

**Statement of
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Bureau of Land Management
Senate Energy & Natural Resources Committee
Subcommittee on Public Lands and Forests
S. 3157, Southeast Arizona Land Exchange and Conservation Act
July 9, 2008**

Thank you for the opportunity to testify on S. 3157, the Southeast Arizona Land Exchange and Conservation Act. The legislation provides for the exchange of a 3,025-acre parcel of Forest Service-managed land in exchange for a number of private parcels and funds to acquire additional lands in the State of Arizona for management by the Forest Service and the Bureau of Land Management. Three of the private parcels are identified for transfer to the Secretary of the Interior. In general, we defer to the United States Forest Service on those issues directly related to Forest Service lands and associated valuation issues. We support the principal goals of S. 3157, and we appreciate that a number of changes have been made to the legislation in response to concerns raised in previous testimony. However, we would like the opportunity to continue to work with the sponsor and the Committee on a number of additional modifications to the legislation.

It is our understanding that the intent of the legislation is to facilitate an exchange of land with Resolution Copper Mining. Resolution Copper has indicated its intention to explore the possibility of a very deep copper mine near Superior, Arizona, and wishes to acquire the 3,025-acre Forest Service parcel overlying the copper deposit as well as the subsurface rights.

The legislation provides for the exchange of a number of parcels of private land to the Federal government. We note that while the bill states that three of these parcels are to be conveyed to the Secretary of the Interior, it is our understanding that the intention of the sponsors is for the parcels to be under the administrative jurisdiction of the Bureau of Land Management (BLM). The parcels identified are:

- 3,073 acres along the Lower San Pedro River near Mammoth, Arizona;
- 160 acres within the Dripping Springs area near Kearny, Arizona; and,
- The 956 acre Appleton Ranch parcel adjacent to the Las Cienegas National Conservation Area near Sonoita, Arizona.

The lower San Pedro parcel is east of the town of Mammoth, Arizona, and straddles the San Pedro River. The acquisition of these lands would enhance a key migratory bird habitat along the San Pedro River, and we would welcome them into BLM management. S. 3157 directs the BLM to manage the lower San Pedro parcel as part of the existing San Pedro Riparian National Conservation Area (NCA) designated by Public Law 100-696. The lower San Pedro parcel lies along the same riparian corridor as the San Pedro NCA, but is at least 60 miles downstream (north) of the existing NCA, and has substantially different resource issues and needs. The BLM intends to manage these lands as a separate unit of the existing NCA with its own management guidance. We understand there is a collaborative effort of stakeholders currently underway with which we would like to work in developing the direction for the management of this area.

The legislation proposes to transfer 160 acres in the Dripping Springs area northeast of Hayden to the BLM. We would welcome the Dripping Springs parcel into federal management. The parcel has important resource values including sensitive Desert Tortoise habitat and allows the BLM to acquire this small private inholding within a larger block of federal lands. The BLM does not intend to manage these lands intensively for rock climbing as envisioned by earlier versions of the legislation.

Finally, the bill provides for the transfer to the BLM of the 956 acre Appleton Ranch parcel on the southern end of the Las Cienegas NCA. These lands lie within the "Sonoita Valley Acquisition Planning District" established by Public Law 106-538, which designated the Las Cienegas NCA. That law directs the Department of the Interior to acquire lands from willing sellers within the planning district for inclusion in the NCA to further protect the important resource values for which the NCA was designated. These lands enable wildlife to travel north through the NCA and beyond, and federal management will seek to maintain this function. We support this acquisition and would recommend that the legislation be amended to make clear that these lands would become part of the Las Cienegas NCA upon acquisition and managed under the provisions of that Act.

Other issues requiring clarification include: timing of the exchange; appraisal-related provisions; and, the equalization of values provisions. Section 4(d) of the legislation requires that the exchange be completed within one year. Based on our experience with exchanges, we do not believe that this is sufficient time for the completion and review of a mineral report, completion and review of the appraisals, and final verification and preparation of title documents. Preparation of a mineral report is a crucial first step toward an appraisal of the Federal parcel because the report provides the foundation for an appraisal where the land is underlain by a mineral deposit. Accordingly, adequate information for the mineral report is essential. We recommend adding a provision requiring Resolution Copper to provide confidential access to the Secretaries of Agriculture and the Interior (and their representatives) to all exploration and development data and company analyses on the mineral deposits underlying the Federal land in order to ensure an accurate appraisal.

We are concerned about the provisions of section 5(a)(3) regarding the failure of the parties to agree on the value of any parcel. As written, the bill would require that a dispute would be resolved through binding arbitration procedures pursuant to section 206(d) of FLPMA. However, section 206(d) is intended for discretionary exchanges. Accordingly, we believe section 5(a)(3) of the bill should be amended to more specifically address those options in section 206(d) of FLPMA that would be applicable to this exchange. We would like to work with the subcommittee and the bill's sponsor to amend section 5(a)(3) accordingly.

S. 3157 includes a provision in Section 10 that would require a payment to the United States should the cumulative production of locatable minerals exceed the projected production used in the appraisal required by section 5(a)(4)(B). This provision recognizes that an accurate projection of future production will be difficult to develop, and provides a mechanism for additional payments to the United States should actual production exceed the projected production. The Administration generally supports this approach but would like to work with

the committee to clarify the specific intent and implementation procedures, as well as the disposition of receipts.

We object to the language in Section 10(b)(2) that makes funds from potential mineral revenue payments available for expenditure without further appropriation. This provision is meant to ensure that the government is fairly compensated in the event that the valuation process underestimates the amount of mineral resource that is ultimately recovered, and we support this objective. However, the legislation addresses the exchange of lands with mineral interests, the value of which may not be fully realized until long after the exchange has taken place. We would like to work with the committee to ensure that the bill deposits the receipts into the Treasury, subject to future appropriation.

Finally, we would like the opportunity to work with the sponsor and the Committee on miscellaneous technical items including maps for the areas to be exchanged, as well as clarifying several references within the bill text. In the case of lands to be transferred to or from the Secretary of the Interior, the maps should be completed by the BLM.

Thank you for the opportunity to testify. I will be happy to answer any questions.