BLM to manage the lands to protect the values you cited in your testimony. Why is the Grand Canyon Trust confident that these lands will be permanently managed to protect those resources and values?

Answer. The answer to this question can be found in the fundamental reason for the exchange: the BLM will consolidate its management of extraordinarily high value recreation lands that are severely threatened with private real estate development on SITLA inholdings; and SITLA will acquire lands that will generate revenues for its beneficiaries without compromising the conservation values we cited in our testimony. This is possible because the SITLA lands proposed for exchange, despite their attractions for developers, have negligible oil and gas resources. This fact has been confirmed by SITLA consulting geologists, by the records of all exploratory wells drilled in the area, and by the BLM. Conversely, the lands SITLA will acquire are either in a town, adjacent to an airport, or in developing oil and gas fields, all of which can produce revenue without degrading watersheds, wildlife habitat or recreational opportunities.

The Moab Field Office of the Bureau of Land Management is completing an oil and gas management plan as part of their new Resource Management Plan. Reflecting the low hydrocarbon potential and high recreation values, the Preferred Alternative will either close oil and gas leasing (for lands in Wilderness Study Areas) or place a No Surface Occupancy stipulation on most of the lands in this exchange. Most of the other lands managed by the Moab Field Office will remain open to oil and gas leasing and development under the plan. The Utah State office of the BLM has approved of the proposed alternatives, the Washington, D.C. office of the BLM has approved of the direction of the alternatives and the local county government has approved of the Preferred Alternative.

Grand Canyon Trust prefers to have oil and gas lease closures provided by S. 2788 on lands proposed for exchange to the BLM, specifically a select list of lands under section 6(a)(2)(B); however we believe that even without such closures the threat of hydrocarbon development on these parcels is minimal compared with the very real threat of private real estate development if the lands remain with SITLA.

RESPONSES OF HON. LYNN SCARLETT TO QUESTIONS FROM SENATOR BINGAMAN

S. 2788—UTAH RECREATIONAL LAND EXCHANGE ACT

Question 1. Section 4 of S. 2788 requires the Secretary of the Interior to accept an offer from the State of Utah to exchange the lands described in the bill “notwithstanding any other provision of law.” This provision appears to waive many of the laws generally applicable to land exchanges, including the National Environmental Policy Act, the Federal Land Policy and Management Act, the Endangered Species Act and the National Historic Preservation Act, among others. Does the Department support the waiver of these laws with respect to this land exchange? If so, why?

Answer. The laws referenced above provide authorities and responsibilities to the Executive Branch from Congress for the management and disposition of Federal lands and resources. These laws govern and limit the discretion of executive actions and decision-making processes as they relate to Federal land management. However, when the Congress directs a conclusive action—such as in this exchange—its intent may be to override such authorities and responsibilities. The Department does not generally support waiving the aforementioned statutes, however, we support the Congress being clear in its direction and expectations for the management of the public lands. The legislation should be clear where it intends to direct an outcome and where it intends the agency to use its discretion. To do otherwise may result in confusion for the agency and outcomes that were not intended by Congress.

Question 2a. Your testimony references the Department’s policy guidance with respect to legislative exchanges and land valuation issues and describes the two alternative valuation proposals. You note that “the policy specifically prohibits the use by the Department of alternative methods of valuations in appraisals. However the policy recognizes there may be times when Congress will direct, or the Department will propose, the use of alternative methods of valuation in appraisals.”

Why does the Department’s appraisal policy prohibit the use of alternative valuation proposals?

Answer. By Secretarial Order Number 3251, and in accordance with Sec. 206 of FLPMA, the Department requires that all real estate appraisals must be performed pursuant to the Uniform Appraisal Standards for Federal Land Acquisitions or the Uniform Standards of Professional Appraisal Practice. Alternative methods of valuation (AVM) are inconsistent with these national appraisal standards. To incorporate these methods into an appraisal would be misleading. The policy specifically describes situations in which Congress might direct the use of an alternative valuation method other than or in addition to an appraisal. The policy is in place to ensure that no one will be misled into recognizing the results of an AVM as an indication of market value. This general policy underscores the importance of adhering to applicable appraisal standards in developing applicable legislative provisions and to ensure that land transactions are conducted with integrity, transparency, and earn public confidence. However, the Department also recognizes that in some cases, AVMs may be appropriate and has issued an Order, Number 3258, directing how those cases should be handled. That order was attached to the Department’s testimony provided on May 24, 2006.

Question 2b. What are the disadvantages of using either of the alternative methods referenced in S. 2788?

Answer. There are both advantages and disadvantages associated with using either of the AVMs referenced in S. 2788, just as there are advantages and disadvantages associated with establishing a value strictly derived from the Uniform Standards. The legislative provisions in S. 2788 would require the BLM to adjust the appraised value in order to reach the desired legislative outcome. As stated in the testimony, Sec. 5(b)(4) would require that for Federal lands not under mineral lease at the time of appraisal, the lands will be valued without regard to the presence of any minerals that are subject to leasing under the Mineral Leasing Act of 1920. In exchange for this potential reduction in value, the State or its successors in interest to the property would agree to pay the United States 50% of whatever bonus or rentals are paid to the State for mineral development in the future and to pay an amount equal to the Federal royalties that would have otherwise been collected by any future mineral development. The benefit of using this AVM is that the Federal government would retain a royalty interest in minerals, including oil shale, after the conveyance. To the extent that oil shale or other mineral resources might not be valued under a standard appraisal, this protects the Federal government’s potential interest in the future development of the resource—even if it is not immediately foreseeable and valuable. The disadvantage of using this method is that the Federal government will have an obligation in perpetuity to ensure that revenues

derived from mineral development on the property are properly paid in accordance with the Act.

The second AVM, found in Sec. 5(b)(6)(B), would reduce the properties market value (based on an appraisal) by an amount equal to what would otherwise be the State's future share under Section 35 of the Mineral Leasing Act. The benefit of using this alternative method is that it recognizes the equities inherent in the Mineral Leasing Act—which does not create a State-share entitlement per se, but creates an expectation that revenues from Federal mineral leasing will accrue to the State. With that expectation, it is reasonable to understand why the State would not want to “pay” for a share of the royalty stream up front that it would otherwise receive under the status quo. The apparent disadvantage to using this method is that the overall value of the Federal lands to be conveyed will be less and thereby result in fewer acres coming into the Federal estate as part of an equal-value transaction. That apparent disadvantage may, however, be an equitable outcome if one considers that an appraisal *would not recognize* the ongoing statutory obligation of the Federal government to share the future royalty stream that provides value to the property.

Question 2c. With respect to each of the proposed alternative valuation methods, I would like to know whether the Department recommends that the Committee approve or reject that method, and why.

Answer. The Department has not recommended using any specific alternative method of valuation because the Department is not the proponent of this legislation. In accordance with Secretarial Order No. 3258, if the Department proposes the application of alternative methods of valuation that require Congressional authorization, the Department shall expressly describe to the appropriate committees of Congress the AMVs applied, and explain how they differ from standard appraisal methods. This same obligation arises when providing views to Congress on proposals initiated outside the Department, and we have supplied that. As stated above, there are benefits and disadvantages associated with deviating from the standard methods in both cases. The Department recognizes the equities involved, and, as stated in the testimony provided on May 24, 2006, the Department could support this legislation using these alternative methods of valuation, with a minor modification relating to future royalty rates.

Question 3. Is the requirement in section 5(b) for appraisals to be conducted by independent third party appraisers selected jointly by the Secretary and the State consistent with the Department's appraisal policy?

Answer. Yes. The Department's policy addresses the use of third-party appraisals and recognizes that they may assist in achieving mutually beneficial outcomes for the Department and proponent. Generally, as stated in Order No. 3258, Sec. 4(b), upon request, the Department may review a third-party appraisal if: (a) the third party consults with the Appraisal Services Directorate prior to the initiation of the appraisal on the scope of work and the selection of the appraiser, and they agree that the Department is both the client for and an intended user of the appraisal; (b) a senior bureau or Departmental manager has determined that the underlying land transaction proposal comports with applicable missions; and (c) the Appraisal Services Directorate has determined that the appraisal was prepared by a certified appraiser and meets applicable standards.

Question 4. In your testimony on S. 2466, the Southeast Arizona Land Exchange, you note that the non-Federal party to the land exchange should reimburse the Secretary of the Interior for all of the Department's exchange-related costs. That bill also requires the Secretary of Agriculture to be reimbursed for “all costs related to the exchanges and conveyances, including appraisals and all other reviews.” In contrast, S. 2788 requires the Secretary and the State to share third party appraisal costs equally and contains no provision for reimbursement of exchange-related costs. Why is this issue a concern with respect to the Arizona exchange but not the Utah one?

Answer. The relevant distinction between the two bills is that the land exchange envisioned in S. 2788 is with a governmental agency of the State of Utah while the land exchange envisioned in S. 2466 is with a private party.

Question 5a. Section 2(b) states that the purpose of the bill is to acquire “State trust land with important recreational, scenic, and conservation resources for permanent public management and use.” In your testimony you state that the Department has “serious concerns” with a provision in the bill that would permanently withdraw certain acquired State lands from the mineral leasing and mineral materials laws.

If the Federal interest in the land exchange is to acquire lands to protect their recreational, scenic, and conservation values, why shouldn't those lands be designated for management consistent with those values?

Answer. Some of the lands that the BLM would acquire under S. 2788 are checkerboard lands. In other words they are sections of 640 acres scattered among existing BLM-managed public lands. Managing these sections differently from the often identical lands surrounding them could be difficult. Furthermore, the BLM is currently engaged in a public planning process for the existing public lands which surround most of the lands to be acquired. It is through this public process that BLM answers questions about appropriate areas for permanent withdrawal, and it provides all interested parties an opportunity to be heard. The Department believes it is appropriate for these lands to be considered in that overall context.

Question 5b. If the lands are not permanently withdrawn, is it possible that the BLM's planning process might identify them as appropriate for resource development, or potential future disposal?

Answer. The BLM's planning process could identify them for any of the multiple uses authorized under FLPMA.

Question 6. Section 6(a) of S. 2788 either temporarily or permanently withdraws the lands acquired from the State of Utah from the mineral leasing and mineral material laws. However, is it correct that the lands could still be subject to future disposal or transfer out of Federal ownership, if the BLM desired?

Answer. The lands could be subject to future disposal or transfer if so identified through BLM's planning process.

Question 7. Please identify which, if any, of the Federal lands proposed to be exchanged under S. 2788 have not been identified by the BLM as suitable for disposal? If there are any parcels which have not been identified for disposal, are any of them managed to protect special resources or values, or have other attributes which make them unsuitable for transfer out of Federal ownership?

Answer. Approximately 8,400 acres of the acres identified for exchange in the legislation were identified for disposal in the 1985 Book Cliffs Resource Management Plan. The remaining acres have not been identified for disposal, but none of the remaining acres are within ACECs or other special BLM designations.

Question 8. Your testimony briefly identifies the Federal parcels to be transferred to SITLA and notes that 2,800 acres are suitable for private agricultural development, 80 acres are suitable for private development and that "some" of the approximately 40, 000 acres have high energy potential. Approximately how many acres of BLM lands proposed for exchange do you estimate to have high energy potential?

Answer. Our best estimate is that in excess of 35,000 of the acres identified for exchange with SITLA have high energy potential for either oil and gas or oil shale and tar sands. It should be noted, however, that high potential does not necessarily equate to high current market value for the property. This is relevant to the discussion concerning oil shale. The contributory value of the oil shale resources to the current market value of the property may be limited due to the risks and costs associated with developing the resource and the unknown timing of that development. These factors may be measured in a market value appraisal through an examination of comparable properties that have transferred in the market to the extent that they exist and provide meaningful data.

