

THE SAN CARLOS APACHE TRIBE

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December 10, 2010

Via FED EX

The Honorable Harry Reid
528 Hart Senate Office Bldg.
United States Senate
Washington, D.C. 20510

Re: The San Carlos Apache Tribe's Opposition to S. 409 - Southeast Arizona Land Exchange & Conservation Act

Dear Senator Reid:

I am the Chairman of the San Carlos Apache Tribe of Arizona, a federally recognized Indian Tribe pursuant to the Apache Treaty of 1852, July 1, 1852, 10 Stat. 979, and Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984). I am writing to express my Tribe's objections to S.409 - Southeast Arizona Land Exchange and Conservation Act of 2009, which if passed, would allow foreign-owned conglomerates, Rio Tinto PLC (United Kingdom) and BHP Billiton Ltd (Australia) through their subsidiary Resolution Copper Company, to acquire over 3,000 acres of public lands within the Tonto National Forest in Arizona to develop and operate an unprecedented deep underground copper mining project at well 3,000 feet below sea level. On behalf of the Tribe, we respectfully urge you to decline any opportunity to include S.409 as part of any omnibus package that may be put together during the current session of Congress and to oppose any future legislation which would facilitate the Congressional land exchange outlined in S.409.

The Resolution Copper project to be facilitated by S.409, is located just west of the San Carlos Apache Reservation within the ancestral lands of Apache People. The project will destroy the significant natural, scenic, recreational, water and riparian values found in the area and threaten the water supply for the region. It will also require Congress to lift the decades old ban against mining with the 760 acres of federal lands known as Oak Flat, which were withdrawn and set aside by Executive Order (P.L.O. 1229) many decades ago. The project will

also, among other things, result in the wholesale desecration of the sacred site that is encompassed by the Oak Flat, Apache Leap, and Gaan Canyon area – a place of profound religious and cultural importance to the Apache People.

Given the virtually unprecedented scope of Resolution Copper's project, including with regard to the depth of mining, unproven mining technology to be employed in the mine, and the potential impacts to the environment, the Tribe believes it is imperative that equally unprecedented steps be taken to study, investigate, and fully understand the direct, indirect, and cumulative impacts of the project before Congress takes any action on S.409. These studies have not been done to date.

Environmental Issues

The environmental impacts of the proposed land exchange, and all activities which would be undertaken if a land exchange is approved, are of great concern to the Apache Tribe. The purported National Environmental Policy Act ("NEPA") requirements of S.409 do not comply with the letter and spirit of the law. This Bill only calls for the Secretary to conduct a "NEPA" like review after the Bill is passed, rather than before Congressional action.

Resolution Copper has openly admitted that their block caving operation will create significant land subsidence in the Oak Flat area and that it will use and deplete significant water resources. It is well documented, that Arizona's water supply is threatened by a decade long drought, population pressures, as well as climate change. Yet, S.409 fails to require any meaningful protections for the groundwater and surface water supplies of the area. These supplies will be grossly depleted and contaminated by Resolution Copper's activities, including through mine dewatering, mine processing, and as a result of the massive and unprecedented changes to the geology and hydrogeology of the area which will be caused by the mine operation itself and the massive surface subsidence that inevitably results from block cave mining of this type.

We join with the Inter Tribal Council of Arizona, Fort McDowell Yavapai Nation, and others in urging that the United States Geological Survey or another independent agency be asked to study the potential impacts that this massive mining operation will have on the groundwater and surface water of the region, as well to the integrity of Apache Leap and the surrounding area. The results of these studies should guide any future consideration of this project and the proposed legislative land exchange by Congress.

It is also problematic that S.409 seems to presuppose that Resolution Copper will be able to acquire the public lands it seeks for its mining operation. Once these lands are in private hands, critical protections under Federal law are removed, leaving Resolution Copper free to conduct its unprecedented mining operations under the limited and terribly inadequate protections found State law. This is a dangerous course of events. Only through continued federal protection and oversight will the American public have any way of ensuring that Resolution Copper is required to protect the important environmental and water resources of this area, and to clean-up and reclaim the mine after mining operations cease.

Questions about the True Economic Impact of Resolution Copper

The economic impact claims made by Resolution Copper are questionable at best. The real purpose of S. 409 and Resolution Copper's Pre-feasibility and exploration activities at Oak Flat is to provide for a large-scale block caving mining operation to extract copper and other resources for the benefit of foreign mining giants, Rio Tinto and BHP Billiton, and their foreign shareholders.

