

THE ARIZONA UTAH LOCAL ECONOMIC COALITION

Co-Chairmen:

Alan Gardner, Washington County Utah commissioner
Buster Johnson, Mohave County Arizona commissioner

ARIZONA MEMBERS:

Mohave County
City of Fredonia

UTAH MEMBERS:

Garfield County
Kane County
San Juan County
Washington County

Testimony on H.R.3155: Northern Arizona Mining Continuity Act of 2011 November 1, 2011

The Secretary of Interior, Kenneth Salazar plans to deprive the people of this nation of 42 percent of all domestic source of uranium critical to the national defense.

He plans to do this by withdrawing from multiple use the over 1 MILLION ACRES in the Arizona Strip and Kaibab National Forest in northern Arizona from multiple use, so that he can end uranium mining in the area.

In laying forth this plan, he is acting as a rogue representative of bureaucratic government---operating against the will of Congress, directions from the President, and in violation of federal law.

His actions are those of an appointed official who believes that he is free of the law's restraints; he believes, obviously, that he is above the law that governs the rest of our American society.

The members of the Arizona Utah Local Economic Coalition call upon the Congress to put a stop to the outlaw proposal by the Secretary. The members formed the Coalition when it became clear that the Secretary felt himself free to disregard the law.

His renegade, unilateral plan to withdraw from uranium mining over 1 MILLION ACRES in the Arizona Strip District of the Bureau of Land Management is:

- (1) harmful to the United States;

- (2) contrary to Congress' exercise of its Constitutional authority to manage public lands;
- (3) in violation of Presidential Executive Orders,
- (4) contradictory to an energy plan led by a fellow cabinet member;
- (5) in violation of federal statutes and regulations;
- (6) economically and socially destructive to the citizens of northern Arizona and southern Utah;
- (7) totally deceitful to citizens of the United States; and contradicted by sound science and economic and social evidence.

His plan defies the will of Congress. In the 1984 Arizona and Utah Wilderness Acts, Congress designated the land as multiple use so that Uranium mining could continue.

Article IV, Section 3, clause 2, provides that: "The Congress shall have power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States"

When Congress acted to designate the Arizona Strip as multiple use so that mining could continue, it adopted into law an agreement made between ranchers, the uranium industry and environmentalist organizations. In exchange for designation of wilderness areas in Utah and Arizona, the environmentalists and the Departments of Interior and Agriculture, through President Reagan's Secretary of Interior William Clark, Secretary of Agriculture John Block and Chief of the Forest Service Max Peterson, agreed to leave the Arizona Strip open for uranium mining. The Sierra Club, which now actively urges shut down of uranium mining, agreed to the land use settlement by Congress.

Now, 27 years later, the Sierra Club, the ranking member of this Committee and Secretary Salazar have set out to unravel the agreement that has allowed uranium mining to continue while land managers and federal and state environmental quality agencies have assured that no environmental harm has been done.

This Congress has urged local governments and citizens to compromise, to collaborate in order to resolve land use issues.

Congress passed the Owyhee Public Lands Management Act of 2009 which embodied a historic agreement by ranchers and environmentalists that resolved decades of bitter contention over use of the public lands.

If the Secretary is allowed to flaunt the will of Congress, as he now proposes to do, every local government, every land owner---rancher, farmer, miner---will avoid collaborative efforts with organizations that lie in wait to undo agreements.

His plan defies the orders of his superior, President Obama. In two Executive Orders issued this calendar year of 2011 the President ordered the Secretary and other cabinet members to avoid adverse impacts on jobs and economic stability.

In Executive Order 13563, the President in January, 2011, directed that the Secretary and all other Department heads assure that the regulatory system was "promoting economic growth, innovation, competitiveness and job creation." The Secretary's maverick proposal to withdraw the land from uranium mining terminates any possibility for economic growth in all of northern Arizona and southern Utah. Evidence received by the Coalition during a public hearing on September 7, 2011, proved that over 1,000 new jobs will be eliminated, over \$40 MILLION in annual payroll will be lost, \$2 BILLION in federal and state corporate income taxes will never be paid, and over \$175 MILLION in taxes and fees will be lost to local governments.

The result of the Secretary's proposal will be the exact opposite of what the President ordered.