Question 9. Your testimony notes that the under the authority of section 206 of FLPMA, the BLM has exchanged several hundred thousand acres of land. Does the BLM have adequate authority to complete an administrative exchange? Why is this legislation necessary?

Answer. Many of the provisions of S. 2788 do not conform with the requirements of administrative land exchanges including the proposed alternative methods of valuation, and the proposed withdrawals.

Question 10. S. 2788 contains blanks for the map descriptions. Your testimony references "current maps created by the BLM, dated March 16, 2006." I assume these are the maps you are using in describing the Federal and State lands to be exchanged. Please provide a copy of these maps.

Answer. Copies of the map dated March 16, 2006, have been provided to Senator Bingaman's Committee staff.

Question 11. Section 6(c) states that the land exchange "shall be considered to be in the public interest under section 206(a) of the Federal Land Policy Management Act." Does the Department agree that as set forth in S. 2788, this land exchange is in the public interest in accordance with section 206(a) of FLPMA?

Answer. Section 206(a) of FLPMA states:

A tract of public land or interests therein may be disposed of by exchange by the Secretary under this Act . . . where the Secretary concerned determines that the public interest will be well served by making the exchange: *Provided*, That when considering public interest the Secretary concerned shall give full consideration to better Federal land management and the

needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals and fish and wildlife and the Secretary concerned finds that the values and the objectives which Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the values of the non-Federal lands or interests and the public objectives they could serve if acquired.

We believe that this exchange meets those requirements.

S. 2466—SOUTHEAST ARIZONA LAND EXCHANGE

Question 1. Your testimony notes the Department's concerns with a provision in section 8 of S. 2466 which requires the BLM to construct the Tam O-Shanter Access Road. Do you have an estimate of the cost of constructing such a road?

Answer. As we noted in our testimony, we prefer to provide a right-of-way over BLM-managed lands for the road rather than build the road. Our best estimate at this time is that constructing the road as a Federal project would cost between \$1.2 and \$1.5 million.

Question 2. Based on your testimony, I understand that the Department of the Interior will prepare a mineral report for the land exchange. Will the Department also be responsible for conducting the appraisal of the minerals underlying the Forest Service property to be exchanged or is that the Department of Agriculture's responsibility?

Answer. The Department of Agriculture is responsible for completing the mineral report. It is then the responsibility of the BLM within the Department of the Interior to review and approve the mineral report which provides the final verification for the technical information to be used in the appraisal. Ultimately it will be the responsibility of the Department of Agriculture to complete the appraisal following completion and review of the mineral report.

Question 3. Section 5(a)(4) of S. 2466 directs that the value of the Federal land conveyed to Resolution Copper shall be determined "as if the land is unencumbered by any unpatented mining claims of Resolution Copper." Is that standard agency appraisal practice?

Answer. The Bureau of Land Management and the Department of the Interior have completed appraisals in recent years that both have and have not taken into account unpatented mining claims. Both methods have been used and there is not a standard practice.

APPENDIX II

Additional Material Submitted for the Record

[Due to the amount of material received for this hearing, only a representative sample of statements follows. Additional documents and statements have been retained in subcommittee files.]

RESOLUTION OF THE PINAL COUNTY BOARD OF SUPERVISORS ENDORSING THE LAND EXCHANGE, OF RESOLUTION COPPER COMPANY PROPERTIES, FOR PROPERTIES OF FEDERAL AND NON-FEDERAL OWNERSHIP

RESOLUTION NO. 062205-CC

WHEREAS, the Pinal County Board of Supervisors has declared one of its goals to be the advancement of environmentally sensitive economic development; and

WHEREAS, the Resolution Copper Company has met or will meet or exceed the requirements of all federal and non-federal regulatory authorities, for the protection of valuable Arizona natural treasures; and

WHEREAS, the growing recreational tourism activities, in the area, will not be inhibited or adversely impacted by the land exchange and these recreational tourism activities will be supported, by Resolution Copper, for a time sufficient to allow for the transition of resources and tourism support activities; and

WHEREAS, the Pinal County Board of Supervisors will direct staff to continuously monitor the activities, of resolution Copper Company, to assure adherence to the terms of this resolution;

NOW, THEREFORE, BE IT RESOLVED that the Pinal County Board of Supervisors fully supports the land exchange between the Resolution Copper Company, of Superior, Arizona and federal and/or non-federal lands.

PASSED AND ADOPTED this 22nd day of June, 2005, by the PINAL COUNTY BOARD OF SUPERVISORS.

SANDIE SMITH,
Chairman of the Board.

RESOLUTION OF THE SAN CARLOS APACHE TRIBE, SAN CARLOS APACHE INDIAN RESERVATION, SAN CARLOS, AZ

NO: MAY-06-077

WHEREAS, the San Carlos Apache Tribe is a federally recognized Indian Tribe organized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 stat., 984); and,

WHEREAS, the San Carlos Apache Tribe recognizes their inherent sovereignty to self-determination and their responsibility as protectors of past, present, and future Apache generations and that the role of cultural resources, language, and elements of the natural world (i.e. air, water, animals, plants) are significant to the existence and the spirituality of the Apache, and

WHEREAS, the San Carlos Apache Tribe recognizes, values, and utilizes, traditional Apache resources both on and off the reservation and is committed to protecting the spiritual and traditional resources in and around Chich'il Bildagoteel (Oak Flat), which lies in the heart of T'is Tseban Country. The Oak Flat region is bounded in the east by Gan Bikoh ("Crowndancers Canyon"—Devil's Canyon) in the north by Gan Daszin ("Crowndancer Standing"—Queen Creek Canyon), and

WHEREAS, tribal, state, and federal laws, such as the San Carlos Apache Tribal Ordinance 76-1 Section 36, Tribal Codes, Arizona Revised Statutes 41-846 and 41-864, the National Historic Preservation Act (NHPA), the Archaeological Resources Protection Act (ARPA), the Native American Graves Protection and Repatriation Act

(NAGPRA), the American Indian Religious Freedom Act (AIRFA), the National Environmental Policy Act (NEPA), and Executive Order 13007, Protection of Indian Sacred Sites, were created to protect and preserve cultural and historic properties significant to the past, present, and future history of the Indeh (Apache), and

NOW THEREFORE BE IT RESOLVED; that the San Carlos Apache Tribe has taken a stand to oppose the Southeastern Land Exchange.

BE IT FURTHER RESOLVED: that the Indeh (Apache) oppose large-scale mining proposed by Rio Tinto's Resolution Mining Company in the Oak Flat vicinity, and strongly oppose the land exchange with the United States Forest Service enabling this operation.

CERTIFICATION

I, the undersigned Secretary of the San Carlos Apache Tribe Council hereby certify that the Tribal Council is presently composed of 11 members, of whom 6 constituting a quorum were present at a Special Council meeting hereto held on the 22nd day of May 2006, and that the foregoing Resolution No. May-06-077 was duly adopted by a vote of 5 for; 0 opposed; 0 abstained; of the Tribal Council pursuant to Article V, Section 1 (a) of the Amended Constitution and Bylaws of the San Carlos Apache Tribe effective February 24, 1954.

BEATRICE HENDRICKS,
Acting Tribal Secretary.

ARIZONA STATE SENATE,
COMMITTEE ON NATURAL RESOURCES AND RURAL AFFAIRS,
Phoenix, AZ, March 14, 2006.

Hon. JON KYL,
U.S. Senate, Washington, DC.

DEAR SENATOR KYL: I write to express my strong support for the federal land exchange package you are proposing between the United States and Resolution Copper Company of Superior, Arizona. I am deeply grateful for your hard work and close attention to this issue, as the exchange will be very beneficial to the citizens of the State of Arizona.

As you know, I have been working closely with officials from the Arizona State Parks Board in the creation of state legislation, Arizona Senate Bill 1550, to work in tandem with your exchange to create a new rock climbing state park near the Town of Kearny, Arizona. Located approximately 20 miles southeast of the federal Oak Flat campground, Kearny and nearby communities throughout the copper triangle region would enjoy economic gains from the potentially high growth in recreational tourism. This is a region that is not keeping up with the job growth seen throughout the urban areas in our great state. It certainly goes without saying that further exploration and development of the copper mine near Superior in rural Arizona would also bring sorely needed opportunities, particularly for our youth.

The land exchange package you have proposed is a tremendous win for both the federal government and the State of Arizona. A significant assortment of highly sought after private lands throughout Arizona will be obtained by the federal government. A major economic engine will be expanded in Superior, and rock climbers and tourists from around the world will be welcomed to explore the rugged and beautiful terrain near Kearny.

Thank you again, Senator, for your fine leadership in this vital and exchange.

Sincerely,

JAKE FLAKE,
Chairman.

ARIZONA DEPARTMENT OF MINES AND MINERAL RESOURCES,
Phoenix, AZ, May 9, 2005.

BRUNO HEGNER,
Vice President and General Manager, Resolution Copper Company, Phoenix, AZ.

DEAR MR. HEGNER: The Arizona Department of Mines and Mineral Resources (ADMMR) is submitting this letter in support of The Southeast Arizona Land Exchange and Conservation Act of 2005. There are a number of reasons we support this exchange. The following are five of the more salient reasons.

First, this land exchange will be of great economic benefit to the State. Resolution has already spent \$40 million in preliminary evaluation and will spend \$200 million to complete their exploration and engineering phase. Investment in the development of the project could easily exceed \$2 billion.

Second, the project will strengthen the Arizona mining industry by attracting professional technical staff, as well as miners, and will be of great benefit to the suppliers' network in the State.

Third, the project will greatly benefit the towns of Superior and Globe and the Phoenix metropolitan area. The local area has been financially troubled by the closing of the Magma Mine and other copper mines in the area. The Resolution mine will initially employ 1,000 workers and provide 450 permanent, high-paying jobs. ADMMR is pleased the company has already undertaken two voluntary remediation projects at the existing mine site to protect the environment. Many of the adits, tunnels, and other workings in Queen Creek from previous mining activity will be closed or gated to retain their function as habitat for bats, snakes, and other wildlife.

Fourth, copper is an essential metal with increasing demand in the world economy for electrical and electronic products, and in transportation equipment. Arizona supplies 65 percent of the Nation's domestic copper, but the United States is still not self-sufficient. Development of the Resolution Copper deposit may remedy that situation.

Fifth, this land exchange places important riparian lands into the public domain. The two main land parcels, the San Pedro and Appleton, both serve as migratory stops for birds and also contain mesquite bosques and grasslands.

If you or your staff wishes to contact me, I can be reached at (602) 255-3795, Ext. 14.

Sincerely,

NYAL NIEMUTH,
Mining Engineer.

OFFICE OF THE GOVERNOR,
Phoenix, AZ, February 7, 2005.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: I am writing to voice my support for the The Southeast Arizona Land Exchange and Conservation Act of 2005.

This land exchange would place some of the most beautiful and pristine lands in Arizona including important riparian habitat under federal protection for conservation and recreation purposes. The lands that would be secured by Resolution Copper Company would better position the company for the production of the copper ore body, which exists 7000 feet below the surface of both private and federal land. This is a good exchange for Arizona.

In recent years, the small Arizona town of Superior has been devastated by the deactivation of a nearby copper mine. Families have separated and local commerce has almost disappeared and the town is left with the unsightly remains of the deactivated mining operation. Recently, the United States' largest diversified mining company, Rio Tinto, discovered an ore body beneath the existing mine many believe could be one of the largest in the world.

