

Committee on Natural Resources
Subcommittee for Indigenous Peoples of the United States
Remote Legislative Hearing - Cisco WebEx
April 13, 2021
1:00 p.m.

Legislative Hearing on [H.R. 1884](#) (Rep. Raúl Grijalva), *To repeal section 3003 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, and for other purposes.*

Questions from Rep. Gosar for Mr Wells, of L. Everett & Associates

1. In your testimony, you write that Special legislative action was needed to make this project possible in the form of Section 3003 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (NDAA). Are you aware that the 2015 NDAA included a full lands package compromise that as you say received "special treatment."?
2. Were you aware that for five years, from March 2009 to March 2014, Congress did not add a single new wilderness area – a stretch that included the entire 112th Congress, marking the first time a Congress had not created a wilderness area since passage of the Wilderness Act in 1964. And that the Southeast Arizona land exchange was part of a 169-pages of energy and public lands provisions that were tucked into the must-pass defense bill in 2014. A package that also created nearly 250,000 acres of wilderness in Colorado, Montana, Nevada, New Mexico and Washington state, and protected about 140 miles of rivers. It added or expanded more than a dozen national parks and put mineral development off limits on hundreds of thousands of acres of federal land. Were you aware of that?
3. Dr. Wells, it is my understanding that the FEIS, which you testified to extensive participation, is a reflection of a myriad of experts that analyzed all impacts and mitigations over a 7-year period. The Forest Service led this process and published a consensus view. What is the reason we should regard your dissenting opinion and ignore the extensive analysis that was done by dozens of experts and reflected in the FEIS?
4. Dr. Wells you site that the public comments received in the DEIS of 30,000, 20 percent were regarding water concerns (6,000 comments). But the FIES endeavored to address those concerns and after 45 days of public comment received only 13 total objections. Does this not reflect significant process in addressing concerns?
5. Dr Wells you testify extensively to the impacts on water of this mine. The FEIS discloses that adequate groundwater exists for committed regional demands,

including Resolution Copper's needs over the next 100 years. This was based on assessments by third-party water experts, with input from federal and state agencies. Can you explain why your view is so vastly different from so many independent water experts and federal and state agencies?

6. You also refer to issues raised by the Arizona State Land Department, but I have a copy of a letter from ASLD that states clearly that their views have been mischaracterized and they do not have unaddressed issues with the project. As a matter of fact they signed the programmatic agreement as part of the FEIS and states clearly they would not do so if they felt they could not mitigate impacts to State Trust lands. Were you aware of this?
7. You know the line about repeating a lie enough times people will believe it is true. Well, that is how I feel about this statement from Dr. Wells testimony. Your testimony asserts that the 1872 Mining Law was written to encourage development of the West. But there is nothing in legislative history to indicate that. The purpose was to incentivize private investment in a highly risky endeavor to supply the growing Nation with the minerals needed without risking taxpayer dollars. The Law recognizes that economically viable mineral deposits are rare and hard to find. The ownership of the minerals discovered is the reward for taking the risk. Everyone benefitted, the discoverer and society. Development of the West was a consequence of discovering minerals in the West, not the purpose of the Law, unlike The Homestead Act. It seems that we face some similar issues today where we need to encourage these risky investments to ensure we have security of supply and can advance the low carbon future. Would you not agree that it is an imperative today as it was when the 1872 Mining Law was enacted?
8. My understanding is that USDA has withdrawn the EIS to ensure that the consultation requirements were met. The additional requirements called for in the NDAA bill were separate and additive to the NEPA process to ensure consultation on the land exchange. Why would that require an EIS process starting anew after 7 years of consultation and analysis?
9. Mr. Wells as a water expert, you understand that solar production in desert areas requires significant water usage, in fact DOE estimates suggest that solar farms demand between 865 gallons per MWh and 1,057 gallons per MWh. Do you believe that large scale solar farms are a threat to groundwater resources in Arizona?