

**Maricopa Audubon Society
4619 E. Arcadia Lane
Phoenix, AZ 85018**

Dec. 9, 2010

Senator Harry Reid
522 Hart Senate Office Building
Washington, D.C. 20510-2803

Dear Senator Reid,

On behalf of the 2300 members of the Maricopa Audubon Society located in central Arizona, we would urge that you not include the environmentally and culturally destructive proposed Resolution Copper Company (RCC) land exchange legislation.

We would point out that the extremely rare (federally endangered) cat species, the Ocelot, Leopardus pardalis, found only in Texas and Arizona in the U.S., was recently recovered in an automobile-Ocelot fatality on Highway 60 at the very site of the proposed Rio Tinto/BHP Oak Flat Mine. It was recovered at the very site of RCC's proposed acid mine waste ore transport route. Namely, on the very path from the proposed RCC mine to its proposed acid mine waste dumping site at BHP's Pinto Creek mine. This site is situated just east of the massive, proposed Oak Flat block-cave excavation site.

The RCC mine will cavitate and blast a massive crater-sized hole a mile across (and would be one and one-third times deeper than the height of the Empire State Building at its top floor. It will obliterate the current Superior-to-Globe U.S. Hwy. 60 passing from Superior to Globe.

This land exchange would be an affront to our nation's environmental and cultural protection laws. Namely, the last Senate version was an abbreviated 36-month NEPA oversight review process for what would be one of the largest copper mines in North America. Such an abbreviated NEPA oversight process for a mine which RCC states may take more than ten years to build is unwarranted. Essentially all U.S. mine's (over 182 of them since NEPA was passed in 1969) have voluntarily undergone full, unabbreviated NEPA-oversight and public input and review- a process RCC would now lobby to abbreviate.



Fall photo, Devil's Canyon: Charles Babbitt

Senate Bill 409, formerly introduced by Arizona Senators McCain, Kyl and formerly co-sponsored in the House by AZ Rep. Kirkpatrick is a congressional land-exchange bill which would destroy over 2400 acres of irreplaceable U.S. Forest Service land along with a priceless adjacent Sonoran Desert riparian (Devil's or GAAN Canyon) ecosystem.

As currently written, it would accrue to the benefit a British/Australian mining consortium, namely, the Resolution Copper Company (RCC), at the expense of those established laws which protect American and Native American people. It could circumvent, short-cut, and vitiate one of our nation's most important environmental protection laws, namely the National Environmental Policy Act (NEPA). It could destroy one of Arizona's most ecologically rich Sonoran Desert riparian ecosystems, Devil's Canyon. That canyon supports a stunning riparian array of Fremont Cottonwood, Goodding Willow, Arizona Black Walnut, Velvet Ash, four species of oak, Arizona Alder, Arizona Sycamore, New Mexico Locust and Arizona Cypress. Black Hawks, Zone-tailed Hawks, Peregrine Falcons, and other flagship Sonoran Desert avifauna make their home there as do a variety of reptiles and desert plants including the *endangered*, uniquely endemic,

Arizona Hedgehog Cactus, *Echinocereus triglochidiatus arizonicus*, and ocelot, *Leopardus pardalis*.

This legislation, besides having been written to short-cut, truncate or circumvent NEPA, weakens the Endangered Species Act and Native American cultural protection law. This includes sites of cultural, historical and religious significance to Native Americans. The two foreign mining companies composing RCC, BHP (Australian) and Rio Tinto (British/Australian?) have horrendously destructive third world environmental and human rights records worldwide.

All Arizona tribes have formally opposed this mine. It threatens sacred sites, not the least important of which is Apache Leap, a historic/sacred site where Apache and Yavapai leapt to their deaths rather than surrender to the U.S. Army.