Rio Tinto's American affiliate, Resolution Copper Company, must invest \$100 million in exploration and engineering activities just to determine how the mine can be built and successfully operated. As part of the feasibility phase there are a number of outstanding issues they must address including where they will obtain the water necessary for the mining operation, where the water would be discharged and where will they put the tailings from the new mine. Resolution Copper Company seems committed to answering these questions and to conducting the mining operation in a sustainable manner to minimize environmental and economic impacts. To justify making an investment of this magnitude, Resolution Copper needs access and control consistent with industrial development of the surface lands above the proposed mine.

Resolution Copper has purchased several unique Arizona properties for the purposes of embarking upon a federal land exchange, which are contained in the bill. To make this package even more attractive, Resolution Copper has agreed that if the private property value exceeds the public land value, it will allow the excess value to be used by the Town of Superior to secure lands integral to economic development of the town and then donate the excess to the United States. The legislation ensures that all required appraisals, land surveys, and pre-existing inventories, clearances, reviews and approvals relating to hazardous materials, threatened and endangered species, cultural and historic resources, and wetlands and floodplains be conducted prior to the consummation of the land exchange. Additionally, Resolution

Copper has agreed to exclude current mining claims from the appraisal of the federal lands.

In exchange, the people of the United States and Arizona will receive thousands of acres that offer some of the most unique natural landscapes, wildlife and cultural values in existence.

There are clear benefits for the people of Superior, Arizona and surrounding communities. The proposed mine development will create:

- Nearly 1,000 construction jobs
- More than 400 permanent, high-quality technical jobs
- Nearly 1,500 service-related positions
- Annual wages for hourly staff of approximately \$60,000
- A much needed economic engine for the community
- Financial support for educational, recreational and other community initiatives

This legislation will minimize the conflicts for the proposed industrial development activities and recreational users. Resolution Copper has agreed to participate financially in the relocation of a local campground, secure a conservation easement for a nearby landmark, and provide access to an alternative rock climbing area, a popular sport near Superior.

I have personally met with Resolution Copper's Arizona management and I recently made an economic development trip to London, where I exchanged views with the top management of Resolution Copper's parent company, Rio Tinto. I find their attitudes toward local community sustainability and commitment to environmental protection refreshing. I am encouraged that several of the most prominent conservation organizations in Arizona have endorsed acquisition of these properties. Finally, I find it promising that the leaders of Superior, Arizona recently passed an enthusiastic resolution of support.

I urge your support and your co-sponsorship of this legislation and look forward to discussing this matter with you directly, or your staff can contact my Chief of Staff, Dennis Burke, at 602-542-1498, email dburke@az.gov.

Thank you for considering this request.

Yours very truly,

JANET NAPOLITANO,
Governor.

STATEMENT OF JASON KEITH, POLICY DIRECTOR, THE ACCESS FUND, ON S. 2466

The Access Fund, America's largest national climbers organization, welcomes the opportunity to submit this testimony for inclusion into the public record regarding S. 2466, the *Southeast Arizona Land Exchange and Conservation Act of 2006*.

THE ACCESS FUND

The Access Fund is the only national advocacy organization whose mission keeps climbing areas open and conserves the climbing environment. A 501(c)3 non-profit organization supporting and representing over 1.6 million climbers nationwide in all forms of climbing rock climbing, ice climbing, mountaineering, and bouldering—the Access Fund is the largest US climbing organization with over 15,000 members and affiliates.

The Access Fund promotes the responsible use and sound management of climbing resources by working in cooperation with climbers, other recreational users, public land managers and private landowners. We encourage an ethic of personal responsibility, self-regulation, strong conservation values and minimum impact practices among climbers.

Working towards a future in which climbing and access to climbing resources are viewed as legitimate, valued, and positive uses of the land, the Access Fund advocates to federal, state and local legislators concerning public lands legislation; works closely with federal and state land managers and other interest groups in planning and implementing public lands management and policy; provides funding for conservation and resource management projects; develops, produces and distributes climber education materials and programs; and assists in the acquisition and management of climbing resources. For more information about the Access Fund, log on to www.accessfund.org.

INTRODUCTION

Located near Queen Creek Canyon in the Tonto National Forest, the Oak Flat Campground area has the distinction of being the location for a world-class rock

climbing and bouldering destination as well as the site of a massive copper ore deposit deep beneath the surface.

The *Southeast Arizona Land Exchange and Conservation Act of 2006*, S. 2466, is designed to transfer the Oak Flat Campground to Resolution Copper Company (RCC) in return for a number of private land parcels in Arizona. Being a mining company, RCC will most likely develop Oak Flat into a copper mine. Depending on how and when RCC pursues the copper ore located several thousands of feet below Oak Flat, such pursuit could result in the single largest loss of a climbing resource in the history of the United States.

Due to the Access Fund's negotiations with RCC and the thoughtful efforts of the entire Arizona congressional delegation, Senator Kyl inserted a placeholder provision entitled ADDITIONAL ROCK CLIMBING PROVISIONS in the initial version of the bill, S. 1122. Thanks to everyone's continued efforts, we believe that the present version of the bill (S. 2466) now contains adequate language requiring the establishment of replacement climbing resources. Additionally, the Access Fund and RCC have negotiated a recreational use license that maintains climbing access to Oak Flat unless mining activities render the property unsafe.

THE OAK FLAT CAMPGROUND AND RECREATION AREA

The federal government has long acknowledged the outstanding value of the Oak Flat area as a recreational resource. In 1955 the Eisenhower Administration executed BLM Public Land Order 1229 (20 FR 7336) which specifically put this land off-limits to all future mining activity. The Nixon Administration subsequently issued BLM PLO 5132 (36 FR 19029) in 1971 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."

The Oak Flat Campground and nearby Devil's Canyon are unique recreational sites frequented by bird watchers, climbers, hikers, dirt-bike riders, campers, canyoners, and other recreational user groups. Within a convenient one-hour drive of Phoenix the 5th largest city in the United States—Oak Flat is an irreplaceable recreational asset for the millions that live in central Arizona as well as the thousands more that travel there from out-of-state.

Although perhaps best known for its unique rock climbing, bird watchers also frequent Oak Flat. Many rare and interesting birds have been seen at Oak Flats, including four species, which are on the national Audubon Society's "watchlist" of species that are declining and are of a national conservation concern. Oak Flat Campground is a "hotspot" listed on Maricopa Audubon Society's birding website for Arizona.

At the greater Queen Creek/Oak Flat area there are nearly 3,000 exceptional climbing routes and "bouldering problems" which was the site of the world's largest annual outdoor rock climbing competition, the Phoenix Boulder-Blast (www.boulderblast.com). At the 2004 event,¹ over 700 climbers from around the world competed and hundreds more came just to watch the action and enjoy the matchless natural surroundings. Part of what makes Oak Flat special for rock climbing is not only its proximity to Phoenix but also the ideal layout of cliffs and boulders that lend themselves to both climbing and "bouldering." Oak Flat is also one of three climbing areas that are on the "winter circuit" of climbers that travel year-round.

THE ACCESS FUND'S SAVE OAK FLAT-ADVOCACY ISSUE

The Access Fund first heard about the potential land exchange in 2004 and *Save Oak Flat* has been a leading advocacy issue ever since because of the potential to be the largest loss of climbing resources in U.S. history. Our *Save Oak Flat* advocacy effort has included numerous action alerts to our membership and a petition drive collecting over 1,500 local Arizona signatures. This campaign involved many congressional meetings, work with Arizona environmental and conservation groups, and the Arizona Mountaineering Club. We also met with the Arizona governor's office, the Arizona state legislature, and local government executives, as well as with the Tonto National Forest. Over the course of the last 2½ years we also met numerous times with RCC and their representatives.

In response to RCC's mining proposal, in 2004 the Access Fund helped found the *Friends of Queen Creek* (www.friendsofqueencreek.org), a nonprofit advocacy organization formed to preserve public recreational access to the Oak Flat Campground area with over 1,000 members. Like the Access Fund, the Friends of Queen Creek

¹The 2005 Phoenix BoulderBlast was cancelled in part because of the controversy surrounding the mining proposal.

is not an anti-mining group, but rather advocates for multiple uses of public lands in the larger Queen Creek Canyon/Oak Flat area.

After months of public advocacy and negotiating with RCC to maintain some public access to Oak Flat, in May of 2006 with the assistance of Senator Kyl the Access Fund and RCC executed a public use license for continued recreational access to the Oak Flat parcel and two other climbing locations in nearby Queen Creek Canyon.

THE OAK FLAT RECREATIONAL USE LICENSE

The Access Fund's Oak Flat license with RCC exemplifies how cooperative negotiations can produce acceptable compromises for public land uses that seemingly conflict. In this case, RCC will obtain title to a profitable mining parcel while climbers will be allowed continued recreational access to Oak Flat and environs. The significant provisions of this license are as follows:

- RCC will allow public access for bouldering and rock climbing to the Oak Flat parcel, in addition to two other parcels already owned by RCC and used by the public for recreation.
- This license is revocable at anytime by either party, but with a provision for license renewal beyond the stated five-year term.
- The Access Fund will work with the Friends of Queen Creek and RCC to ensure that the terms of the license are complied with and that protocol is followed to manage risk and adjust climbing access.
- The Access Fund will also work with the Friends of Queen Creek and RCC to fulfill stewardship projects at Oak Flat and Queen Creek Canyon.

The Access Fund is encouraged that this agreement will remain in place at Oak Flat so long as it is safe for climbing to take place commensurate with RCC's exploration and mining activities. Furthermore, we hope that Arizona climbers will be able to permanently enjoy climbing at *The Pond* and *Atlantis* (the two additional parcels also included in the license) since they are currently very popular climbing areas and not within the scope of BCC's future mining plans.

Although initially there was significant disagreement between the Access Fund and RCC regarding an appropriate compromise for continued public use of the Oak Flat parcel, the Access Fund greatly values RCC's efforts to address the concerns of climbers. In addition to supporting, both conceptually and financially, a new Arizona state park that provides new climbing opportunities,² RCC has, more importantly, worked hard with the Access Fund to negotiate the terms of the recreational use license for Oak Flat. Indeed, RCC agreed that the license would have an opportunity for renewal beyond the initial five-year term.

CONCLUSION

In short, the Access Fund's mission to maintain climbing access and preserve the climbing environment was achieved to the extent possible in this challenging situation. This was due, in large part, to the willingness of the Arizona congressional delegation, as well as RCC, to recognize the value of Oak Flat as a world-class climbing resource and not just a source of mineral wealth. While we feel that we have made the best of an unfortunate situation (securing temporary public access to a popular recreation area that may eventually be lost), credit is certainly due to RCC for their willingness to consider the interests of the American climbing community. In the future the Access Fund will continue to advocate diligently preserving our public resources.

Accordingly, while the Access Fund does not generally endorse land exchanges that dispose of public recreation lands, we are pleased that RCC sought to address our concerns by providing replacement climbing areas and by entering into a recreational use license that preserves, at least temporarily, public access to Oak Flat for climbing and bouldering.

Chairman Domenici and members of the Subcommittee on Forests and Forest Health, the Access Fund thanks you for the opportunity to provide testimony on the *Southeast Arizona Land Exchange and Conservation Act of 2006*.

²S. 2466 provides replacement rock climbing at what will become known as Tam O'Shanter State Park. This 2,000 acre park will be established for public or recreational purposes, specifically, and as authorized by the State legislature, rock climbing and bouldering.

THE NATURE CONSERVANCY,
Phoenix, AZ, September 24, 2004.

Mr. BRUNO HEGNER,
Vice President and General Manager, Resolution Copper, Phoenix, AZ.

Re: "Seven B" property, Lower San Pedro River, Mammoth, Arizona

DEAR MR. HEGNER: In March of this year, Resolution Copper Mining acquired the "Seven B" property from BHP Copper, Inc. As you know, the 3,073 acres of the "Seven B" property contains nearly seven miles of the lower San Pedro River as well as over 800 acres of ancient intact mesquite bosque representing what is probably the largest remaining high-quality mesquite forest remaining in Arizona.

