

111TH CONGRESS
1ST SESSION

S. 409

To secure Federal ownership and management of significant natural, scenic, and recreational resources, to provide for the protection of cultural resources, to facilitate the efficient extraction of mineral resources by authorizing and directing an exchange of Federal and non-Federal land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2009

Mr. KYL (for himself and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To secure Federal ownership and management of significant natural, scenic, and recreational resources, to provide for the protection of cultural resources, to facilitate the efficient extraction of mineral resources by authorizing and directing an exchange of Federal and non-Federal land, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Southeast Arizona
5 Land Exchange and Conservation Act of 2009”.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to authorize, direct, facilitate, and expedite
4 the conveyance and exchange of land between the
5 United States and Resolution Copper;

6 (2) to provide for the permanent protection of
7 cultural resources and uses of the Apache Leap es-
8 carpment located near the town of Superior, Ari-
9 zona; and

10 (3) to secure Federal ownership and protection
11 of land with significant natural, scenic, recreational,
12 water, riparian, cultural and other resources.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

15 (1) APACHE LEAP.—The term “Apache Leap”
16 means the approximately 822 acres of land (includ-
17 ing the approximately 110 acres of land of Resolu-
18 tion Copper described in section 4(c)(1)(G)), as de-
19 picted on the map entitled “Apache Leap” and
20 dated January 2009.

21 (2) FEDERAL LAND.—The term “Federal land”
22 means the approximately 2,406 acres of land located
23 in Pinal County, Arizona, depicted on the map enti-
24 tled “Southeast Arizona Land Exchange and Con-
25 servation Act of 2009—Federal Parcel—Oak Flat”
26 and dated January 2009.

1 (3) NON-FEDERAL LAND.—The term “non-Fed-
2 eral land” means each parcel of land described in
3 section 4(c).

4 (4) OAK FLAT CAMPGROUND.—The term “Oak
5 Flat Campground” means the campground that is—

6 (A) comprised of approximately 16 devel-
7 oped campsites and adjacent acreage at a total
8 of approximately 50 acres; and

9 (B) depicted on the map entitled “Oak
10 Flat Campground” and dated January 2009.

11 (5) OAK FLAT WITHDRAWAL AREA.—The term
12 “Oak Flat Withdrawal Area” means the approxi-
13 mately 760 acres of land depicted on the map enti-
14 tled “Oak Flat Withdrawal Area” and dated Janu-
15 ary 2009.

16 (6) RESOLUTION COPPER.—The term “Resolu-
17 tion Copper” means—

18 (A) Resolution Copper Mining, LLC, a
19 Delaware limited liability company; and

20 (B) any successor, assign, affiliate, mem-
21 ber, or joint venturer of Resolution Copper Min-
22 ing, LLC.

23 (7) SECRETARY.—The term “Secretary” means
24 the Secretary of Agriculture.

1 (8) SECRETARY CONCERNED.—The term “Sec-
2 retary concerned” means the Secretary of Agri-
3 culture or the Secretary of the Interior, as applica-
4 ble.

5 (9) TOWN.—The term “Town” means the Town
6 of Superior, Arizona, an incorporated municipality.

7 **SEC. 4. LAND CONVEYANCES AND EXCHANGES.**

8 (a) PURPOSES.—The purposes of the land convey-
9 ances and exchanges under this section are—

10 (1) to secure Federal ownership and protection
11 of significant natural, scenic, and recreational re-
12 sources; and

13 (2) to facilitate efficient extraction of mineral
14 resources.

15 (b) OFFER BY RESOLUTION COPPER.—

16 (1) IN GENERAL.—Subject to section 9(b)(1), if
17 Resolution Copper submits to the Secretary of Agri-
18 culture a written offer, in accordance with para-
19 graph (2), to convey to the United States all right,
20 title, and interest of Resolution Copper in and to the
21 non-Federal land, the Secretary shall—

22 (A) accept the offer; and

23 (B) convey to Resolution Copper all right,
24 title, and interest of the United States in and
25 to the Federal land, subject to—

- 1 (i) section 10(c); and
2 (ii) any valid existing right or title
3 reservation, easement, or other exception
4 required by law or agreed to by the Sec-
5 retary concerned and Resolution Copper.

6 (2) REQUIREMENTS.—Title to any non-Federal
7 land conveyed by Resolution Copper to the United
8 States under paragraph (1) shall—

9 (A) be in a form that is acceptable to the
10 Secretary concerned; and

11 (B) conform to the title approval standards
12 of the Attorney General of the United States
13 applicable to land acquisitions by the Federal
14 Government.

