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Testimony Before the Subcommittee on Energy and Mineral Resources
Mining In America: The Administration's Use of Claim Maintenance Fees

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Chairman Lamborn, Ranking Member Holt and members of the Subcommittee, thank you for the opportunity to provide testimony on BLM's Mining Claim Fee. My name is Kris Hefton, and I am Chief Operating Officer and Director of VANE Minerals (US) LLC of Tucson, Arizona. By way of background, my company holds 675 unpatented mining claims in the Kaibab National Forest and the BLM's Arizona Strip District within the area withdrawn from mineral entry by the Obama Administration on January 9, 2012. I began my career as a uranium geologist in this area 34 years ago and am one of only a handful of people having detailed knowledge of area's uranium resources. Before I focus on mining claim holding fees, I would like to share with the subcommittee, a brief history of the background of the political agreement pertaining to mining in northern Arizona, the impacts on mining and the economy and what our northern Arizona project would have had if we had been allowed to proceed to fully explore and develop our mining claims.

In 1983, the late Chairman of this Committee, Arizona's Morris Udall instructed the uranium industry to sit down with environmentalists and other impacted groups to determine which lands should be made wilderness and which should remain open to uranium mining. After a year of tortuous negotiations, an agreement was reached which led to the signing of Public Law 98-406, the **Arizona Strip Wilderness Act of 1984**. That bill set aside 387,000 acres for BLM and Forest Service Wilderness and specifically released 540,000 acres for multiple use activities including uranium mining. Chairman Udall on the floor of the House hailed the agreement as historic and a true compromise where neither side received everything they wanted, but both sides benefited. All sides understood that Mining of these breccia pipes would go forward. Freshman House member John McCain was part of that agreement which stood the test of time right up until this Administration abrogated it. It was based on this law and the successful track record of years of successful uranium mining through to reclamation in this area that I recommended my company invest in the Arizona Strip district.

Now moving to our day. Had VANE and the other exploration companies been allowed to go forward, we would have collectively employed 400 people directly and been responsible for indirectly employing some 700 others with the economic multiplier that accompanies such projects. These are high-paying, skilled jobs that would provide a boon to an area dominated by tourist jobs that average close to the national poverty level. The mineral value over the life of the projected mining activity is estimated at $2.3 billion. The irony of the withdrawal is that the geologic formations found in northern Arizona known as breccia pipes provide for the most environmentally benign mining of uranium anywhere. Effectively, what the Administration did was to withdraw the most environmentally clean

uranium mines that also happen to contain the highest-grade ores of any of the uranium mines found in the United States.

In response to the hue and cry of environmental groups, the Administration, through its withdrawal of these lands made America even more dependent on foreign sources of uranium even though they knew our domestic utilities already import over 90% of the uranium currently used in America's 102 operating reactors. The Nuclear Energy Institute (NEI) estimates that the withdrawn northern Arizona breccia pipe deposits at 375 million lbs of uranium oxide, contain the energy equivalent to power all the homes in Colorado for 115 years and New Jersey for over 74 years.

Mr. Chairman, the United States has more than enough uranium to provide for all its needs. In fact, 30 years ago, America's nuclear reactors used domestic uranium to provide for 100% (ALL) of our domestic needs for virtually the same reactors we operate today. It has been a policy decision, that is, a political decision to import over 90% of our uranium.

The Obama Administration's withdrawal of these more than 1 million acres has to go down as one of the dumbest moves ever made for public policy. However, an Environmental Impact Statement (EIS) was prepared as part of the process to withdrawal of these lands. The National Park Service's own scientific staff itself concluded;

"It is my opinion that the DEIS grossly overestimates the potential for impacts to water resources of Grand Canyon National Park and the Colorado River from uranium mining and exploration on lands adjacent to the park. The reality is that the ore bodies are relatively small and isolated, surrounded by low-permeability geologic formations. It is unlikely that there could be any migration of dissolved minerals or other contaminants from mine sites, particularly via a groundwater flowpath.

Previous studies have been unable to detect significant contamination downstream of current or past mining operations, e.g. the Hack Canyon mines. (The exceptions to this statement is the Orphan Mine and Horn Creek. The Orphan Mine is an old, unclaimed mine site at the south rim of the canyon. Water flows through the abandoned mine, flushing minerals into Horn Creek. This is in no way a suitable comparison to the hydrogeologic setting or conditions expected at potential mine sites evaluated in the DEIS.)