The riparian habitat associated with the San Pedro River corridor through the "Seven B" property, along with its adjacent and contiguous mesquite bosque, represent the two most important wildlife habitats currently remaining in the American southwest.

The "Seven B", according to The Nature Conservancy's ecosystem analysis of the lower San Pedro River, and the United States Bureau of Land Management's San Pedro River Ecosystem Acquisition Plan is one of the three highest remaining priority conservation sites along the nearly 90 miles of the lower San Pedro River.

The riparian corridor through the "Seven B" is a very important part of what is considered to be one of the most critical and irreplaceable migration corridors in the western hemisphere for neotropical birds. More than 380 species of birds have been documented as occurring along or adjacent to the river.

Because this parcel contains such a lengthy stretch of the river, because it contains what is probably the finest and largest remaining mesquite bosque in Arizona, because of its superlative wildlife habitat, and because of the property's potential role in the recovery of several endangered species, including the southwestern willow flycatcher, The Nature Conservancy is strongly supportive of federal acquisition of this parcel for conservation purposes.

If there is anything, we can do to assist you with the management or eventual protection of this important parcel, please do not hesitate to contact us.

Sincerely,

KEN WILEY,
Director of Stewardship (AZ).

STATEMENT OF DON STEUTER, CONSERVATION CHAIR, SIERRA CLUB—
GRAND CANYON CHAPTER, ON S. 2466

On behalf of the Sierra Club's Grand Canyon (Arizona) Chapter, we urge you to reject S. 2466, the *Southeast Arizona Land Exchange and Conservation Act of 2006*. Our members enjoy—hike, bird watch, climb, etc.—and are concerned about protecting the public lands that are a subject of this proposed legislation.

This land swap bill will allow a foreign-owned mining company, Resolution Copper Company (Rio Tinto—55% owner—headquartered in the United Kingdom, and Broken Hill Properties—45% owner—headquartered in Australia), which acquired the old Magma Mine near Superior, Arizona to resume mining in the area, to also acquire Oak Flat Campground, located in the Tonto National Forest.

Oak Flat campground was recognized by President Eisenhower as an important area back in 1955, when he signed Public Land Order 1229 which specifically put this land off limits to future mining activity. Oak Flat provides many recreational opportunities for Arizonans and others from around the country. Recreational activities in the area include hiking, camping, rock climbing, birding, bouldering and other recreational activities. The Oak Flat area is the largest outdoor climbing area in Arizona and home to the largest outdoor climbing competition in the world. Oak Flat is also a key birding area. Four of the bird species that have been sighted at Oak Flat are on the National Audubon Society's watch list of declining species that are of national conservation concern: Black-chinned sparrow, Costa's hummingbird, Lewis's woodpecker, and Gray vireo. Because of the significance of this area, its history of providing a respite for travelers and those seeking relief from the hubbub of the urban environment, the Sierra Club is strongly opposed to this land swap.

S. 2466 is unnecessary and at best, premature. If a land swap is deemed necessary, it can be accommodated via an administrative action. The benefit of this is that it will have a complete and thorough environmental analysis, as required by the National Environmental Policy Act (NEPA), and will also include an examination of the alternatives. This type of analysis can help the public better evaluate whether they are getting a fair exchange and also evaluate the true environmental impacts of such an exchange. Often a NEPA analysis can identify a less environ-

mentally harmful alternative as well. It is clear that Resolution Copper Company (RCC) will benefit enormously from this exchange as the company has indicated that this is a rich copper vein. It is less clear that the public is getting a fair return on the loss of Oak Flat.

A critical issue that is not addressed by this legislation is the value of the lands that RCC will acquire. There is no real discussion of the known and anticipated mineral values on the US Forest Service (public) lands. RCC should not be allowed to hide behind the “Confidential and Proprietary” language that cloaks the ability to evaluate whether or not there is any semblance of a fair exchange. Again, this analysis and evaluation is something that can and should be done via a NEPA process. How can the Congress, in good conscience, approve a proposal when it cannot determine whether or not the public is getting ripped off?

Furthermore, there is no hurry on this proposed exchange. Even if RCC started moving forward with plans to mine today, it is unlikely they would be ready to mine this copper for at least another five to ten years. There is plenty of time to do a thorough analysis and look at the alternatives, costs, etc.

Another reason to hold off or to reject this proposal is there is no approved plan of operation for this proposed mine. Without that, it is impossible to determine the impacts to the geology, the wildlife, including at least one endangered species, or the water. Will it result in dewatering Devil’s Canyon and destroying its riparian habitat? These are all issues which must be addressed prior to allowing this proposal to move forward.

Apache Leap, an important cultural and historical land mark overlooking the town of Superior, would become private land and be within this proposed mine. While the bill requires that RCC place a conservation easement on Apache Leap to prevent its destruction, it also removes any liability for RCC if they actually do destroy Apache Leap through their mining activity under Oak Flat. This is unacceptable and irresponsible.

Cultural resources associated with the Apache are found at and near Oak Flat and it is a traditional tribal use area. For this reason, the San Carlos and White Mountain Apache Tribes are also opposing this proposed land swap. Through a proper NEPA process, this would also be examined and any negative impacts on the Apache properly evaluated and mitigated. Less damaging alternatives for the tribes’ cultural concerns could be determined. There is no mention or attempt to address the loss of cultural heritage in this legislation.

The bill gives RCC the responsibility for hiring the appraisers for this land exchange. At a minimum, two independent appraisals should be performed, not a special appraisal that is contracted by those who are seeking the swap. It is unlikely that RCC’s appraiser will deliver an appraisal that is unsatisfactory to company.

While the bill attempts to mitigate the impacts on one group of “stakeholders”—some of the climbers—it does not address the larger loss to the general public. While this is a common tactic to peel away opposition and get people to accept what has been presented as “inevitable”, it does not result in good public policy. Whether it is hikers, birders, the Apache tribes, or numerous other members of the public, this bill does not even consider those issues.

Finally, it is pretty clear that President Eisenhower believed he had protected Oak Flat when he issued the executive order. If an area that has been protected from mining and other negative actions for over 50 years, can be given up so cavalierly, what is next? This sets a terrible precedent. S. 2466 should be rejected and the impacts of such a major action properly evaluated.

We would like to have our comments on S. 2466 be made part of the official record. If you have any questions regarding this matter, please do not hesitate to contact us at (602) 253-8633.

Thank you for considering or comments.

STATEMENT OF ROGER FEATHERSTONE, SOUTHWEST CIRCUIT RIDER, EARTHWORKS,
ON S. 2466

EARTHWORKS is a non-profit, non-partisan environmental organization dedicated to protecting communities and the environment from the adverse impacts of mineral development. Our national office, based in Washington D.C., provides support to citizens across the country and around the world. Our field offices in Arizona and Montana assist communities throughout the western United States concerned about the impact of mineral development in their backyards.

EARTHWORKS supports responsible mining policies and practices and recognizes that some mining companies seek to operate in a manner that protects our environment.

We appreciate the opportunity to express our view in front of the Subcommittee about S. 2466, the Arizona Land Exchange and Conservation Act of 2006 (Land Exchange).

BACKGROUND

Resolution Copper Company (RCC)—a wholly foreign-owned subsidiary of Rio Tinto and BHP, two of the largest mining companies in the world—is potentially planning to develop a deep underground copper mine. RCC seeks to acquire Oak Flat, Apache Leap, and surrounding public lands for its own use through this land exchange bill. There are many significant problems posed by this unusual bill. For example, if passed, more than 3,000 acres of the Tonto National Forest will become private property and forever off limits to recreationists and all those who enjoy public lands. Privatization of this land would end public access to some of the most spectacular outdoor recreation and wildlife viewing areas in Arizona. If the mine is developed, this land would be affected by massive surface subsidence, leaving a permanent scar on the landscape among other lasting and ongoing damage.

The Oak Flat Campground was recognized by the Eisenhower Administration as an important recreational resource in 1955, and specifically placed off limits to future mining activity. This unique area is a world-class natural resource for birding, hunting, hiking, camping, rock climbing, bouldering, canyoneering, picnicking, responsible OHV driving, and other recreational uses. Oak Flat receives tens of thousands of visitors each year. On the eastern border of Oak Flat is Devil's Canyon, and the waters of Queen Creek, one of the crown jewels of Arizona's state trust lands, with some of the finest remaining riparian habitat in the state.

Oak Flat, Apache Leap, Devil's Canyon, and the surrounding area have long been an important cultural site for Western Apaches. The Tonto National Forest has discovered at least a dozen archeological sites in and around Oak Flat. Apaches continue to use the Oak Flat area to gather acorns and pine nuts which are highly valued traditional and ceremonial foods. Making Oak Flat private land would forever eliminate those Apache traditional cultural and religious uses of that unique area. Apache Leap is an historical land known as the Apache's Masada. It is hallowed grounds where many dozens of Apaches leaped to their deaths when trapped by the US Army.

The bill contains no environmental studies or even the most basic analyses and opportunity for public involvement afforded by the National Environmental Policy Act. Furthermore, RCC has not yet filed a mining plan and has not offered any information about (1) what will become of Oak Flat, Apache Leap, and environs; (2) where the mountains of mining tailings will ultimately reside; (3) where the enormous amounts of water needed for mining will come from and be discharged; (4) how endangered species (such as the Arizona hedgehog cactus, *echinocereus triglochidiatus arizonicus*) will be preserved; and (5) how necessary cultural resources will be protected. Importantly, the bill makes no mention of the subsidence that could occur if RCC is allowed to mine this area as it intends. Much has yet to still be dealt with in terms of environmental considerations.

OUR VIEW

This bill is at best premature. Before we can decide on the merits of any exchange, the public must review and debate a plan of operation for an actual mine. If after full review of a plan of operations and options, there is a decision made to move forward with a mine, only then should it be determined if a land exchange is needed.

For this, and other reasons listed below, EARTHWORKS is opposed to the land exchange in its current form. If after review of the mine plan it is determined that a land exchange is needed in order for the operation to move forward, EARTHWORKS may support a similar bill at that time. It is possible for the bill to be re-crafted in a manner that would be acceptable to us, but it would take substantial work to accomplish.

RESPONSIBLE MINING

EARTHWORKS supports responsible mining. The following themes, while not exclusive, are critical for the development of a responsible mine:

- Details of the project and potential impacts should be made available to affected communities and area residents in an appropriate language and format, and should be made accessible to the public.

- The environmental review and decision-making processes should be transparent and should cover all alternatives (including a worst case scenario and analysis of off site impacts).
- The public should have the right to comment on the adequacy of the reclamation and closure plan, the adequacy of the financial surety, and completion of reclamation activities prior to release of the financial surety. Self bonding or corporate guarantees should not be permitted.
- Companies should obtain the free, prior, and informed consent of indigenous peoples before exploration begins and prior to each subsequent phase of mining and post-mining operations.
- Companies should conduct consultations that are culturally appropriate, using mechanisms and institutions that are recognized by the affected indigenous peoples and community—women and men—in the area in which they wish to operate.
- Indigenous peoples and local communities should be provided with sufficient resources to evaluate a project in order to decide whether, and how, they would like it to proceed.
- Companies should not try to extract a community decision in support of mining (or encourage governments to do so for them) as this may divide communities and create dissent.
- The company should provide full disclosure of pertinent information regarding a mining project to all groups within potentially affected communities.

As I will explain below, the land exchange does not meet any of these criteria for responsible mining.

The Land Exchange fails to make details of the project and potential impacts available to affected communities and area residents or the public in an appropriate language and format.

The company should provide full disclosure of pertinent information regarding a mining project to all groups within potentially affected communities.