In Executive Order 13575, the President in June, 2011, directed that Secretary Salazar and all cabinet members "coordinate and increase the effectiveness of Federal engagement with rural stakeholders including. . .local governments. . .regarding the needs of rural America." Every member of the Coalition knows that the Secretary did not coordinate his proposal with them as the elected governing bodies of the local governments affected by the proposal. Evidence produced at the September 7, 2011 hearing made it clear that the Secretary's proposal is contrary to the economic and social needs of rural northern Arizona and southern Utah.

The arrogance of Secretary Salazar may be unparalleled in modern history; it is hard to believe that a member of the President's own cabinet would set out to deliberately violate the orders of the President. But, believe it or not, the

Secretary acts in defiance of the President, the Congress and the people---in order to serve anti-mining environmental interests.

His plan defies the energy policy of the nation, declared by his superior, President Obama, and led by his fellow Cabinet member Secretary of Energy, Dr. Steven Chu. The energy goal is to develop clean energy, including nuclear energy. The land Secretary Salazar has chosen to withdraw from uranium mining supplied 42 percent of our nation's domestic uranium.

Congress has set an energy policy that calls for expanding nuclear generation of electricity. The Secretary's proposal is counter-productive to that policy. As an executive appointee he is creating a severe road block to implementation of Congressional policy set by the Energy Policy Act of 2005.

In line with its pursuit of vigorous development of nuclear energy, Congress directed a study by the Congressional Budget Office as to the future needs for nuclear generation.

In its study "Nuclear Power Roles in Generating Electricity", May 2008, the CBO said that the Act "provides incentives for building additional capacity to generate electricity using innovative fossil fuel technologies and an advanced generation of nuclear reactor designs that intended to decrease costs and improve safety."

The CBO study points out that by the end of "the next decade [2020] demand for electricity in the United States is expected to increase by about 20 percent, according to the Energy Information Administration. That projected increase---coupled with concerns about the effects of greenhouse gas emissions on the environment---has encouraged policymakers to reassess the role that nuclear power might play both in expanding the capacity to generate electricity and in limiting the amount of greenhouse gases produced by the combustion of fossil fuels."

The study concludes that "prospects that new nuclear power plants will be planned and financed in the next decade are greater than at any time since the 1970s. ."

In March of this year, Secretary Chu testified to the House Subcommittee on Appropriations on Energy and Water Development that the nation "must rely on a diverse set of energy sources including renewables like wind and solar, natural gas, clean

coal and nuclear power. We look forward to a continued dialogue with Congress on moving that agenda forward."

So, while Secretary Chu wants to work with Congress to further nuclear power, Secretary Salazar defies Congress by proposing to over-ride the designation of land for uranium mining that will make it far more expensive and difficult to develop nuclear energy.

His plan defies sound public policy. At a time when the President urges freedom from reliance on foreign sources of fuel, the Secretary increases the reliance on foreign nations, including Russia, for uranium critical to the already existent reactors in this country.

In his state of the Union address, President Obama urged the need to become more independent of foreign nations for supply of energy. Secretary Salazar's proposal increases our dependence on foreign uranium---with Russia being one of the major nations on which we would be dependent.

Congress too has expressed the danger of relying on foreign nations for production of minerals critical to our energy, defense and production interests. Just five months ago, twenty two bipartisan members of the United States House of Representatives introduced H.R. 2011, the National Strategic and Critical Minerals Policy Act of 2011 which the House press release said "as part of the American Energy Initiative. . .will help strengthen and improve our national mineral policy by requiring a government wide survey of American mineral resources, demands and factors impacting mineral development. . ."

Warning of the danger resulting from the fact that the nation imports a majority of minerals needed for renewable energy projects, the House announcement pointed out that H.R. 2011 "directs the Secretary of the Interior to coordinate a government wide assessment of the Nation's mineral resources and availability to meet current and future strategic and critical mineral needs."

Yet, at a time when this House has pending a Bill directing him to address the dangers of the imbalance of import-export of necessary minerals, Secretary Salazar proposes to drastically increase our reliance on foreign uranium.

Section 4 of the Bill requires the Secretary to submit a report within six months of passage that includes an assessment "of the non-fossil-fuel mineral potential of lands under the jurisdiction of the Bureau of Land Management and the Forest Service and an identification of all such lands that have been withdrawn, segregated and otherwise restricted from mineral exploration and development."

Representative Gosar of Arizona and Representative Bishop of Utah who have spoken in support of retaining the Arizona Strip in multiple use, are co-sponsors of H.R. 2011.