The ore bodies occur in association with the Hermit Formation and are about 1000 feet above the regional water table. Geologic formations between the ore body and the water table are primarily siltstone and mudstone of the Hermit Formation and Supai Group. These formations have very low permeability. There is no explanation of how potential contaminants might travel from the mine areas to the regional water table, but it is assumed that somehow that occurs and then contaminants flow many miles through the regional aquifer with no dilution, no degradation, and no attenuation to discharge at springs. Even under those conditions, there is only a minuscule change in concentration of the most likely contaminants (arsenic and uranium) at springs that discharge from the regional aquifer; and these changes are further diluted by mixing with surface waters downstream from the discharge areas.

There may legitimate reasons to be concerned about potential uranium mining operations in areas adjacent to the park, but adverse impacts to water resources is not one of those reasons.

This is obviously a touchy case where the hard science doesn't strongly support a policy position. Probably the best way to "finesse" this would be fall back on the "precautionary principle" and take the position that in absence of even more complete certainty that there is no connection between uranium mines and regional ground water, we need to be cautious?? It sounds like the DEIS is basically heading in that direction."

While there is no scientific basis in the EIS to prove that an environmental emergency existed or that a withdrawal of this magnitude was justified. The EIS even left out the Arizona Strip Wilderness Act of 1984 when it listed all the laws and statutes by which this withdrawal would be justified. The EIS implied that the sudden appearance of thousands of new mining claims, over 5,000 to be exact, was cause for something to be done. When I was involved in exploration early in my career there were over 20,000 mining claims in this area. We concluded from our work at that time the area where we thought had the best potential and I included a map that depicts this area. I also included a map from the EIS (Figure 3.4-1) that illustrates the density of mining claims. It is interesting to note that the boundary of the EIS is drawn around those claims. There is no indication that a buffer zone was being considered as the Grand Canyon-Parashant National Monument was completely ignored. Another map included (Figure 3.15-2), illustrates by the number of existing roads within the boundary, that it is not particularly remote or inaccessible. And, where is the scientific evidence that justifies this boundary decision? By the way, the $2.3 billion figure mentioned earlier, was quoted from the Draft EIS, but was removed from the Final EIS.

It is appalling that Secretary of Interior Ken Salazar, nor anyone from the Obama Administration, who were involved in making a decision to withdraw over 1 million acres of land that would impact the lives of many individuals as well as impact the government's own tax base, bothered to visit the area, speak with the people and industry who were going to be impacted by this decision, and verify whether the environmental groups' claims had any scientific basis. And finally, the withdrawal was announced even before the Final EIS was released.

It is a fact that a number of these breccia pipe uranium deposits located on lands already closed to mining including Grand Canyon National Park are eroding uranium into the aquifer and Colorado River watershed. The breccia pipes located on lands not closed are slowly leaching uranium. Considering that the primary concern is about uranium leaching into the aquifer and Colorado River watershed, can anyone explain to me why it is so bad that these deposits are being mined, the uranium removed, and hauled out of state? This is a remediation project that doesn't cost the taxpayer a cent, but even generates revenue. And to top it off, no one, or the environment is being harmed.

These facts didn't stop the Administration from carrying out its political agenda. Sadly, we all should have learned the story about Chicken Little. For the Obama Interior Department

to grossly exaggerate the impacts of uranium mining on the Grand Canyon National Park in this way and yet ignore its own scientific findings, shows that Chicken Little still lives. It begs the question as to why we should we ever believe the DOI and this Administration?

Mr. Chairman, Secretary Salazar issued a segregation order on July 21, 2009, which effectively shut down all activities except for ongoing mining at a few locations. The language of the order stated; "Neither the segregation nor any withdrawal, however, would prohibit ongoing or future mining exploration or extraction operations on valid pre-existing claims." The truth of this matter is that the DOI viewed a "valid" claim as one on which an economic deposit was already proven and that it planned to conduct, at the claim owner's expense, a validity exam on any claim where a project was proposed. DOI clearly stated in advance that if economic quantities of mineral could not be demonstrated, the claim would be declared invalid. In other words, you had to prove you had a mine without being able to do the work required to show proof. Except for the few locations mentioned, all the projects on all the other claims were in the corroboration or confirmation stage to determine if an economic deposit existed. Therefore, exploration activities ceased and employees and contractors were laid off. However, these lands remain open to the mineral leasing, geothermal leasing, and mineral materials laws.