ANALYSIS

The purported purpose of the land exchange is to facilitate the construction of an underground mine by Resolution Copper Company (RCC). But to date, the company has not provided full disclosure of any information regarding a potential mining project. Even if the public objects, the exchange is mandated by Congress and could not be undone.

The land exchange bill does little to ensure that the land trade will fairly compensate the American public for the loss of Oak Flat and Apache Leap. The bill requires that an appraisal be completed within one year, yet the company itself will have no idea of the full value of the minerals that are now held in the public trust. While the company says in the press that the deposit they wish to mine is worth billions of dollars, the land they wish to trade is only worth a few million. The taxpayers deserve a full return on the minerals taken from public lands.

There is no mandate that RCC build a mine if the exchange were to be approved. If the company decides not to mine, Rio Tinto and BHP would be able to enter into the real estate development business. If this bill passes, the land will be private land, allowing mining companies to sell the land for condominiums or golf courses. Rio Tinto is currently planning a massive housing development on its mine land outside of Salt Lake City that could house as many as 500,000–600,000 people. BHP is planning a large subdivision for 3,500 at its mine site near San Manuel. There is nothing to stop RCC from using this bill as a grab of public land under the guise of mining.

The Land Exchange Bill fails to require environmental review. Therefore, there will be no decision-making process that discusses impacts or alternatives.

ANALYSIS

If the Land Exchange becomes law, Arizona statutes would govern any mine that may be built under Oak Flat / Apache Leap. Arizona state law does not require a NEPA analysis of the project and alternatives.

The bill does not call for any alternatives analysis to look at the suitability of acquisition of the lands involved in this land exchange. An alternatives analysis would enable the public to fully understand what it is giving up and what it may gain in the exchange.

There is no analysis in the bill of the impacts on the land traded out of public ownership, including impacts from mining or other uses of the land on adjacent lands.

There is plenty of time to undertake the full public review of any possible mine under Oak Flat and Apache Leap. Full public review and input would have shown that the area is critically important to Western Apache and others—a point that is being glossed over in the current rush to approve the exchange.

The public should have the right to comment on the adequacy of the reclamation and closure plan, the adequacy of the financial surety, and completion of reclamation activities prior to release of the financial surety. Self-bonding or corporate guarantees should not be permitted.

ANALYSIS

There is no discussion about reclamation or closure of a mine in the bill. If the land were privatized, Arizona state law would allow the company itself to insure the cost of reclamation. This type of self-guaranteed bond leaves the taxpayers vulnerable if the mining company is to go bankrupt. We should learn from the example of the bankruptcies of Asarco and other mining companies. Without cash up front for reclamation, the taxpayer would be left responsible for reclamation costs.

Companies should obtain the free, prior, and informed consent of indigenous peoples before exploration begins and prior to each subsequent phase of mining and post-mining operations.

Companies should conduct consultations that are culturally appropriate, using mechanisms and institutions that are recognized by the affected indigenous peoples and community women and men in the area in which they wish to operate.

Indigenous peoples and community women and men should be provided with sufficient resources to evaluate a project in order to decide whether, and how, they would like it to proceed.

ANALYSIS

The bill fails on all of these principles. Neither the company nor the law makers that have sponsored this bill have made any attempt to meaningfully consult affected indigenous peoples. In fact, in spite of being made aware of indigenous people who were available to testify in front of this Committee, none were invited by the Committee to do so.

Companies should not try to extract a community decision in support of mining (or encourage governments to do so for them) as this may divide communities and create dissent.

ANALYSIS

RCC has gone to great lengths in this bill to attempt to accommodate several interest groups. The bill bends over backwards to provide incentives for rock climber support of the bill. The bill's sponsors have offered parcels of land that would benefit only certain conservation organizations. Yet, the bill locks other groups out of areas traditionally used by the public. Not only would Native Americans be locked out of traditional-use areas, but so would recreationists and birdwatchers. Such a divide and conquer strategy of talking to and appeasing only certain special interest groups is not the way to conduct good public policy.

SUMMARY

There is no need for a land exchange in order for RCC to move forward with plans to mine on public land. The 1872 Mining Law, which governs hard rock mining on public land, makes it clear that RCC has the ability to build a mine on public land. Of the 183 major hard rock mines in the US that have opened since 1975, 137 have operated on public land.

The real solution is to put this land exchange bill on hold and ask RCC to submit a Plan of Operation to the U.S. Forest Service so that an Environmental Impact Statement can be written to cover all the alternatives in the project. RCC has stated that it will not be ready to mine for at least 10 years, giving the Forest Service and the public plenty of time to scrutinize the mine plan and come up with a solution that benefits the mining company, recreationists, and the traditional-use tribal interests.

Unfortunately, this land exchange bill leaves many affected parties out of decision-making process. The bill takes the decision from the many and puts it in the hands of a few, undercutting good decision-making that would involve and benefit the public and surrounding communities. Rather than working out the details behind closed doors, RCC should allow for full disclosure and scrutiny. This will allow any environmental issues—such as subsidence, water use and pollution issues—to be dealt with early on in the process. It will also allow RCC to fully consult with

the tribes and other constituencies that will be affected by the exchange. There seems to be only one reason this bill is being rushed through the process—the companies know that the only way to get what they want is to circumvent America's tried and true public process by asking Congress to mandate a quick fix.

This land exchange bill would set a chilling precedent, allowing for the revocation of similar land withdrawals such as parks, recreation areas, and wildlife refuges. Public lands such as Oak Flat that are set aside for recreation should remain protected for future generations. This land exchange bill would sacrifice the interests of Arizonans, and all Americans, to benefit a mining company. Twenty years from now—when the mine ceases operation and the mining jobs once again leave—what will be the fate of these landscapes? We strongly urge you to protect these public lands for the public's future use and preserve the unique opportunities for Arizonans that the Oak Flat area provides.

Recently the public has spoken loudly on several occasions about keeping America's public lands public. This is just another land grab under the guise of mining. Don't let this happen. There is time to do this right.

STATEMENT OF CURT BRADLEY, CENTER FOR BIOLOGICAL DIVERSITY,
TUCSON, AZ, ON S. 2466

We urge you to not approve S. 2466, the Southeast Arizona Land Exchange and Conservation Act of 2006.

Resolution Copper Company (RCC) has desires to mine copper more than 7,000 feet below Oak Flat Campground and Apache Leap just east of the Town of Superior, Arizona. In order to avoid compliance with federal environmental and cultural laws RCC is attempting to acquire these public lands.

We are opposed to this land exchange for several reasons. First, this area was specifically withdrawn from mining activity by President Eisenhower in 1955. Since then the public has enjoyed the spectacular Queen Creek Canyon and Apache Leap for their outstanding biological, cultural, and recreational values. Queen Creek Canyon has perennial pools of water that sustain life for many species of birds, plants, and animals. This riparian area is significant in a state where over 90% of the riparian areas have already been lost.

Second, we believe that mining activities in such a sensitive area should be subject to our nation's environmental laws. By transferring this area out of public domain, RCC is attempting to avoid public oversight of their operations. The block fault mining operation that RCC is proposing will consume vast amounts of water. Will the water withdrawals affect nearby riparian areas and the species that depend on them? Where will the contaminated waste water be dumped? Where will the waste rock go? These questions won't be adequately answered if RCC is allowed to avoid our environmental laws.

Third, the Apache Leap is a significant cultural resource. It is an area of cliffs where the Apache warriors jumped to their deaths to avoid capture by the U.S. Cavalry. I accompanied members of the San Carlos Apache Tribe to the Leap and can attest to the many cultural artifacts that are present there. This area is still in use by the Apache for traditional uses and would be lost if it were transferred to the private holdings of a mining company.

ARIZONA NATIVE PLANT SOCIETY,
Tucson, AZ, May 19, 2006.

MEMBERS OF THE U.S. SENATE,
U.S. Senate, Washington, DC.

Re: S. 2466, the Southeast Arizona Land Exchange and Conservation Act of 2006

DEAR SENATORS: The mission of the Arizona Native Plant Society (AZNPS) is to promote knowledge, appreciation, conservation, and restoration of Arizona's native plants and their habitats. The AZNPS Conservation Committee is concerned that the proposed Southeast Arizona Land Exchange and Conservation Act of 2006 would impact the area in general, but more specifically, the habitat for the Arizona hedgehog cactus (*Echinocereus triglochidiatus*), a federally-listed endangered species.

We are opposed to any legislative land exchange that would give Resolution Copper control over Oak Flat Campground. A legislated land exchange bypasses public participation in a process that is virtually giving away public lands for destructive uses. We have not witnessed true reclamation of lands used for mining and milling and have little faith that Resolution Copper would or could accomplish this.

Oak Flat campground was recognized by President Eisenhower as an important recreational resource as far back as 1955, when he signed Public Land Order 1229 which specifically put this land off limits to future mining activity. Oak Flat Campground is well-known as an area of important bird habitat. On the eastern border of Oak Flat is Devils Canyon, one of the crown jewels of our state trust lands with some of the finest remaining riparian habitat in Arizona.

Please do not approve this destructive bill that would destroy an important piece of America's ecological heritage.

Sincerely,

CARIANNE SIENNA FUNICELLI,
Conservation Chair.

STATEMENT OF LAINIE LEVICK, TUCSON, AZ, ON S. 2466

I am writing to urge the Subcommittee to NOT approve the Southeastern Arizona Land Exchange and Conservation Act of 2005. This act would give Resolution Copper Company (RCC), a foreign-owned mining company, public lands that have been withdrawn from mining activity since 1955, for the purpose of developing a mine without environmental oversight.

The lands that RCC would receive are extremely important for wildlife, cultural and recreational values. Furthermore, the area contains rare perennial waters. In Arizona, over 90% of our riparian areas have been destroyed due to development. A mine here would not only devastate existing springs and streams, it would adversely impact surrounding water resources. With our increasing population, water quantity and quality issues are becoming major concerns. It is well known that mines frequently cause surface and ground water contamination.

Losing these resources to a foreign mining venture is simply not in the best interests of the citizens of this country. It is especially disturbing that, if RCC gets these lands, they can proceed with their project without any opportunity for public input and very little, if any, environmental impact analysis. This bill includes no provisions for environmental or hydrologic studies to determine the potential impact of the mining project. In addition, there are no standards that would ensure that RCC would operate an environmentally responsible project.

I urge you again to reject this land exchange bill. It would set a terrible precedent to allow mining on lands that had previously been withdrawn from mineral entry due to their important biological, cultural and recreational values.

RESOLUTION ENDORSING THE LOCALLY DEVELOPED USER AGREEMENT RESOLVING RECREATIONAL USE CONFLICTS WITHIN THE HOOVER WILDERNESS PLANNING ADDITION (WEST)

RESOLUTION NO. R05-060

WHEREAS, in the 1984 California Wilderness Act (the "Act") Congress designated approximately 49,000 acres of land within the Humboldt-Toiyabe National Forest as the Hoover Wilderness Planning Addition (the "Planning Addition"); and

WHEREAS, the Planning Addition is located within the borders of the County of Mono; and

WHEREAS, the Act directed the Forest Service to study the Planning Addition and make a recommendation to Congress as to whether or not it should be made a part of the National Wilderness System; and

WHEREAS, the Forest Service conducted an analysis of the Planning Addition and made a recommendation to Congress as to the desired management of the area. However, Congress has not yet taken action with respect to that recommendation; and

WHEREAS, during the more than twenty years since that time, controversy and conflict has existed as to the various recreation uses which should take place within the Planning Addition. Those conflicts are most intense in the winter when snowmobilers and cross-country skiers vie for use of the area; and

WHEREAS, a group of local recreational users representing both the snowmobile and cross country skiing perspectives met over a period of more than five months this year, along with two members of this Board, to try to develop a management recommendation for the Planning Addition that would meet the needs of all future users without dwelling on past conflict; and

WHEREAS, while difficult compromises had to be made on both sides, the group succeeded in developing an agreement setting forth management recommendations for the Planning Addition, which they have titled the "Locally Developed User

Agreement Resolving Recreational Use Conflicts within the Hoover Wilderness Planning Addition (West) (the "Agreement"); and

WHEREAS, in recognition of the time, effort, and energy which these local users have invested in the process, and acknowledging the difficulty of the task they set out to accomplish, the Board of Supervisors desires to endorse the Agreement and recommend that it be carried to the Congress by Mono County's Congressman Buck McKeon.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Mono hereby endorses the "Locally Developed User Agreement Resolving Recreational Use Conflicts within the Hoover Wilderness Planning Addition (West)" and recommends that Congressman Buck McKeon, in consultation with the drafters of the Agreement, take those steps necessary to convert the agreement into Legislation to be presented to the United States Congress.