Summer photo, Devil's Canyon: Sky Jacobs

The passage of the proposed land exchange would result in the dewatering and destruction of the irreplaceable riparian biodiversity of Devil's Canyon. To obtain the copper ore RCC would destroy the groundwater aquifers which supply and lie above and adjacent to the Devil's Canyon's riparian habitat. Since the mine

is thousands of feet deeper than the canyon, it would render Devil's Canyon's life-giving aquifer bone dry. Additionally, this land exchange bill would give away an ecologically and ornithologically significant USFS campground of riparian willows, cottonwoods, and oaks. The oaks have been and are being used by Native Americans (for centuries) as a traditional acorn food source. Those oaks overly what would be a vast one-mile diameter block-cave mine hole one and one-third times deeper than the Empire State Building height at its top floor. It is also recognized as a site of burials, historic artifacts and prayer/religious sites of the indigenous peoples of the area.

This area was considered so unique by Presidents Eisenhower and Nixon that in separate Executive Orders each decreed that this USFS land should remain permanently off limits to mining because of its unique natural attributes.



Summer photo, Devil's Canyon: Friends of Queen Creek



Winter photo, Devil's Canyon: Lisa Fitzner

Devil's Canyon is a Sonoran Desert riparian masterpiece of springs, wetlands, limpid pools and cascading waterfalls. Some 90% of Arizona's riparian wetlands, so vital to survival of Sonoran Desert birds and wildlife, have already been destroyed by dams, stream diversions, mining, groundwater pumping, etc.



264,000 cubic yards of BHP toxic mine waste pollutes Pinto Creek in 1997

The RCC consortium, under a proposed NEPA-truncated legislation, may not fully reveal to the public where they will dispose of their toxic mine wastes or how or where they will process their ore. Hence, RCC might dump their toxic wastes at the notorious BHP copper mine east of RCC's proposed mine. BHP's levies there have ruptured and spilled their toxic products twice in recent years (1993, 1997). The spills cost millions of dollars to clean up. The toxic, heavy metal mine waste products would potentially end up in Roosevelt Lake, a source of Phoenix' drinking water and an irreplaceable fish and wildlife resource.



Resolution Copper's bone-dry, sand-and-rocks 7B San Pedro River swap property

RCC's land exchange "swap" properties are almost entirely run-down, overgrazed, abandoned USFS inholdings, having few permanent riparian areas. Those few riparian fragments on them are overrun by trespass cattle. The bill provides no funds for RCC to fence or halt the ongoing cattle trespass, soil erosion, and property desertification. Here trespass cattle devour the very few remaining cottonwood, willow etc. sapling and seedlings. In conclusion, cottonwood and willow and other broad-leaved riparian trees have no recruitment capabilities as these are non-maintained, broken-fenced "exchange" properties with essentially no riparian values to the public. Trespass livestock browse the seedlings and saplings of the few riparian trees as if they were "ice cream." So attractive are they to cattle that the USFS/BLM/State Trust Lands stewards call such saplings and seedlings "ice cream plants." Hence, these non-guarded, abandoned RCC land swap inholding properties are ecologically insignificant to the American public. Any claimed merit of these "swap" properties is a cruel hoax to the American public.

The BHP-owned San Pedro 7B cattle ranch (photo above) is erroneously described by RCC as of high riparian value. In fact, it is a bone-dry riverbed devoid of the classic cottonwood/willow riparian galleries vital to and characteristic of the San Pedro riparian ecosystem. Its adjacent mesquite bosque has no value as habitat for *endangered* Willow Flycatchers, Yellow-billed

Cuckoos, or other flagship San Pedro River avifauna such as its unique Black, Zone-tailed, and Gray Hawks.

Of grave concern here is that RCC's BHP partner will dewater and lower the depth of the Lower San Pedro River's water table by building a Pinal County-approved 35,000-unit real estate development. This would dry up and terminate the 7B's upland, mesquite "bosque." More significantly, the BHP development would dewater and adversely impact much of the entire Lower San Pedro cottonwood/willow habitat water table with its endangered species and unique birdlife.

Sincerely,

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