As you know, this withdrawal has triggered a number of lawsuits challenging the legality of the withdrawal as well as suing for monetary damages.

VANE and the other claim holders in northern Arizona were required by BLM to continue to pay the annual mine claim holding fees by each September 1st. The withdrawal itself didn't formally occur for another two and a half years, but we have all been required to pay since July of 2009, to have any hope of recourse and since that date, payments have totaled $2.75 million.

If we hold on to our claims through the entire 20 year withdrawal period plus the earlier period here described, VANE and the other companies will have been required to pay $8.3 million even though we will have been prohibited from mining these claims and deposits. To understate what seems obvious, this seems inequitable to us. We respectfully request that the Congress take action to remedy the inequity.

One way to repair this inequity would be to suspend all mining claim holding fees within withdrawn areas as well as cost-recovery fees such as validity exams connected with mining claims.

Another question here, which the Committee should address, is how BLM manages mining claim receipts. Of the approximately $60 million dollars generated annually by mining claim payments, BLM spends $38 million to administer the mining law. Mind you, I am not talking about total government receipts from hard rock mining, even without royalties, that amount is in the billions taking into account corporate and personal income taxes paid to the treasury.

The current program generates sufficient revenue to process federal exploration and mining permits, yet the BLM and Forest Service are notoriously slow in processing these applications and encourage applicants to cover these expenses in order to obtain permits in a timely manner. This has larger implications on the mining climate in the U.S.

For example, an internationally respected minerals industry advisory firm, Behre Dolbear, prepares an annual report ranking the twenty-five largest mineral producing countries in the world. The latest report is entitled 2012 Ranking of Countries for Mining Investment -- Where "*Not to Invest"* and is attached and incorporated by reference. Behre Dolbear considers seven criteria in ranking countries:

- The country's economic system
- The country's political system
- The degree of social issues affecting mining in the country
- Delays in receiving permits due to bureaucratic and other delays
- The degree of corruption prevalent in the country
- The stability of the country's currency
- The country's tax regime

While the United States ranks high (eight or above on a one to ten scale) for its economic and political system, the United States received a ranking of three with respect to social issues affecting mining; ranked last with Papua New Guinea in permitting delays (scoring 2 on the one to ten scale) and a rating of four with respect to its tax regime. Behre Dolbear considers the total taxes applicable to a mining project, including income taxes, severance and excise taxes, duties and imposts, and royalties. The United States corporate tax rate is 35% plus, which, when combined with state levies effectively make it the highest corporate tax rate in the world. This high corporate tax rate provides a significant disincentive for mineral investment in the United States. A gross royalty would only exacerbate this disincentive, and any net royalty must take into consideration the overall "government take." The benefits of a gross royalty would likely end up being cancelled out because income tax paid would decrease accordingly when this royalty is deducted as an operating expense. According to the Dolbear study, when the "government take" from combined taxes and royalty reaches 50%, a mining project's economic viability, during periods of normal commodity pricing, is threatened.

In addition, the Administration doesn't seem to understand that our lifestyle and standard of living is made possible by mining. Furthermore, it doesn't understand that the production of solar, wind and geothermal electricity capacity requires minerals. The Administration proposes key funding increases for renewable energy development while proposing new fees and taxes on mineral production, proposing a new leasing system and enacting policies that will adversely impact the security of tenure necessary to attract mineral investment, and failing to address significant workforce issues in the Mining Law program. As I mentioned, I am one of few people knowledgeable on the breccia pipe district and as we retire so goes the expertise. The bottom line is that all energy production, including renewable energy requires minerals, and lots of them. And they need American

minerals – unless, of course, we are willing to trade our unhealthy dependence on foreign oil for a dangerous dependence on foreign sources of critical minerals.

In 1995, the United States Geological Survey reported that the United States was import reliant on 43 nonfuel minerals with a $51 billion value. In 2011, the U.S. had become import reliant on 67 minerals (an increase of 4 over 2010), and 100% reliant on 19 minerals with a value of $90.4 billion. The U.S. is more import-dependent on 43 non-fuel minerals than it is on crude oil. Unfortunately, the President's budget and legislative proposals will discourage mineral production in the United States and further increase our Nation's reliance on foreign sources of minerals.