PASSED, APPROVED and ADOPTED this 2nd day of August, 2005, by the following vote, to wit

AYES: Supervisors Bauer, Cecil, Farnetti, Hazard & Hunt

NOES:

NONE

ABSENT: NONE

ABSTAIN: NONE

BYNG HUNT,
Chair.

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO, STATE OF CALIFORNIA, REGARDING PROPOSED LEGISLATION EXPANDING THE WILDERNESS SYSTEM ON THE INYO NATIONAL FOREST AND BUREAU OF LAND MANAGEMENT LANDS MANAGED BY THE BISHOP FIELD OFFICE IN THE EASTERN SIERRA REGION

RESOLUTION NO. 2002-34

WHEREAS, this Board of Supervisors has considered public input, both written and verbal, on various proposals to designate additional Inyo National Forest and Bureau of Land Management Bishop Resource Area lands as Wilderness; and

WHEREAS, there has been wide public discussion in Inyo County regarding proposals to expand the Wilderness System in the Eastern Sierra region; and

WHEREAS, the residents of Inyo County, through the participatory and inclusive processes of the Inyo 2020 Forum, identified the protection of agricultural lands and access to public lands as priorities for action, as well as a desire to increase citizen involvement to ensure that decision making at all levels of government reflect an understanding of local residents and their concerns; and

WHEREAS, the 2001 Inyo County General Plan Update Goals and Policies Report identifies policies to preserve and protect a variety of recreation opportunities, appropriate access to resource managed lands, current and future extraction of mineral resources and use of public land for agricultural operations; as well as goals to provide for a balanced approach of resource protection and recreation and resource use of lands in Inyo County; and

WHEREAS, continued access to public lands and the maintenance of land uses on public lands such as recreation, grazing, packing, and mining are important components of the social and economic health of Inyo County and its communities; and

WHEREAS, this Board of Supervisors has a role in the process of determining changes to public land designations, the nature of public land access, or public land management prescriptions in Inyo County; and

WHEREAS, this Board of Supervisors cannot support the April 26, 2002 Discussion Draft of the proposed "California Wild Heritage Wilderness Act of 2002," or future iterations or revisions of this proposed legislation, without adequate protection of the overall environmental, social, and economic character of Inyo County.

NOW, THEREFORE, BE IT RESOLVED that, the following concerns and issues be addressed in considering the April 26, 2002 Discussion Draft of the proposed "California Wild Heritage Wilderness Act of 2002" or future iterations or revisions of this proposed legislation expanding the Wilderness System in Inyo County:

1. Provide opportunities to obtain local consensus and support for any changes to public land designations in Inyo County and address the concerns of residents and public land users;

2. Ensure, through prior economic analysis, that Inyo County's communities and businesses will not be adversely impacted by changes to public land designations;

3. Protect existing recreation, grazing, packing, mining, research, archeological and cultural uses on federal lands, including access;

4. Protect private property rights; including vested water rights, and ass to private land inholdings and other lands that may be affected by adjoining federal land acquisitions;

5. Ensure there is no net loss of privately owned property in Inyo County as a result of expanded wilderness designations, and

6. Ensure there is no net loss in revenues to local governments necessary to provide and maintain essential public facilities and services,

BE IT FURTHER RESOLVED, that this Board of Supervisors directs staff to actively represent the County's issues and concerns throughout the legislative process, particularly in the Congressional committee mark-up, hearings and amendment processes,

PASSED AND ADOPTED THIS 7th DAY OF MAY, 2002, BY THE FOLLOWING VOTE:

AYES: Supervisors Arcularius, Bear, Lent, Hambleton and Dorame

NOES: —0—

ABSTAIN: —0—

ABSENT: —0—

LINDA ARCULARIUS,
Chairperson.

RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY OF INYO, STATE OF CALIFORNIA, SUPPORTING THE AMARGOSA WILD AND SCENIC RIVER DESIGNATION PROPOSAL, AND THE PROTECTION OF INYO COUNTY ROAD ISSUES AND THE CALIFORNIA DEPARTMENT OF TRANSPORTATION'S ABILITY TO MAINTAIN STATE ROUTE 127

RESOLUTION NO. 2004-51

Whereas, the Amargosa River begins its journey In the desert mountains bordering Death Valley National Park, where along its nearly 200-mile journey, the seasonal flow of the Amargosa is fed by streamside springs as its winds its way above and below ground to Badwater. California in Death Valley National Park, making a j-shaped turn, ending just 50 miles from its origin near the communities of Tecopa and Shoshone in Inyo County; and

Whereas, the Amargosa River canyon has been inhabited for over 10,000 years as evidenced by the artifacts still found along the river, such as "sleeping circles," mortar and pestles, fire stones, petroglyph carvings, and other artifacts which are protected by federal law but are often ruined or stolen by thoughtless as of vandalism and theft; and

Whereas, the waters of the Amargosa (Spanish for bitter) sustain a wide array of fish, wildlife, and streamside plants, including threatened and endangered species, like the Southwest willow flycatcher and the yellow-billed cuckoo, two sensitive fish species, a rich variety of Mafia including reptiles, insects & mammals, as well as diverse plant life which inhabit the river canyon; and

Whereas, for thousands of years, the Amargosa River has eroded through layers of sedimentary and volcanic rock, as well as colorful clay deposits creating remarkable cliffs and scenic desert landscape, and where in nearby layers of volcanic ash fossilized foot prints of mastodons, camels, and early horses have been identified, as well as the discovery of bones of ancient elephants, which has led this area to be called "the Shoshone Zoo;" and

Whereas, the locals have nicknamed this area of Inyo County the "gateway to Death Valley" since many of the 1.7 million visitors to the National Park continue their travels into the Tecopa/Shoshone area to enjoy the variety of recreational opportunities like hiking, biking, exploring, birdwatching which are available as a result of the rich diversity of the Amargosa Canyon; and

Whereas, the Bureau of Land Management has Identified a 26-mile stretch of the Amargosa River between Shoshone and Tecopa eligible for National Wild & Scenic River Status because of its outstanding scenic, historic, cultural, geological, paleontological, ecological and recreational values; and

Whereas, receiving "wild and scenic" designation will protect this Malt extraordinary resources for human use now and for future generations, it will enhance opportunities for tourism and sustainable economic development, as well as being the first desert river in California to achieve this level of protection; and

Whereas, it is imperative that State Route (SR) 127 be maintained by California Department of Transportation (Caltran) in order to provide safe reliable travel in that part of the County; and

Whereas, it is imperative that the Amargosa Wild & Scenic River Proposal address Inyo County local road requirements, maintenance and Improvement needs; and

Whereas, Inyo County fully supports Caltran's comments regarding the Amargosa Wild and Scenic River Proposal Identifying their requirements to ensure that SR 127 continues to provide a safe and reliable transportation route for users of SR 127.

Now, therefore, be it resolved, that the Board of Supervisors of the County of Inyo My supports the Bureau of Land Management's Amargosa Wild and Scenic River Proposal to protect a 20-mile stretch of the Amargosa River in the Shoshone/Tecopa area of Inyo County.

Now, therefore, be It furor resolved, that Inyo County supports the efforts of the California Department of Transportation to maintain SR 127 as a safe and reliable route in the southeastern portion of Inyo County.

Passed and Adopted by the Inyo County Board of Supervisors this 19th day of October, 2004, by the following vote of the Board of Supervisors:

AYES: Supervisors Arcularius, Bear, Williams, Hambleton and Dorame
 NOES: —0—
 ABSTAIN: —0—
 ABSENT: —0—

CARROLL M. HAMBLETON, JR.,
Chairperson.

TROUT UNLIMITED,
 PUBLIC LANDS INITIATIVE,
 Arlington, VA, May 24, 2006.

Hon. LARRY CRAIG,
Chairman, Subcommittee on Public Lands and Forests, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Hon. RON WYDEN,
Ranking Member, Subcommittee on Public Lands and Forests, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR CRAIG AND SENATOR WYDEN: Please accept these written comments for the May 24th Subcommittee hearing record regarding S. 2567, the Eastern Sierra Rural Heritage and Economic Enhancement Act.

Trout Unlimited (TU) is the nation's largest coldwater fisheries conservation organization dedicated to the protection and restoration of our nation's trout and salmon resources, and the watersheds that sustain those resources. TU has more than 160,000 members, including more than 12,000 in California, organized into 450 chapters in 38 states. Our members represent a small portion of the more than two million licensed anglers in California. You may be aware that sport fishing contributes more than \$2 billion annually to the state's economy.

TU supports the provisions in S. 2567 that would designate 40,000 acres of land as wilderness because such designation will help preserve and protect the extraordinary hunting and fishing opportunities and outdoor heritage of the Eastern Sierra Nevada.

In particular, S. 2567 will provide enhanced protection for three rivers which are very important to anglers, the West Walker River, the East Fork Carson River, and the Stanislaus River. These rivers rank among the finest trout fisheries in California and our members place very high value on the trout habitat and angling opportunities provided by these three rivers.

The East Fork Carson, designated a State Heritage Trout Water, hosts a small population of the rare Lahontan cutthroat trout. The Lahontan cutthroat, currently listed as threatened under the Federal Endangered Species Act, is native only to drainages in the eastern Sierra. The East Fork Carson also is designated a State Wild Trout Water, with a blue ribbon reach downstream of Markleeville where trophy rainbows can be caught.

A portion of the West Walker River, from its headwaters to the town of Walker, is currently designated as a federal Wild and Scenic River. The lower reaches of the West Walker (before it exits California) are known for their trophy-sized rainbow trout, and two State Wildlife Areas are centered around the upper West Walker.

The Middle Fork of the Stanislaus River is one of the most fertile fishing streams along the west slope of the Sierras, and is designated a State Wild Trout Water. The Stanislaus' cold, clean water—one of the principal conditions required for good salmonid habitat—flows from lands either abutting or incorporated in the 640 acres of land proposed for addition to the Emigrant Wilderness.

It is a well established scientific precept that protection of the upper watershed is critical to the downstream ecological health of a river. The headwaters of the West Walker, East Fork Carson, and Middle Fork Stanislaus rivers originate in or flow through the 40,000 acres of land that would be designated as wilderness if S. 2567 is enacted into law.

Thank you for considering these comments.

Sincerely,

SAM DAVIDSON,
California Field Coordinator.

STATEMENT OF PETER DOWNING, LEGISLATIVE DIRECTOR, SOUTHERN UTAH
WILDERNESS ALLIANCE, ON S. 2788

These comments are submitted on behalf of the Southern Utah Wilderness Alliance with regard to S. 2788, "The Utah Recreational Land Exchange Act of 2006." This legislation was introduced last year as S. 1135 and more recently as S. 2788. We are pleased that the Committee is taking up land exchange legislation that would enable public acquisition of many spectacular Utah wild lands. We believe that the recently reintroduced version of the legislation, S. 2788, contains many significant conservation improvements from S. 1135. Our comments highlight conservation and recreation aspects of the legislation. We support the committee's effort to fully vet the other aspects of the legislation, including the exchange methodology, valuation, and effect on existing laws.

