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Testimony of John Rickus  
President, Resolution Copper Mining, LLC  
before the  
U.S. House Subcommittee on National Parks, Forests and Public Lands  
concerning  
H.R. 3301, Southeast Arizona Land Exchange and Conservation Act of 2007

November 1, 2007

Mr. Chairman and Members of the Subcommittee:

My name is John Rickus. I am the President of the Resolution Copper Mining LLC (“Resolution Copper”), which is a company headquartered in Superior, Arizona and which is owned by subsidiaries of Rio Tinto plc and BHP-Billiton plc. I am here in support of H.R. 3301 and to briefly describe the efforts we have made to ensure that the land exchange and other provisions of H.R. 3301 are in the best interest of all the parties involved, including the general public.

The goal of the land exchange, from our perspective, is for us to acquire approximately 3,025 acres of National Forest land, which is comprised of mining claims that we hold and an existing campground. For ease of reference, I will refer to it collectively as the Oak Flat parcel. As you can see from our display and the map attached to my testimony, the Oak Flat parcel either abuts, or is heavily intermingled with, private land that Resolution Copper already owns. Much of that private land was the site of the old Magma underground copper mine, which operated from 1912 to 1996 and produced 25 million tons of copper ore. We are in the midst of spending an estimated \$50 million to clean up the old tailings and other remnants from that mine and we have spent \$15 million on the cleanup to date.

After the Magma Mine was closed in 1996, further exploratory drilling revealed the existence of a very large copper deposit located adjacent to the old mine workings, but 4500 to 7500 feet below the surface of the Oak Flat parcel, where the temperatures are up to 175 degrees Fahrenheit. We will sink deep shafts and tunnels to access the orebody in order to conduct the mining operations. When in operation, the mine will provide approximately 25% of the nation’s annual needs for copper from a safe, domestic source and create 1400 permanent, high quality technical jobs -- several thousand jobs during mine construction, and a very large number of service related jobs in the region. It will also generate income, property, severance and other Federal, State and local tax revenue that we believe will be several times the amount of the value of this project to our company.

As I just indicated, developing a mine of this magnitude a mile to a mile and a half beneath the surface is an extremely expensive and financially risky proposition - involving \$750 million in

exploration and feasibility work and \$4 billion or more of capital investment, before mine construction is finished and mining can commence to produce minerals in commercial quantities. To justify this type of investment, we believe it is prudent to first own the land where we will operate. Fragmented land ownership simply does not promote efficient mine permitting, development and operation. In addition, because we will be intensively using the Oak Flat parcel for access, exploration and development, much of it will lose its recreational value. Ownership of that land will also enable us to provide the necessary protection of the public from our mining operations.

The mine will be a deep underground mine. Unlike an open pit mine, this mine will have minimal waste rock dumps. We will ship the ore from Oak Flat using an underground tunnel with a conveyor to an existing open pit mine site, where we will upgrade the copper ore to produce a concentrate for sale or further processing. The concentration process generates a waste sand known as tailings, that will fill up at least one existing old open pit mine, which we will then reclaim and re-vegetate. We believe that will be a very important long-term benefit to the environment.

Now, we realize that when we ask to remove land from public ownership, it is incumbent upon us to try and convey to the public lands that have even greater environmental and other public values than the lands we are receiving. We have worked with the Forest Service, BLM, Arizona Game & Fish, and numerous Arizona conservation organizations to achieve that in H.R. 3301.

As it now stands in H.R. 3301, Resolution Copper will convey 8 parcels of land, totaling approximately 5,539 acres, to the United States in the exchange. Whereas most of the Oak Flat parcel 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 year-round water resources. The other attributes in these offered lands include:

- 1) seven miles of river bottom and riparian land along both sides of the free flowing San Pedro River, which is one of the most important migratory bird corridors in the United States;
- 2) two miles of trout stream and other fish and wildlife habitat along East Clear Creek in the Coconino National Forest;
- 3) possibly the largest, and most ancient, mesquite forest (or bosque) in Arizona;
- 4) 956 acres of extremely diverse grassland habitat in the Appleton-Whittell Research Ranch - an existing preserve jointly managed by the Forest Service, BLM and the Audubon Society inside the Las Cienegas National Conservation Area;
- 5) four in-holdings in the Tonto National Forest which have 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 to add to the proposed rock climbing recreational area.

H.R. 3301 provides that we cannot acquire the Oak Flat parcel unless we convey all 8 of the parcels to the United States, regardless of value. If the 8 parcels appraise at more than the Oak Flat parcel, H.R. 3301 requires that we donate the excess value to the United States.