Just one week ago today, Representative Harris of Maryland told a joint hearing by the House subcommittees on Energy and Environment and Investigations and Oversight that "nuclear energy is an integral component of America's energy portfolio. One hundred and four currently operating commercial nuclear reactors deliver a clean, affordable and reliable energy source that supplies 20 percent of America's electricity."

How in good conscience, and in the name of sound public policy, can a member of the cabinet propose to eliminate mining of uranium in an area rich with deposits of high quality, inexpensive, usable uranium that makes up 42 percent of our domestic supply?

The members of the Coalition are counting on the Congress to prevent implementation of the Secretary's rogue actions that are contrary to the will of Congress, the directions from the President, and inconsistent with national policy.

His plan ignores the facts and endangers the economic stability and social cohesiveness of northern Arizona and southern Utah.

The Secretary claims that his proposal will not eliminate domestic jobs and will not harm the local economy for the citizens within the territory governed by members of the Coalition.

The Secretary claims that tourism jobs are the backbone of the economy of northern Arizona and southern Utah. He is dead wrong, and he knows it.

The Secretary knows the facts. No one in his position could be so naïve as to believe what he says. The data is clear and is evident for anyone to see. His agent, the

Arizona Strip District Manager sat during the September 7, 2011 hearing and heard evidence that belies the Secretary's statements. We know the Manager well; he is a professional and a man of his word. He said that he would make sure that the decision makers heard what he heard at the hearing. We take him at his word.

We know that the Secretary was furnished all the information that was produced as testimony and documentary evidence at the hearing.

The economic evidence came from economic development managers of each of the members of the Coalition. To a person they testified that tourism jobs are among the lowest paid jobs in the states of Arizona and Utah. The Coalition heard evidence that mining jobs are at worst, the second highest salaries in the states, and that they are the best jobs available for high school graduates who make up the majority of workers in the area impacted.

The Coalition heard evidence of the economic blight that has occurred since mining jobs dried up when prices went down several years ago, and evidence that tourism did not replace, did not even begin to replace, the mining incomes as a resource upon which the communities could rely. One witness testified that the type of visa issued to and for tourism, or hospitality, workers caused a drain on the economy rather than a boost. The reason is that the tourism workers do not buy and own property that is the source of property taxes, and they do not spend their money in the local area.

The Coalition heard evidence that as families move away when mining jobs dry up, the social cohesiveness of the communities dissolves. The communities rely on family members to serve as volunteer emergency services technicians, teachers aides, coaches, firefighters, search and rescue workers, parent-teacher workers, service club members, and other public outreach positions that local governments in the area cannot afford to hire.

The Secretary knows that the economy and the social cohesiveness of the area will be harmed virtually beyond repair if mining is foreclosed.

The only reasonable hope for any economic and social resurgence in the areas that once were plush with mining incomes is that mining be available when the prices prompt

vigorous operations. But, with the specter of withdrawal hanging over the land, there will be no such operations of even existing mines.

The Secretary and his employees urge that the withdrawal will not affect existing mining or present mining claims. But that is disingenuous as this Committee knows. No company will risk exploration and implementation costs when there is the specter hanging in the air that all mining may be shut down once the withdrawal has taken place.

We know, as you do, that once the bureaucracy shuts down or locks down public land, there never is a relaxation of those regulations and restrictions. Rather, the restrictions expand beyond what the government committed at the time of lock-down. We know, as you do, that our experience with the Grand Escalante Monument in our area demonstrates that fact. When the Monument was designated, the government committed that there would be no change in livestock grazing, hunting and recreation use. Quite the contrary, grazing has been drastically reduced, hunting has been severely reduced to the point of virtual elimination, and motorized recreation is non-existent.

The Coalition heard the following testimony as to the economic harm that will result, in spite of what the Secretary says:

1. Justin Fischer is in a good position to observe the changes and adverse impacts that occur with the restriction of land use on federal lands by the government. He pointed out first that Garfield County is not one time mentioned in the DEIS analysis. He has studied the transition of communities from the natural resource production economy of the 70s to the current day. Wages in Garfield County have gone down to the point at which they are either the lowest or next to lowest, average wise, in the State of Utah. It has the highest unemployment, its school populations have nose-dived, and all of these conditions have resulted from federal land use changes through wilderness and monument lock-downs. He pointed out further that the only reason that employment is as high as it is rests with the use of H2B Visas used by foreign nationals coming in to the County to hold tourism jobs. Most of the money earned by such workers is not spent in the County. H1B Visas that allow technical workers to come into the Country are

rare. The NEPA study does not even consider this aspect of the job market in Garfield County. He testified that the EIS focuses on the bottleneck of having only one mill operating in Blanding; it did not even consider, perhaps the writers did not even know of, the potential for output by the mill in Kickapoo in Garfield County. The Coalition finds that the EIS analysis is completely flawed and deficient when it ignores an entire County that is impacted heavily by the withdrawal, and ignores a mill that exists in the County, contending that production is bottlenecked because there is only one mill available.