I can speak to the disincentive to invest in mining in the U.S. first hand:

(1) I spent over 10 years of my geology career living and working overseas because I could not find work in the U.S. And I made better money!

(2) This incident I spoke of in northern Arizona has all but closed VANE's operations in the U.S. and we now focus on Mexico where we have successful mining and milling operations and mining is protected by Mexico's constitution. (VANE is of course not alone in its view to operate outside the U.S.)

(3) The ability of politics to so negatively impact business as in the case of the withdrawal of lands in northern Arizona that so badly impacted my company. The mandate of the BLM is to responsibly develop the mineral resources on public lands, yet a political administration, as in the case of the northern Arizona withdrawal, can circumvent law to advance its political agenda and with no apparent accountability.

I want to work in the United States. This is my home. I would like to see the policy on mining change to encourage domestic investment.

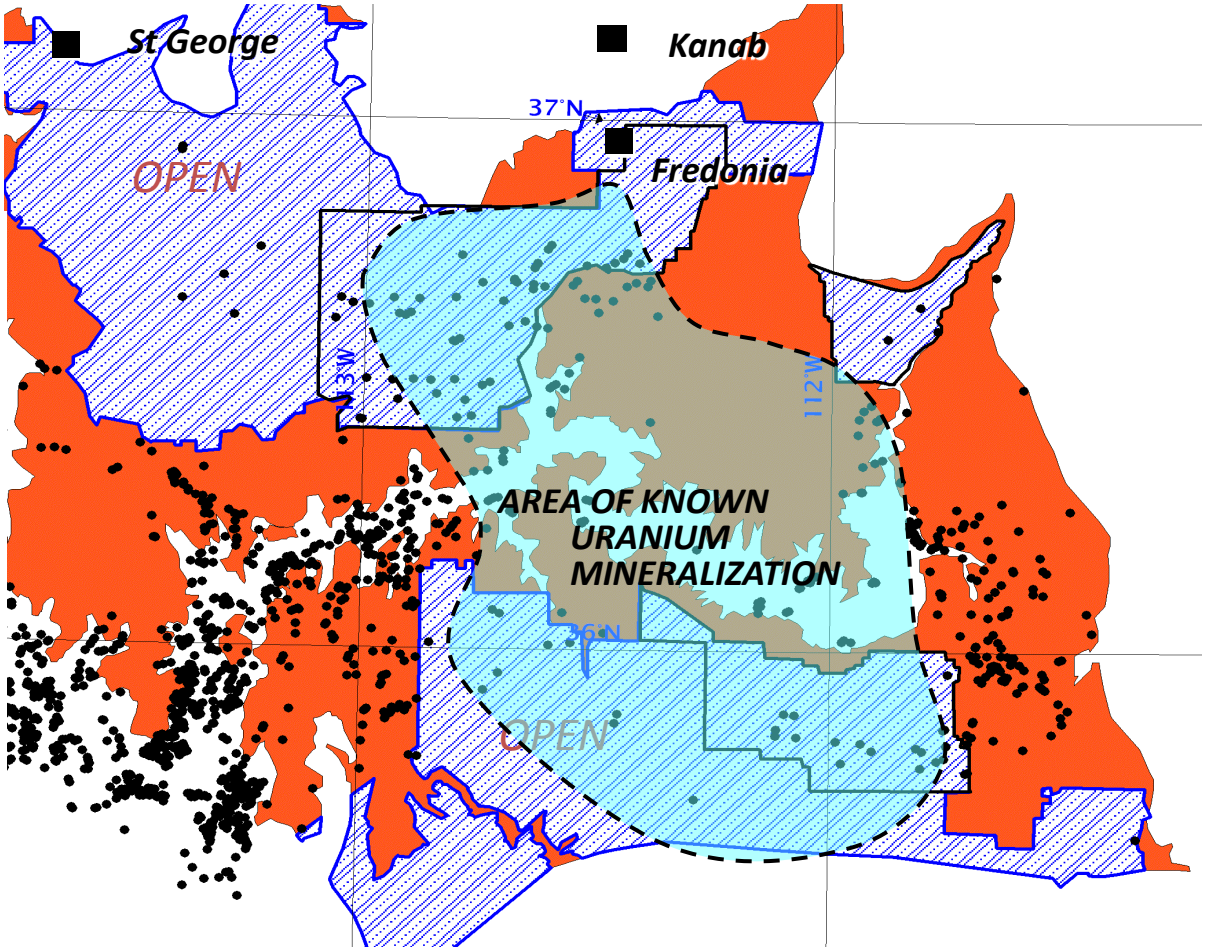
Mr. Chairman and members of the subcommittee, thank you for this opportunity to testify on an important issue for our country.