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

We have submitted letters for your record from various units of local government, conservation organizations and other interested parties either supporting the entire land exchange, or supporting Federal acquisition of the 8 parcels we will be conveying to the public in the exchange.

Mr. Chairman, we have also agreed to several provisions in H.R. 3301 that are designed to ensure that the taxpayers receive full fair market value in this land exchange and that any facilities or activities we displace in acquiring the Oak Flat parcel are adequately replaced, or improved upon. I will briefly describe those provisions in the order they appear in H.R. 3301:

- Subsection 5(a) of H.R. 3301 provides that all appraisals will be conducted in accordance with U.S. Department of Justice appraisal standards, which are used for all Federal land transactions. The Forest Service will write the appraisal instructions and all appraisals must be formally reviewed and approved by the agency. This means that the appraisal process will be under the government'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 to have the Oak Flat parcel, 75% of which is overlain by our unpatented mining claims, appraised as if our mining claims do not exist. That is a very significant concession on our part and will guarantee that the taxpayers get the full fair market value for the land they give up in the exchange. It should be noted that such value is determined by the assumption that a royalty exists in favor of the government, and which is then paid up front. That provision has been in H.R. 3301 and its predecessors since inception, even prior to the current mining law reform efforts. Paying that up front – by delivery of the sensitive environmental lands – ensures that the government receives this value without having to depend on future operations for this return. This is, as previously noted, in addition to the very substantial local, state and federal taxes that will be paid by the operations.

- To protect the portion of the Oak Flat parcel that comprises Apache Leap, we have agreed to a permanent 695 acre conservation easement for Apache Leap, which will preclude surface development of the Apache Leap and which will prohibit us from mining underneath the Apache Leap. The easement has been voluntarily enlarged this year to include 105 acres of our existing private land. Note that as drafted, we will receive no credit in the appraisal for the easement. We understand that Apache Leap holds cultural and historic importance to the Apache tribes and this is one of the main reasons for the easement. H.R. 3301 contemplates that the easement will be held by a governmental or NGO body, which may include the Apaches. We have also provided a \$250,000 endowment to administer the easement. As you know, H.R. 3301 also states the intention of Congress that we enter into an agreement with interested Apache to allow for continued acorn gathering at the Oak Flat Campground and requires that the JI-Ranch parcel that we will convey to the Forest Service as part of the exchange, will be available for acorn gathering. In addition, we have on numerous occasions both formally and informally indicated to a number of Apache tribes that we stand ready to engage in dialogue with them to see if there are other areas where we can address their concerns.
- As for outdoor camping and recreation, H.R. 3301 specifies that the existing Forest Service campground at Oak Flat, which has 16 minimally developed campsites, will be replaced with a new campground or campgrounds, and Resolution Copper will pay up to \$500,000 of the costs thereof.
- Also as you know, Mr. Chairman, portions of the Oak Flat parcel and adjacent areas, including areas of our existing private land, are areas currently used for rock climbing and bouldering. To accommodate these activities, we have agreed to three separate actions. First, subsection 8(b) of H.R. 3301 facilitates the establishment of a new rock climbing State Park, if the State so chooses. We have already spent in excess of \$1.5 million to identify and develop the climbing resource in the Park area, and to buy private land for inclusion in it. Our road builders have studied the proposed access road to the Park, and are confident we can build it to the specifications set forth in H.R. 3301 for the \$1 million we have pledged. Secondly, we signed a private license agreement with the Access Fund that authorizes continued rock climbing on two parcels of our existing private land where climbers were previously trespassing, and on one parcel we will acquire from the Forest Service. Thirdly, we are in the process of forming a climbers' working group to discuss ongoing access and climbing issues and to expand and enhance these opportunities, so long as it is safe to do so.
- If the government appraisal process determines that we owe additional funds in the exchange, section 5(b) of H.R. 3301 requires us to pay full cash equalization into a special fund to be used for the acquisition of new Federal land in either the Coconino National Forest, San Pedro River Corridor, Las Cienegas NCA, or in the Sonoran Desert.

My last comment concerns royalties. We are, of course, aware of the mining law reform legislation currently working its way through this Committee and the House. As previously

stated, even before this process we assumed the up front payment of fair value based on a royalty to the government. We would be pleased to work with the Committee as to how mining law reform might relate to this land exchange and to deal with any changes to that appraisal that may be necessitated by passage of such reform. The intent would be to ensure that the value is fair, that there is not duplication of payment, to ensure that the lands we have offered are fully credited and that the public will receive these important offered lands as part of the solution. So, we are very willing to work with this Committee on these matters.

That completes my testimony. I very much appreciate the opportunity to testify before you today and stand ready to answer any questions that you may have. It is my hope that H.R. 3301 will now proceed with all due pace so that we can continue the work on this critical project.