15 (c) RESOLUTION COPPER LAND EXCHANGE.—On re-
16 ceipt of title to the Federal land under subsection
17 (b)(1)(B), Resolution Copper shall simultaneously con-
18 vey—

19 (1) to the Secretary of Agriculture, all right,
20 title, and interest that the Secretary determines to
21 be acceptable in and to—

22 (A) the approximately 147 acres of land lo-
23 cated in Gila County, Arizona, depicted on the
24 map entitled “Southeast Arizona Land Ex-
25 change and Conservation Act of 2009–Non-

1 Federal Parcel–Turkey Creek” and dated Janu-
2 ary 2009;

3 (B) the approximately 148 acres of land
4 located in Yavapai County Arizona, depicted on
5 the map entitled “Southeast Arizona Land Ex-
6 change and Conservation Act of 2009–Non-
7 Federal Parcel–Tangle Creek” and dated Janu-
8 ary 2009;

9 (C) the approximately 149 acres of land lo-
10 cated in Maricopa County, Arizona, depicted on
11 the map entitled “Southeast Arizona Land Ex-
12 change and Conservation Act of 2009–Non-
13 Federal Parcel–Cave Creek” and dated January
14 2009;

15 (D) the approximately 88 acres of land lo-
16 cated in Pinal County, Arizona, depicted on the
17 map entitled “Southeast Arizona Land Ex-
18 change and Conservation Act of 2009–Non-
19 Federal Parcel–J-I Ranch” and dated January
20 2009;

21 (E) the approximately 640 acres of land
22 located in Coconino County, Arizona, depicted
23 on the map entitled “Southeast Arizona Land
24 Exchange and Conservation Act of 2009–Non-

1 Federal Parcel–East Clear Creek” and dated
2 January 2009;

3 (F) the approximately 95 acres of land lo-
4 cated in Pinal County, Arizona, depicted on the
5 map entitled “Southeast Arizona Land Ex-
6 change and Conservation Act of 2009–Non-
7 Federal Parcel–The Pond” and dated January
8 2009; and

9 (G) subject to the retained rights under
10 subsection (d)(2), the approximately 110 acres
11 of land located in Pinal County, Arizona, de-
12 picted on the map entitled “Southeast Arizona
13 Land Exchange and Conservation Act of 2009–
14 Non-Federal Parcel–Apache Leap South End”
15 and dated January 2009; and

16 (2) to the Secretary of the Interior, all right,
17 title, and interest that the Secretary of the Interior
18 determines to be acceptable in and to—

19 (A) the approximately 3,073 acres of land
20 located in Pinal County, Arizona, depicted on
21 the map entitled “Southeast Arizona Land Ex-
22 change and Conservation Act of 2009–Non-
23 Federal Parcel–Lower San Pedro River” and
24 dated January 2009;

1 (B) the approximately 160 acres of land
2 located in Gila and Pinal Counties, Arizona, de-
3 picted on the map entitled “Southeast Arizona
4 Land Exchange and Conservation Act of 2009–
5 Non-Federal Parcel–Dripping Springs” and
6 dated January 2009; and

7 (C) the approximately 956 acres of land lo-
8 cated in Santa Cruz County, Arizona, depicted
9 on the map entitled “Southeast Arizona Land
10 Exchange and Conservation Act of 2009–Non-
11 Federal Parcel–Appleton Ranch” and dated
12 January 2009.

13 (d) ADDITIONAL CONSIDERATION TO UNITED
14 STATES.—

15 (1) SURRENDER OF RIGHTS.—Subject to para-
16 graph (2), in addition to the non-Federal land to be
17 conveyed to the United States under subsection (c),
18 and as a condition of the land exchange under this
19 section, Resolution Copper shall surrender to the
20 United States, without compensation, the rights held
21 by Resolution Copper under mining and other laws
22 of the United States—

23 (A) to commercially extract minerals
24 under—

25 (i) Apache Leap; or

1 (ii) the parcel identified in subsection
2 (c)(1)(F); and
3 (B) to disturb the surface of Apache Leap,
4 except with respect to such fences, signs, moni-
5 toring wells, and other devices, instruments, or
6 improvements as are necessary to monitor the
7 public health and safety or achieve other appro-
8 priate administrative purposes, as determined
9 by the Secretary, in consultation with Resolu-
10 tion Copper.

