From:	Rebecca Goff
To:	FS-objections-southwestern-regional-office
Subject:	RESPONSES TO THE RESOLUTION COPPER PROJECT FEIS and parallel DROD
Date:	Monday, March 1, 2021 11:24:47 AM
Attachments:	ndaa-2015-section-3003 (McCain_Resol. bill.pdf Untitled attachment 00011.html SALT"s draft EIS Comments,11_4_2019 2.docx Untitled attachment 00014.html

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Superstition Area Land Trust
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March 1, 2021

Reviewing Official
Regional Forester
333 Broadway Blvd SE
Albuquerque, NM, 87102
Via email at:
objections-southwestern-regional-office@usda.gov

RE: Superstition Area Land Trust (SALT)
Draft Record of Decision (DROC) and Final Environmental Impact Statement (FEIS) for the Resolution Copper Project & Land Exchange

References:
ndaa-2015-section-3003 (McCain/Resol. bill (attached)
SALT's Resolution Copper Draft EIS (attached)
Resolution Copper FEIS
Resolution Copper DROD

Dear Reviewing Official,

The Superstition Area Land Trust (SALT) has completed its review of the Final Environmental Impact State (FEIS) AND the parallel DROD.

RESPONSES TO THE RESOLUTION COPPER PROJECT FEIS and parallel DROD

SALT objects to the Resolution Copper Project FEIS for very basic reasons. Since the parallel DROD is based on the FEIS, it follows that we must object to both. The following is our line of reasoning:

1. The FEIS, in rejecting action on SALT's comments to the DEIS, claims that "…..Congressional intent was that the land exchange was to take place, and mitigation for any impacts caused by the exchange of land is not required." (see Pg. J-53,

Description/overview in FEIS);

2. The foregoing appears to be contradicted by SEC. 3003. SOUTHEAST ARIZONA LAND EXCHANGE AND CONSERVATION of the 2014 bill section on Appraisals which says appraisals will "(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, …" AND
3. "…Before consummating the land exchange under this section, the Secretary shall make the appraisals of the land to be exchanged (or a summary thereof) available for public review…" Instead, the required appraisals are apparently not yet done, much less publicly released, and apparently WILL NOT be released prior to the land exchange itself. We note that such public review periods are generally at least a few months (the present 45-day period seems abnormally short); AND
4. "(C) APPRAISAL INFORMATION.—The appraisal prepared under this paragraph shall include a detailed income capitalization approach analysis of the market value of the Federal land which may be utilized, as appropriate, to determine the value of the Federal land, and shall be the basis for calculation of any payment under subsection (e)." AND
5. "5) EQUAL VALUE LAND EXCHANGE.—(A) IN GENERAL.—The value of the Federal land and non-Federal land to be exchanged under this section shall be equal or shall be equalized in accordance with this paragraph." AND
6. "(B) SURPLUS OF FEDERAL LAND VALUE.—

(i) IN GENERAL.—If the final appraised value of the Federal land exceeds the value of the non-Federal land, Resolution Copper shall—

I. convey additional non-Federal land in the State to the Secretary or the Secretary of the Interior, consistent with the requirements of this section and subject to the approval of the applicable Secretary;

(II) make a cash payment to the United States; or
(III) use a combination of the methods described in subclauses (I) and (II), as agreed to by Resolution Copper, the Secretary, and the Secretary of the Interior."

WHAT DOES THE ABOVE MEAN?
SALT contends ALL the above indicate that -

a. The appraisals MUST be done AND MADE PUBLIC with sufficient lead time to allow ALL stakeholders to evaluate, respond, AND ALLOW EQUALIZATION DISCUSSIONS, AGREEMENTS AND ARRANGEMENTS <u>PRIOR to</u> the official land exchange; If it is true that a congressional committee is holding up the land exchange, that delay may provide time for the appraisals to be released AND the above noted equalization discussions/arrangements to evolve;
b. The first suggested method of equalization is to "convey additional non-Federal land in the State to the Secretary or the Secretary of the Interior, consistent with the requirements of this section and subject to the approval of the applicable Secretary;" According to the definitions at the beginning of Sec. 3003…., "state" means such equalization purchase of non-federal land MUST be in Arizona. Similarly, SALT contends that for the second and thirds ways that "equalization" can occurs - "(II) make a cash payment to the United States; or (III) use a combination of the methods described in subclauses (I) and (II…" - the new conservation land ultimately purchase with such funds must be in Arizona.
c. SALT further notes that Arizona State Trust land long advocated for conservation by SALT fits the definition of being non-federal land; Is in the County impacted by the Resolution Copper Project; Is quite close to the area of impact. Additionally, while originally recommended for conservation by non-profits in the Superstition Area Land Plan (SALT) and Superstition Vistas (Pinal Partnership; East Valley Partnership), this land was subsequently incorporated sequentially into Pinal County's Open Space and Trails Master Plan and then into Pinal County's Comprehensive Plan.

SALT concludes that the U.S. Forest Service HAS NOT met its responsibility to provide an appraisal of the lands to be exchanged early in the process. SALT further contends that its suggestion in its DEIS comments (see attached SALT Comments to the DEIS) that additional conservation land (now AZ State Trust Land) be purchased AND added to Tonto National Forest as part of the overall process of approving the Resolution Copper Project (via Equalization) is very much within the intent of enabling legislation (see SEC. 3003. SOUTHEAST ARIZONA LAND EXCHANGE AND CONSERVATION).