2. Bremner also pointed out that there is no consideration in the DEIS analysis given to the fact that mining jobs are the highest paying jobs that high school graduates can get in the area, and that most of the available workers are high school graduates. The town of Escalante is surrounded by monuments and wilderness, and it should be the most plush community in the land if there were truth to the myth that tourism dollars do effectively fill the economic void resulting from natural resource production termination. But, instead school populations are down because families have departed because there are no jobs. The socio-economic study in the DEIS does not even refer to the bonding of citizens in rural communities like Garfield County and its towns, or to the social structure that is decimated by the removal of families from that bonding cohesiveness.
3. Commissioner Leland Pollock of Garfield County testified as to the importance of mining and mining jobs to local communities and their citizens. When coal mining was allowed, Garfield County's economy boomed. When the Federal Government took away the coal industry, local officials were told that tourism would replace the economic support previously given by the coal industry. That did not obviously happen. 300 million tons of some of the cleanest coal available anywhere in the world are locked down by Federal Regulations in the County, and the County has an unemployment rate of 17 percent. The evidence as to the coal mining impact on the economy is relevant to the issue now before the Coalition because it shows the pattern of federal control being expanded over all economic resources throughout the area covered by the members of the Coalition. Commissioner Pollock pointed out that next, the timber industry was taken from

Garfield County. The reasons given of course were that the loggers were ruining the forests, but without logging the forests are sick, infested by Bark Beetles and subject to devastating forest fires that have destroyed many elements of the natural environment including wildlife and natural scenery. So, the policy of shutting down logging backfired on the natural environment in Garfield County, leaving the forests in deplorable condition. All the adverse impacts from coal and timber shut downs are coming again through the withdrawal of mining which will impact jobs now and in the future.

His plan violates the Federal Land Policy Management Act, NEPA, and federal regulations issued by the Bureau of Land Management and the Council on Environmental Quality

1. FLPMA requires in 43 U.S.C. 1712 that the Secretary coordinate all federal plans, policies and management decisions with local government. The withdrawal provisions of FLPMA, 43 U.S.C. 1714 do not exempt the withdrawal decisions from the coordination mandate, and the provisions of 1714 make it clear that coordination is required prior to the act of withdrawal. For example, Section 1714 requires that after making a withdrawal, the Secretary must submit a report to Congress that contains all of the following regarding local governments:

“. . .the Secretary shall furnish to the committees [of Congress]:

“(2) an inventory and evaluation of the current natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed use, including particularly aspects of use that might cause degradation of the environment, and also the economic impact of the change in use on individuals, local communities, and the Nation;

. . .

(7) a statement of the consultation which has been or will be had with other Federal departments and agencies, with regional, State, and local government bodies, and with other appropriate individuals and groups;

. . .

(8) a statement indicating the effect of the proposed uses, if any, on State and local government interests and the regional economy;

2. The Secretary did not consult with or coordinate with the local governments that are members of the Coalition as to issuance of the Order of Segregation or the proposed withdrawal. In fact, when given an invitation to meet with the members of the Coalition prior to the first meeting of the Coalition, he sent the District Manager but neither came himself nor sent the Arizona State Director.
3. The Secretary failed to provide early notice to the members of the Coalition or, to the knowledge of Coalition members, any other local government in southern Utah or Northern Arizona. The members of the Coalition were afforded no opportunity whatsoever to participate with "meaningful" involvement in the "development" of the decisions to Segregate or to notify the proposal to withdraw.
4. In simple terms the Secretary violated the terms of FLPMA.

His plan is deceitful in that claims that it is based upon concerns for environmental harm that might occur as a result of uranium mining.

For the reasons set forth in the Findings and Conclusions issued by the Coalition at the conclusion of its public hearing, it is clear that the Secretary is deceiving or attempting to deceive the public by claiming there is concern about environmental harm that might be done by uranium mining. Even his own land managers in the District admit that there is no environmental harm being caused by mining.