We have yet to see the final legislative map, but have worked closely with the State of Utah's School and Institutional Trust Lands Administration (SITLA) and other stakeholders on preliminary maps. We will carefully review the final map as it will profoundly affect which parcels are traded to SITLA, acquired by BLM, protected from mineral entry, protected from oil and gas development, and incorporated into wilderness study areas. The map will also provide important information about the timing and process for exchanging the parcels.

UTAH LAND EXCHANGES

The Southern Utah Wilderness Alliance and its over 13,000 members across the nation are committed to ensuring that the public has the opportunity to cherish and enjoy the rare and uncommon natural landscapes found throughout the State of Utah for generations to come. The Southern Utah Wilderness Alliance, for the past twenty years, has been deeply involved in an effort to designate deserving public lands of the Colorado Plateau and West Desert regions of Utah as part of the National Wilderness Preservation System. Helping the American public appreciate and preserve Utah's remarkable natural landscape and natural heritage is a critical part of our ongoing effort to achieve the goal of lasting conservation for Utah's wild treasures.

The Southern Utah Wilderness Alliance supports the concept of BLM acquiring State lands that are located within areas proposed for wilderness designation. Today, the State owns about 3.5 million acres of largely isolated square-mile blocks on BLM lands throughout Utah. Many of these parcels are located within proposed wilderness units and may be inconsistent with broader public conservation goals for that landscape and SITLA's obligation to generate revenue for its public school systems. In this case, land exchanges can benefit both the state education and public land conservation.

Two land exchange bills in prior Congresses have helped maximize conservation potential for certain BLM lands while helping satisfy SITLA's economic and development objectives. In 1998, all 175,000 acres of state lands in the Grand Staircase-Escalante National Monument were transferred from state to federal ownership in exchange for financial compensation and less sensitive federal land parcels outside of the newly designated monument.¹ In 2000, Congress passed similar legislation exchanging over 100,000 acres of state land from proposed wilderness areas in

¹P.L. 105-335

Utah's West Desert.² Both initiatives were strong positive steps for wilderness protection and for Utah's schoolchildren.

At the same time, the never-enacted San Rafael Swell land exchange legislation, H.R. 4968 introduced in the 107th Congress, exposed problems that can occur in land exchange legislation and the need for carefully reviewing land exchange legislation.

PURPOSE OF THE LEGISLATION

The Utah Recreational Land Exchange Act of 2005 would direct the Bureau of Land Management (BLM) to enter into a land exchange with SITLA. As we understand this legislation, roughly 40,000 acres of BLM-owned land (and subsurface rights) would be exchanged for roughly 40,000 acres of SITLA-owned land (and subsurface rights).

The Act states that, "it is the purpose of this act to further the public interest by . . . acquiring State trust land with important recreational, scenic, and conservation resources for permanent public management and use." The public would relinquish "Federal land that has limited recreational and conservation resources." While the legislation does not provide lasting wilderness protection, we think that S. 2788 has the potential to achieve its stated purpose of providing the public with lands important for their conservation, scenic, and recreation values if the map and text are sufficiently explicit about the fate of the BLM-acquired lands.

The findings in S. 2788 reflect our view that many regions in and around the Colorado River corridor, the Books Cliffs, and Dinosaur National Monument possess significant natural and conservation values. These findings recognize wilderness study areas and citizens proposed wilderness areas as significant considerations in making the land exchange. The findings also acknowledge that development of State owned land within these recreationally significant areas "may be incompatible with managing the area for recreational, natural, and scenic resources."

Rather than frustrate both the State's financial mandate and the federal government's conservation efforts by maintaining the status quo, S. 2788 allows for a mutually beneficial land exchange. We believe the legislation's purpose can be realized in concert with the State's goal of maximizing revenue from its State Trust Lands provided lands designated for State acquisition are located in areas appropriate for development.

STATE LANDS IDENTIFIED FOR CONVEYANCE TO BLM

The original legislation S. 1135 and the House companion H.R. 2069 reference a map for the land exchange dated February 9, 2005. S. 2788 does not use the February 9, 2005 map. The bill proposes several undated maps that are not yet available. We appreciate that SUWA was given an opportunity to have input on draft maps in recent months, but we have not yet seen a final versions of those maps. We hope the final maps can be made available as soon as possible. We would urge the Committee to leave the hearing record open until the official legislative maps have been released so stakeholders can amend their testimony pending review of the maps.

We support the acquisition of state-owned lands as identified on the original February 9, 2005 map referenced in S. 1135. In large part, lands identified for acquisition by the BLM lie along the beautiful and scenic Colorado River corridor northeast of the town of Moab, Utah. Additional non-federal lands are located in the vicinity of Dinosaur National Monument and the Book Cliffs proposed wilderness.

We believe that the lands and subsurface rights proposed for public acquisition do a great deal to further conservation and recreation in some very spectacular Utah landscapes.

The vast majority of state-owned lands identified in the legislative map are located within areas proposed for wilderness under the Utah Wilderness Coalition's wilderness proposal, introduced in this Congress as America's Red Rock Wilderness Act (H.R. 1774/S. 882). The legislation's findings recognize the significance of the "multiple wilderness study areas and proposed wilderness areas." The recreation and conservation values of these lands are also evidenced by the fact that many of the lands to be acquired by the BLM are located within viewsheds of Arches National Park and Dinosaur National Monument.

²P.L. 106-301

BLM LANDS IDENTIFIED FOR CONVEYANCE TO THE STATE OF UTAH

The BLM lands identified for conveyance to the State do not conflict with proposed wilderness areas of America's Red Rock Wilderness Act. We appreciate that Senator Bennett's legislation does not propose to convey to SITLA BLM lands that are proposed for wilderness designation.

EXCHANGE OF LANDS

Since the "Utah Recreational Land Exchange Act" would be a legislative rather than administratively directed land exchange, Section 4 contains a variety of directives related to initiating the exchange and timing of the exchange. We recognize that many millions of acres of State-owned land are scattered throughout Utah and that SITLA is seeking certainty in this exchange. That may be the general reason behind including the provision in Subsection 4(a) "Notwithstanding any other provision of law" We would urge the committee to examine the practical effect of the language in Sec. 4(a) on this exchange.

We also realize that a timely exchange can benefit both conservation goals and the State's development priorities. Phasing of the parcels is generally described Section (4)(b)(2), however this language needs to be fleshed out on the map. SUWA will review the map for its phasing instructions and would urge the committee to do so as well. Our hope is that valuable conservation parcels are appraised and conveyed in a timely manner. We want to avoid a situation in which BLM fails to acquire valuable conservation lands because the parties cannot agree on an appraisal value.

EXCHANGE VALUATION, APPRAISALS, AND EQUALIZATION

Language has been added in Subsection 5(c) in response to suggestion from conservation groups about improved transparency in the equalization process and better public notice and public review.

The original equalization language of S. 1135 allowed only the removal of BLM parcels from the exchange if the value of the selected SITLA parcels was greater than the value of the selected federal parcels. It did not grant BLM the authority to select additional federal land to convey to BLM to equalize the value. S. 2788 has added language that allows BLM to select additional lands to convey to SITLA until the value of the federal land and SITLA land is equal. Section 5(c)(A) appears to require any BLM lands traded to SITLA meet the following criteria: the federal lands are mutually selected by the Secretary and SITLA; and the Secretary has identified the federal lands for disposal in a resource management plan. It is unclear if both of these criteria must be met, or if this language allows either criteria. As such, we would urge the committee to review the intent and effect of this provision.

We favorably note Section 5(c)(3) which adds better opportunities for public review of the exchange if parcels are added or removed from the exchange. We would recommend clarification to ensure that valuable public conservation lands, such as those within America's Red Rock Wilderness Act, are not conveyed out of public ownership as a result of the equalization process.

STATUS AND MANAGEMENT OF LAND AFTER EXCHANGE

In addition to selecting lands that provide for public conservation and recreation, SUWA supports management and administration for BLM-acquired lands that help achieve this goal. We urge the committee to approve language in the bill that would permanently withdraw BLM acquired lands from oil and gas leasing. We also urge the committee to work on language that would grant BLM acquired parcels of lands within wilderness study areas the statutory wilderness study area protection those lands deserve.

Mineral Entry Withdrawal

We support the improvements in Sec. 6(a)(2)(A) and Sec. 6(a)(2)(B) that help support the conservation and recreation objectives of the legislation.

Sec. 6(a)(2)(A) withdraws all federally acquired land from oil and gas leasing and development for the later of two years or the completion of the Moab Field Office resource management plan. This is a reasonable short term approach to ensure that lands newly acquired by the BLM are not immediately turned over for oil and gas leasing, but it would not provide lasting protection for the many valuable conservation lands BLM would acquire.

We are pleased that a more lasting form of protection is provided in Sec. 6(a)(2)(B) for certain lands identified on the legislative map. This subsection seeks to permanently withdraw parcels identified on the legislation map from all forms of mineral

entry. We have not yet seen the legislative map, so it is not possible to know what affect this language will have on lands proposed for BLM acquisition. We hope the final map will acknowledge the conservation and recreation benefits of protecting the proposed wilderness lands along the Colorado River, Arches National Park, Dinosaur National Monument, and the Castle Valley water shed. We urge the committee to review this language to determine if it achieves the desired goal of preserving these lands for conservation.

Achieving this protection is an important conservation priority as many conservation lands are under intense pressure from oil and gas leasing. During the past several years BLM has repeatedly proposed to lease recreationally and naturally significant wilderness quality lands for oil and gas exploration and development. On February 18, 2004, for example, the BLM offered 23 parcels located in close proximity to Dinosaur National Monument for oil and gas leasing. Four of those parcels were located within Diamond Mountain—an area originally proposed for BLM acquisition in the February 2005 map—and two were located within Moonshine Draw proposed wilderness area. Five proposed lease parcels actually touched the boundary of Dinosaur National Monument. The BLM failed to analyze the potential site-specific impacts of leasing and development of these parcels prior to offering the parcels for oil and gas leasing. These parcels were protested by SUWA and other conservation organizations, and BLM denied these protests on September 30, 2005.

In another example, in September 2004, the BLM proposed to lease lands bordering the lower segment of the Green River, a waterway renowned for back country river running opportunities. Further, in May 2005 the BLM proposed to lease public lands outside “Parowan Gap”—a literal treasure trove of Native American rock art—in southwest Utah. BLM denied a protest filed by SUWA and other conservation organizations for both the September 2004 and May 2005 lease sales. In August 2005, the BLM proposed to lease 3,200 acres of lands within eyeshot of Canyonlands National Park.

The BLM has shown that it is willing to lease areas that are rich in conservation and recreational values. Given that S. 2788 proposes the exchange to further public conservation and recreation priorities, we urge the Committee to ensure this goal is met by ensuring the legislative map adequately protects conservation lands from new oil and gas leasing. SUWA has enclosed letters from concerned citizens of Moab urging that the lands in question be withdrawn from oil and gas leasing.

The withdrawal of the BLM proposed acquired parcels would be consistent with earlier actions taken by the Department of the Interior to preserve BLM lands along the Colorado River for conservation and recreation. On September 11, 2004, Interior Secretary Norton signed an order protecting roughly 112,000 acres of scenic public land located along the Colorado, the Dolores, and Green Rivers from new hard rock mining claims. Many of the SITLA lands contemplated for BLM acquisition in S. 2788 are located in the area affected by Secretary Norton’s moratorium on new hard rock mining claims. Protecting the BLM proposed acquired parcels from future oil and gas leasing would add to the Department’s earlier conservation order.