SALT's CONSISTENT GOAL in engaging with Resolution Copper almost from the outset has been conservation of the Superstition Foothills. While recognizing (with regret) that much environmental damage is done by all mining, we are not so hypocritical as to

oppose all mining while still using the products of that process. Instead, we have accepted (not supported) the mine while striving to have all equalization payments by Resolution Copper be used for acquisition of new conservation land in the area of impact. Whether purchased by Resolution Copper for additional exchange, or by Region 3 with the Resolution Copper equalization payment is not the immediate question. However, it does relate to why the appraisal SHOULD be out well in advance of the land exchange!

SALT remains supportive of the private lands committed to become public lands in the FEIS/DROD, as we were in the DEIS. Similarly, we remain supportive of moving the preferred alternative for the tailings to Skunk Camp - again as with the DEIS.

While we have had some continuing dialogue with Resolution Copper personnel since the DEIS comments submittal (as SALT has had for over a decade), no one associated with the EIS team has contacted us about any of our comments or rationale. Also, the only place we find our comments mentioned is on Appendix J, page 53 of the FEIS.

Thus we feel the most important shortcomings in the DEIS, which we elaborated at some length in six bullets, remain in the FEIS/DROD. It has been suggested that a better source of funding for our request to purchase AZ State Trust land (to become Tonto National Forest conservation land) in the Superstition Foothills might be via the Resolution Copper ore body-associated equalization payment to the Southwest Regional National Forest (as we mentioned above).

Whether that is or is not outside the EIS likely wouldn't matter to a layman - it is all part of trying to reach a better overall balance before and after the land exchange and the associated environmental effects to follow. If sufficient acreage of mutually agreed to sections referred to as "Preserve" in the original Superstition Area Land Plan could be thus conserved, SALT and her partners would likely feel that an appropriate overall balance had been reached (see attached - SALT's Comments to the Resolution Copper Draft EIS for a thorough development of the rationale).

Some SALT BOD members have noted that, given then size of the widely agreed upon conservation target area AND the projected expense of same, that long-term leasing rather than purchasing might yield more bang for the buck. This and related concepts - including a quick overview of AZ State Land Department options relative to classifying as suitable for conservation, withdrawing, leasing, and/or conveyance of title (selling) - are reviewed in Appendix 1 below.

We appreciate you and your staff's continuing efforts to consider the many and profound impacts of the Resolution Copper Project and for including so many in the FEIS. We look forward to a continuing dialogue with you and your staff concerning our suggested mitigations. We have had many conversations with Resolution Copper at various levels for well over a decade concerning this specific topic. Please contact the President of SALT at 719-539-6928, or charles.goff@azsalt.org

Sincerely,

Charlie Goff, President
For the SALT Board of Directors
Superstition Area Land Trust (SALT)
719-539-6928; charles.goff@azsalt.org

APPENDIX 1

To Lease or To Buy AZ STATE TRUST LAND?

Another suggestion to consider is to propose that the Arizona State Land Department could be asked to reclassify the appropriate sections in the Superstition Foothills as suitable for conservation purposes for lease (relatively long-term options are possible) (see Arizona Revised Statutes - Title 37 -312-313). Arizona State Trust land (ASTL) recommended for conservation in SALT's Superstition Area Land Plan are specifically referred to in this group of related statutes as "…2. Those lands in the vicinity of the Superstition mountains in Pinal county located within T1N, R9E; T1N, R10E; T1S, R9E; and T1S, R10E…." [Conveyance of title (sale) (ARS 37-314) and/or withdrawal of ASTL for conservation (ARS 37-315) are other options covered in this related group of statutes.] The advantages of leasing are enumerated in the list at the end of this section.

Certainly among the highest priority for conservation are the 13 sections of ASTL adjacent to

the south boundary of the Superstition Wilderness Area (whether by lease or sale), while honoring all lease agreements that are in place. This stretch of lands should be at least one or two miles deep (in a N/S direction). Ideally Tonto National Forest would be the lessee (or owner) after any transaction (depending on whether leased or bought), but other possibilities include Pinal County (or SALT), or a combination of these or other scenarios. The goal is to conserve as much as possible of the 45 sections called for conservation by the Superstition Area Land Plan, Superstition Vistas, the Pinal County Open Space and Trails Master Plan, AND the Pinal County Comprehensive Plan. The target land should be either leased (or purchased) by Resolution Copper (if the SEC. 3003. SOUTHEAST ARIZONA LAND EXCHANGE AND CONSERVATION.(B)(i)(I) is used; OR by Tonto National Forest if option in SEC. 3003. SOUTHEAST ARIZONA LAND EXCHANGE AND CONSERVATION.(B)(i)(II) is used. If leasing is considered, it should be for as long as possible - 99 years if possible, though 30-50 years might be worthwhile.

We would be remiss not to mention the strong local interest (and possibly regional interest) in developing a national monument or national recreation area - possibly surrounding the entire Superstition Wilderness Area. The chance of such development could be greatly enhanced by the presence of conservation land 'protecting' the south border of the wilderness area.

Among the advantages of leasing some or all of the Superstition Foothills conservation land are that it would allow Resolution Copper (or Region 3 of the National Forest Service) to:

1. – Protect long-term (but not permanently) much more of the Superstition Foothills by avoiding purchase per se (for exchange with the Forest Service), but rather, pay a much smaller amount for a long-term lease rate;
2. – Thus perhaps, allow the USFS to acquire desired lands elsewhere;
3. – Provide protection to the USFS for the south boundary of the Superstition Wildness Area for an extended time period;
4. – Protect the Wilderness Area without requiring the expense of the management of any additional lands by the USFS (if Pinal County [or SALT] managed the new land;
5. – Provide SALT a way to completely meet their Goals for protecting the foothills, but still require the 501- c-3, to seek public donations and contributions to help manage those lands;
6. – Allow the Arizona State Land Department to get a greater return to them for those 13 – 35 sections of Trust lands and still, potentially, be able to sell those lands some time in the future.