Resolution Copper's job figures lack credibility and support. Resolution Copper does not have a Plan of Operations for the mine, and it is possibly a decade or more away from completing this Plan, making it impossible to determine the total number of jobs or the types of jobs that might be created by the mine. In fact, Resolution Copper has acknowledged that exploration will take years and will not be completed until 2020, at the earliest. Even with the exploration complete, there is no guarantee that there will actually be a meaningful number of jobs created by this mine to benefit the local economy, due to the potential for automation and other factors.

Rio Tinto, one of Resolution Copper's parent companies, has recently launched a prototype of a fully automated "mine of the future" in the iron rich Pilbara region of Australia. This "mine of the future" operates eleven mines with robotized drilling, automated haul trucks and driverless ore trains, all of which are controlled from an operations center 800 miles away. The aim of Rio Tinto's prototype is to lower production costs by eliminating the need to hire a substantial number of workers.

Rio Tinto and Resolution Copper executives have openly admitted that they plan to implement similar automated technology at the Resolution Copper Mine in Superior, Arizona. This technology would allow Resolution Copper to operate the mine from anywhere in the world, substantially reducing the need for manpower and skilled and unskilled workers in the Superior region. Similarly, Resolution Copper has not yet determined where it will process the ore removed from the mine. Obviously, if the ore is processed offsite as is presently anticipated by Resolution Copper, this too would limit the number of jobs created in the Superior area by the mining project.

Finally, it should be noted, that if Resolution Copper does build and operate the mine as they propose, the potential impact to the local economy through a loss in tourism, particularly ecotourism, could be substantial, as the area of Oak Flat, Gaan Canyon and the surrounding lands of the Tonto National Forest will be disturbed and degraded by the mine. In the long run, the loss to the economy could be even greater, as the mine is highly likely to result in removal and/or contamination of billions of gallons of water from the Superior area, potentially leaving Superior and other nearby communities with a limited water supply, without which, any hope of future economic development will have little chance.

Religious and Cultural Impacts of the Mine

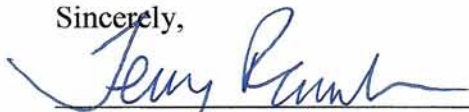
The Apache Tribe remains concerned that S. 409 is not sufficiently protective of the religious, cultural, and historic values that the Oak Flat/Apache Leap/Gaan Canyon area has to the Apache People and other Tribes. This project has been almost unanimously opposed by Tribes in Arizona, New Mexico, and elsewhere. Indeed, the block-cave mining operation proposed by Resolution Copper, including the removal of the ore body itself, and the drill pads, mine shafts and tunnels, roads and other human created disturbances will destroy the religious and cultural integrity of the Oak Flat, Gaan Canyon and Apache Leap area, which is the home of the Apaches' guardian spirits and place of ancient settlements and burial sites.

In addition, the unique and sensitive ecosystem of this area not only provides fertile ground for medicinal plants and herbs essential to the culture and religious practice of the Apache People, but it also is important habitat for a wide variety of plants and animals, including the Ocelot and at least one cactus, both of which are protected under the Endangered Species Act, as well as birds that are listed on the National Audubon Society's watch list of declining species.

Although provisions of S. 409 would limit the type of mining activities that could occur under the surface of Apache Leap, this subsurface activity itself is sacrilegious. Furthermore, because block caving results in substantial surface subsidence, there is no guarantee that Apache Leap will be protected from physical destruction, regardless of Resolution Copper's promises to the contrary. The Tribe cannot, under any circumstances, support this result, especially where the devastating impacts from the mining activities to be conducted on, around, and deep underneath this sacred place will be felt forever once the mining is finished. Because the relation to the land constitutes the deepest religious and cultural identity for the Apache People, it is not an exaggeration to say that the potential harms to be visited upon this holy place threaten the cultural extinction of the Apache.

For these reasons, the San Carlos Apache Tribe urges you to oppose this legislation and any action which would seek to include S. 409 in a larger omnibus package in order to move S. 409 forward in Congress.

Sincerely,



Chairman Terry Rambler
San Carlos Apache Tribe

Cc: The Hon. Jeff Bingaman
The Hon. Barbara Boxer
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