11 (2) EXPLORATION ACTIVITIES.—Nothing in this
12 Act prohibits Resolution Copper from using any ex-
13 isting mining claim held by Resolution Copper on
14 Apache Leap, or from retaining any right held by
15 Resolution Copper to the parcel described in sub-
16 section (c)(1)(G), to carry out any underground ac-
17 tivities under Apache Leap in a manner that the
18 Secretary determines will not adversely impact the
19 surface of Apache Leap (including drilling or locat-
20 ing any tunnels, shafts, or other facilities relating to
21 mining, monitoring, or collecting geological or
22 hydrological information) that do not involve com-
23 mercial mineral extraction under Apache Leap.

24 (e) USE OF EQUALIZATION PAYMENT.—

1 (1) PAYMENT.—Resolution Copper shall pay
2 into the Federal Land Disposal Account established
3 by section 206(a) of the Federal Land Transaction
4 Facilitation Act (43 U.S.C. 2305(a)) (or any suc-
5 cessor account) any cash equalization funds owed by
6 Resolution Copper to the United States under sec-
7 tion 7(b)(1), to remain available until expended,
8 without further appropriation, to the Secretary and
9 the Secretary of the Interior, as the Secretaries
10 jointly determine to be appropriate, for—

11 (A) the acquisition from willing sellers of
12 land or interests in land within the hydro-
13 graphic boundary of the San Pedro River and
14 tributaries in the State of Arizona; and

15 (B) the management and protection of en-
16 dangered species and other sensitive environ-
17 mental values and land within the San Pedro
18 Riparian National Conservation Area estab-
19 lished by section 101(a) of the Arizona-Idaho
20 Conservation Act of 1988 (16 U.S.C. 460xx(a))
21 (including any additions to the area), including
22 management under any cooperative manage-
23 ment agreement entered into by the Secretary
24 of the Interior and a State or local agency

1 under section 103(c) of that Act (16 U.S.C.
2 460xx-2(e)).

3 (2) PERIOD OF USE.—To the maximum extent
4 feasible, the amount paid into the Federal Land Dis-
5 posal Account by Resolution Copper under para-
6 graph (1) shall be used by the Secretary and the
7 Secretary of the Interior during the 2-year period
8 beginning on the date of payment.

9 (3) COOPERATIVE MANAGEMENT AGREEE-
10 MENTS.—The Secretary of the Interior may enter
11 into such cooperative management agreements with
12 qualified organizations (as defined in section 170(h)
13 of the Internal Revenue Code of 1986) as the Sec-
14 retary of the Interior determines to be appropriate
15 to administer portions of the San Pedro Riparian
16 National Conservation Area.

17 **SEC. 5. TIMING AND PROCESSING OF EXCHANGE.**

18 (a) SENSE OF CONGRESS REGARDING TIMING OF
19 EXCHANGE.—It is the sense of Congress that the land ex-
20 change directed by section 4 should be consummated by
21 not later than 1 year after the date of enactment of this
22 Act.

23 (b) EXCHANGE PROCESSING.—Before the date of
24 consummation of the exchange under section 4, the Sec-
25 retary concerned shall complete any necessary land sur-

1 veys and required preexchange clearances, reviews, mitiga-
2 tion activities, and approvals relating to—

3 (1) threatened or endangered species;

4 (2) cultural or historic resources;

5 (3) wetland or floodplains; or

6 (4) hazardous materials.

7 (c) POST-EXCHANGE PROCESSING.—Before com-
8 mencing production in commercial quantities of any valu-
9 able mineral from the Federal land conveyed to Resolution
10 Copper under section 4(b)(1)(B) (except for any such pro-
11 duction from any exploration and mine development
12 shafts, adits, and tunnels needed to determine feasibility
13 and pilot plant testing of commercial production or to ac-
14 cess the ore body and tailings deposition areas), the Sec-
15 retary shall publish an environmental impact statement in
16 accordance with section 102(2)(C) of the National Envi-
17 ronmental Policy Act of 1969 (42 U.S.C. 4322(2)(C)) re-
18 garding any Federal agency action carried out relating to
19 the commercial production, including an analysis of the
20 impacts of the production.

21 (d) OAK FLAT WITHDRAWAL AREA RESTRICTION.—

22 (1) MINERAL EXPLORATION.—To ensure the
23 collection and consideration of adequate information
24 to analyze possible commercial production of min-
25 erals by Resolution Copper from the Oak Flat With-

1 drawal Area, notwithstanding any other provision of
2 law, Resolution Copper may carry out mineral explo-
3 ration activities under the Oak Flat Withdrawal
4 Area during the period beginning on the date of en-
5 actment of this Act and ending on the date of con-
6 veyance of the Oak Flat Withdrawal Area to Resolu-
7 tion Copper under section 4(b)(1)(B) by directional
8 drilling or any other method that will not disturb the
9 surface of the land.