Attachments: 3 maps

Comparison of Withdrawal Area to Resource Potential

Not all of the district has mineralized pipes

- Past exploration has shown that < 1/2 of the district has pipes with uranium mineralization
- The rest of the pipes are probably barren
- Current exploration is focusing on blind or unmapped pipes



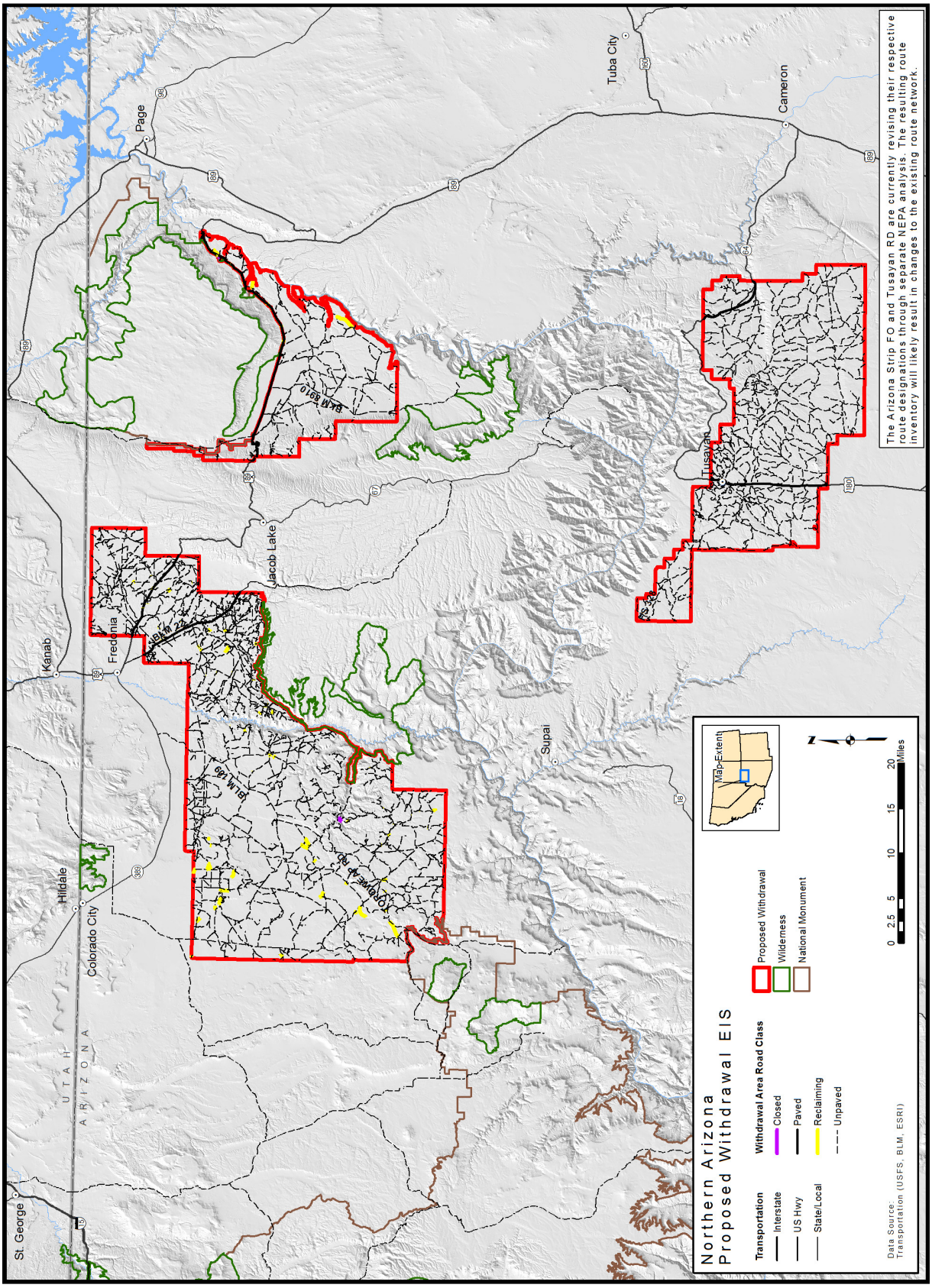


Figure 3.15-2. Transportation map.