Wilderness Study Area Protection

From the February 2005 map it appears that 16 parcels are either in or directly adjacent to existing wilderness study areas. S. 2788 states that the administration of lands acquired by BLM, “shall become part of, and be managed as part of, the Federal administrative unit or area in which the land is located.”³ This language does not give sufficient direction to the BLM to ensure that such parcels will be incorporated into the wilderness study area in which they belong. Therefore, we urge the committee to work out additional language that would more explicitly direct BLM to designate parcels in and directly adjacent to WSAs as wilderness study areas.

Public interest Provision

Section 6(e) contains language stating that the land exchange “shall be considered to be in the public interest under section 206(a) of FLPMA. It is unclear that the effect of this language would be on this exchange, the future administration of the lands involved in the exchange, or future land exchanges in Utah. Therefore, we would urge the committee to review this language.

VALUATION

SUWA does not have special expertise on valuation methodology. Sec. 5 sets forth a lengthy valuation and exchange process. We urge the Committee to review this

³Sec. 6(a)(1)

language and consult with the Department of the Interior to fully vet these provisions.

CONCLUSION

The Southern Utah Wilderness Alliance is hopeful that we will be able to support the legislation when all components of the bill are available. We have yet to see the final map and that is a piece of crucial information that we must carefully review. We will be paying particular attention to how well the map protects conservation and recreation lands from oil, gas, and mineral development. Overall, we feel that this exchange is a noteworthy example of how diverse stakeholders can work constructively together. SITLA, in particular, has worked to ensure that all stakeholders are given a fair chance to be involved. As a result, the legislation before the committee reflects months if not years of hard work by many different stakeholders. We look forward to making progress on this important land exchange bill.

STATEMENT OF JANINE BLAELOCH, DIRECTOR, WESTERN LANDS PROJECT, ON S. 2788 AND S. 2466

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.

Today we submit our concerns regarding both S. 2788 and S. 2466.

S. 2788, UTAH RECREATIONAL LAND EXCHANGE ACT OF 2006

Our organization has reviewed 3 previous legislative proposals for large land exchanges between the BLM and Utah School and Institutional Trust Lands Administration (SITLA). These were the Utah Schools Exchange of 1998, the West Desert trade of 2000, and the doomed Federal-Utah State Trust Lands Consolidation Act (San Rafael Swell trade) of 2002. We raised substantial concerns about these transactions, including problems with the land appraisal methodologies used; site-specific problems with lands that would be relinquished by the United States; and circumvention of the Federal Land Policy & Management Act (FLPMA) and National Environmental Policy Act (NEPA).

We were deeply involved in scrutinizing the 2002 San Rafael Swell land exchange, which ultimately failed due to manipulations in the appraisals that would have cost federal taxpayers an estimated \$117 million. The uproar over that project led to an audit by the Interior Inspector General; a scathing report on Interior appraisal practices by the Appraisal Foundation; and a complete re-structuring of Interior's appraisal division. There was also a steady stream of bad press for all involved.

The present proposal essentially came out of the ashes of the San Rafael debacle, so it is disappointing to note that so few lessons have carried over from that experience. The substantive bill language in S. 2788 begins in Section 4 with a *full waiver of any other law* that might apply to this land exchange—certainly not an auspicious beginning. Relevant laws that come to mind in this case would be the Federal Land Policy & Management Act (FLPMA) the National Environmental Policy Act (NEPA), the Endangered Species Act, and the National Historic Preservation Act.

FLPMA is intended to protect the public by ensuring equal value and mandating a public interest determination for any land trade. Equally importantly, FLPMA provides a deliberative resource management planning (RMP) process by which public lands “suitable for disposal” are identified. Land exchange proposals such as this one that do not adhere to the RMP may trade away lands that are *not at all* suitable for disposal.

The NEPA process mandates analysis and disclosure of environmental impacts, helping both the public and *decision-makers* understand what is being lost and gained in a land exchange, and how it relates to other projects. The error of bypassing this analysis has been proven many times. The San Rafael Swell bill stated outright that no sensitive resources would be traded out of public hands, and without NEPA analysis, one had to simply take the sponsors' word. However, local BLM staff released an internal analysis of the public parcels that showed the public would in fact be losing significant T&E species habitat, wetlands, and paleontological and cultural resources.

NEPA also provides for the analysis of alternatives—an element that is particularly well-suited to land exchanges, because it has the potential to shape an ex-

change proposal into something that really works for both parties. In addition, the public involvement process under NEPA is a more predictable and accessible than that which is provided through the legislative process.

The Western Lands Project submitted testimony against the House version (HR 2069) of the present bill, noting that HR 2069 replicated virtually every major flaw in the San Rafael proposal. We note that some of the egregious provisions in HR 2069 have been excluded from S. 2788, including a special appraisal methodology allowing the use of conservation sales/purchases as comparable sales for the appraisals. That provision was in direct conflict with the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA) and mimicked one of the worst elements of the corrupt San Rafael Swell deal.

Unfortunately, two unacceptable appraisal-related provisions have been carried over into SR 2788 in Section 5. One calls for the joint selection of a third-party appraiser, which flies in the face of the hard-won appraisal reforms coming out of the San Rafael proposal. Appraisals should be performed by the Appraisal Services Directorate—the very entity that was created post-San Rafael both to shield Interior Department appraisers from political pressure and to ensure adherence to proper standards. To circumvent that structure and the reform it represents is at least counterintuitive and at most a betrayal of the public interest.

The second harmful appraisal-related provision has to do with the mineral valuation of unleased federal land and the disposition of royalties. This language is not clear, but it appears to preemptively erase mineral value on federal land traded to SITLA that is likely to yield SITLA a high return *from minerals* in the future. In any case, this language does not belong in the bill because it amends an appraisal process that is already outlined in UASFLA.

The second-to-last provision in the bill is a statement that the land exchange “shall be considered to be in the public interest,” a cavalier declaration that can only stem from utter denial of the problems attendant to past land deals between the U.S. and SITLA.

In light of past experience with BLM-SITLA land exchange proposals, we believe that the BLM should exchange land with SITLA only through the administrative (agency) process and under FLPMA and NEPA. Regrettably, SITLA has proven time and again that it will squeeze every advantage it can from these deals, with custom-designed provisions and constant pressure to expedite. SITLA would no doubt say that is its job for the people of Utah, but if the agency wants to make a deal with the American public it should learn to follow the rules rather than make up its own.

S. 2466. SOUTHEAST ARIZONA LAND EXCHANGE AND CONSERVATION ACT OF 2006

A primary problem with S. 2466 is that there does not seem to be any public benefit driving the exchanges or conveyances in the bill. The purpose of the bill is to give Resolution Copper possession of a prized piece of public land—everything else in the bill is apparently designed to try to make that action seem less harmful.

It is particularly alarming that the land Resolution Copper covets is currently protected from mining under an Executive Order issued 50 years ago that would be nullified with the signing of this bill—although one would not know that from the bill, because it does not mention it. As too often happens with legislated land exchanges and conveyances, yet another piece of public land “permanently” protected is being put on the block because a private interest has use for it.

We understand that some interest groups agreed to suspend their opposition to the trade of Oak Flat or even come out in support of this legislation in exchange for public acquisition of parcels that met their specific interests. It should be noted that a proposal that serves a small cadre of “stakeholders” is not necessarily one that serves the public at large, particularly considering that the stealth removal of the protective Executive Order could have implications for public lands everywhere.

The bill contains numerous special provisions that are apparently intended to demonstrate Resolution Copper’s public-spiritedness—but which actually leave the impression that the company stands to make so much money on mineral extraction at the Oak Flats that it can afford to be magnanimous. These provisions include appraisal changes that eliminate the discount in value that would normally occur on the Forest Service land as a result of unpatented mining claims on the land and the proposed conservation easement.

The bill also has Resolution paying virtually all of the costs. On one hand (and all other issues aside), this is only fair, since the public should not be paying for land deals that are designed to benefit a private party. On the other hand, Resolution having equal say in selection of an appraiser and also *paying* for the appraiser does not bode well for an impartial valuation.

The bill also contains sales of federal land to the Town of Superior, none of which can be said to serve any broader public interest. One is a 30-acre cemetery conveyance, but it is not clear whether the parcel is entirely occupied by a cemetery or other future uses might be anticipated on some of the land.

The second sale is of a reversionary interest covering land at the Superior airport. The airport land was originally conveyed to Pinal County by the Forest Service under an old statute aimed exclusively at providing land for community airports. (Pinal later conveyed the land to Superior). Now, the reversionary clause—a mechanism designed to protect the public interest—would be nullified, giving the town free rein to sell or develop the land for private economic development. The town would also be allowed to purchase up to 181 additional acres of federal land near the airport.

None of this would be done through the NEPA/FLPMA process. Rather than having a full analysis of what the public would win or lose in the bill, we are presented with a fait accompli consisting of what Resolution and a few groups have shaken hands on.

Because the impetus behind this bill is not the public interest but Resolution Copper's interest, it is doubly important that we have the benefit of the analysis, disclosure, and deliberation these statutes provide.

Thank you for your consideration of these comments.

Moab, UT, September 26, 2005.

CHAIRMAN AND RANKING MEMBER,
Subcommittee on Forests and Forest Health, House Resources Committee, U.S. House of Representatives, Washington, DC.

Subject: Utah Recreational Land Exchange Act of 2005—H.R. 2069

GREETINGS FROM MOAB, UTAH: I am resident of Moab, Utah and would like to urge you to approve the Utah Recreational Land Exchange Act of 2005. The land near Moab and the Colorado River, which is to be acquired, is stunningly beautiful and each section is uniquely different. The proposed acquisition contains natural arches ("Little Rainbow Bridge" aka Corona is just one example), towering spires (Fisher Towers), and permanent free-flowing creeks (Mill Creek) as well as beautiful red rock vistas.

I have been a trail maintenance volunteer for the BLM Moab Field Office for the past 5 years, and have worked trails in or near at least 3 of the proposed land acquisition areas thus I am familiar with the land, its value to the community and to all who come to Moab and to enjoy it.

Since the land is to be acquired under the title of "Recreational", it seems to me that any mineral rights should be withdrawn forever. The land is priceless if it is maintained for recreation. If the trade goes forward without protection, and then the land is leased for mineral extraction, the entire purpose of the land exchange is lost.

Thanking you in advance for protecting this land for us and for future generations.

Sincerely,

VIRGINIA CARLSON.

Moab, UT, September 26, 2005.

CHAIRMAN AND RANKING MEMBER,
Subcommittee on Forests and Forest Health, House Resources Committee, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN AND RANKING MEMBERS: As a long-time resident of Moab, Utah, I have long been involved in public lands issues. Moab is the nearest town to many of the lands being acquired in the Colorado River land exchange bill. I would like to express my strong support for the bill, however, I am concerned that the current language does not actually assure conservation of the lands acquired by the Bureau of Land Management (BLM).

BLM has been aggressively leasing public lands in Utah for energy development, especially around Moab and Dinosaur National Monument. The current bill does nothing to protect the acquired lands from being nominated and leased for drilling. Such drilling activities would make no sense for the parcels being acquired by BLM in this exchange, given the nature of the parcels themselves and the surrounding lands, many of which are already in Wilderness Study Areas or lands inventoried by BLM as possessing wilderness characteristics. *Additional assurances are needed to protect publicly acquired land from oil and gas drilling and mining.*

Please include provisions In the bill that assure lands acquired under the legislation for public conservation and recreation purposes be protected from oil, gas, and mineral development.

Sincerely,

WAYNE HOSKISSON.

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