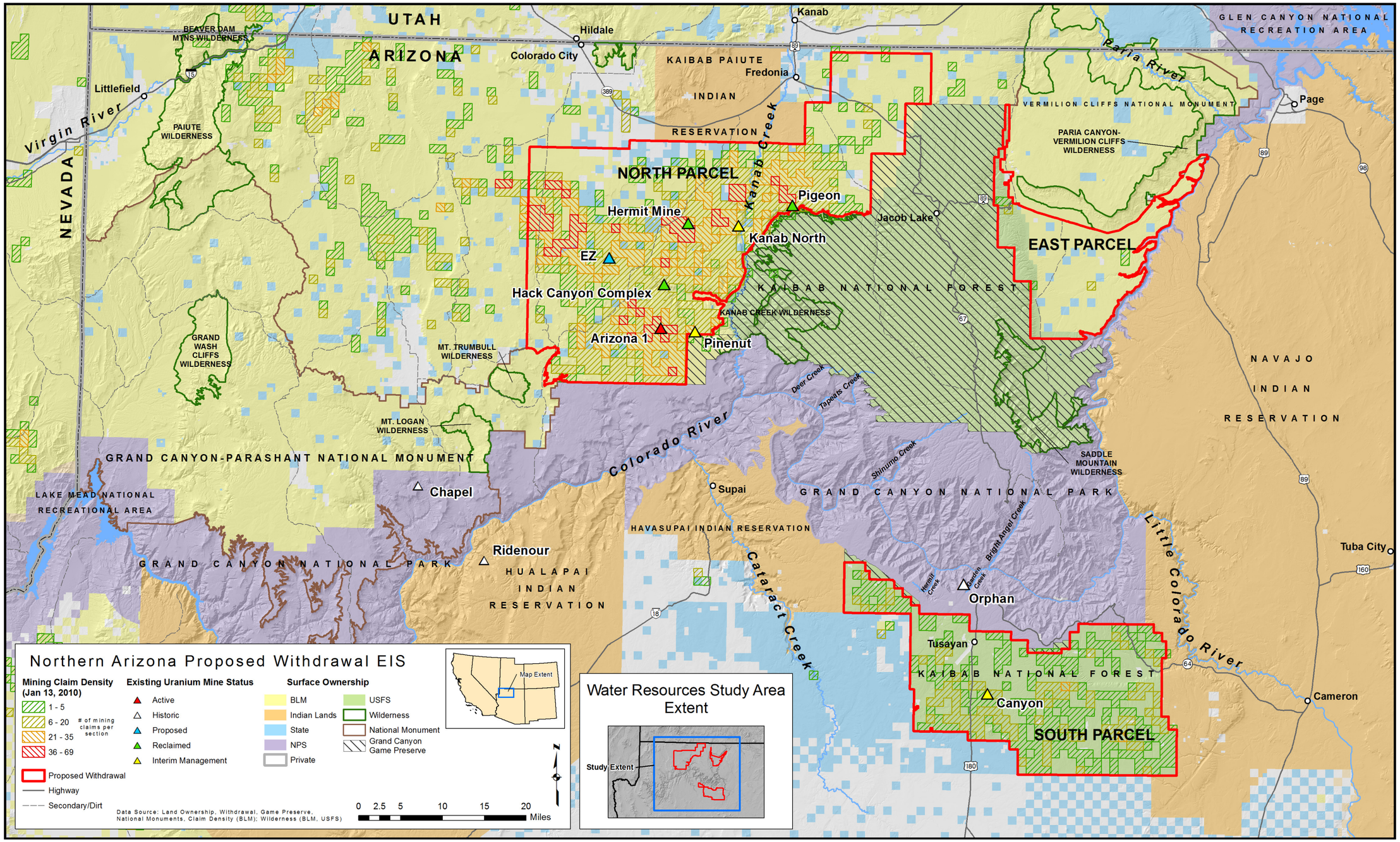


Figure 3.4-1. Regional location map.