10 (2) SENSE OF CONGRESS REGARDING PER-
11 MIT.—It is the sense of Congress that the Secretary
12 should issue to Resolution Copper a permit to con-
13 duct appropriate directional drilling or other nonsur-
14 face-disturbing exploration in the Oak Flat With-
15 drawal Area as soon as practicable after the date of
16 enactment of this Act.

17 (e) EXCHANGE AND POST-EXCHANGE COSTS.—In
18 accordance with sections 254.4 and 254.7 of title 36, Code
19 of Federal Regulations (or successor regulations), Resolu-
20 tion Copper shall assume responsibility for—

21 (1) hiring such contractors as are necessary for
22 carrying out any exchange or conveyance of land
23 under this Act; and

1 (2) paying, without compensation under section
2 254.7 of title 36, Code of Federal Regulations (or a
3 successor regulation)—

4 (A) the costs of any appraisal relating to
5 an exchange or conveyance under this Act, in-
6 cluding any reasonable reimbursements to the
7 Secretary on request of the Secretary for the
8 cost of reviewing and approving an appraisal;

9 (B) the costs of any clearances, reviews,
10 mitigation activities, and approvals under sub-
11 section (b), including any necessary land sur-
12 veys conducted by the Bureau of Land Manage-
13 ment Cadastral Survey program;

14 (C) the costs of achieving compliance with
15 the National Environmental Policy Act of 1969
16 (42 U.S.C. 4321 et seq.) under subsection (c);
17 and

18 (D) any other cost agreed to by Resolution
19 Copper and the Secretary concerned.

20 (f) CONTRACTOR WORK AND APPROVALS.—

21 (1) IN GENERAL.—Any work relating to the ex-
22 change or conveyance of land under this Act that is
23 performed by a contractor shall be subject to the
24 mutual agreement of the Secretary concerned and

1 Resolution Copper, including any agreement with re-
2 spect to—

3 (A) the selection of the contractor; and

4 (B) the scope of work performed by the
5 contractor.

6 (2) REVIEW AND APPROVAL.—Any required re-
7 view and approval of work by a contractor shall be
8 performed by the Secretary concerned, in accordance
9 with applicable law (including regulations).

10 (3) LEAD ACTOR AGREEMENT.—The Secretary
11 of Agriculture and the Secretary of the Interior may
12 mutually agree to designate the Secretary of Agri-
13 culture as the lead actor for any action under this
14 subsection.

15 **SEC. 6. CONVEYANCE OF LAND TO TOWN.**

16 (a) CONVEYANCE REQUIREMENTS.—

17 (1) IN GENERAL.—On receipt of a request from
18 the Town described in paragraph (2), the Secretary
19 shall convey to the Town each parcel requested.

20 (2) DESCRIPTION OF REQUEST.—A request re-
21 ferred to in paragraph (1) is a request by the
22 Town—

23 (A) for the conveyance of 1 or more of the
24 parcels identified in subsection (b); and

1 (B) that is submitted to the Secretary by
2 not later than 90 days after the date of con-
3 summation of the land exchange under section
4 4.

5 (3) PRICE.—The Town shall pay to the Sec-
6 retary a price equal to the market value of any land
7 conveyed under this subsection, as appraised under
8 section 7, less the amount of any credit under sec-
9 tion 7(b)(3).

10 (b) IDENTIFICATION OF PARCELS.—The Town may
11 request conveyance of any of—

12 (1) the approximately 30 acres of land located
13 in Pinal County, Arizona, occupied on the date of
14 enactment of this Act by the Fairview Cemetery and
15 depicted on the map entitled “Southeast Arizona
16 Land Exchange and Conservation Act of 2009–Fed-
17 eral Parcel–Fairview Cemetery” and dated January
18 2009;

19 (2) the reversionary interest, and any reserved
20 mineral interest, of the United States in the approxi-
21 mately 265 acres of land located in Pinal County,
22 Arizona, depicted on the map entitled “Southeast
23 Arizona Land Exchange and Conservation Act of
24 2009–Federal Reversionary Interest–Superior Air-
25 port” and dated January 2009; and

1 (3) all or any portion of the approximately 250
 2 acres of land located in Pinal County, Arizona, de-
 3 picted on the map entitled “Southeast Arizona Land
 4 Exchange and Conservation Act of 2009—Federal
 5 Parcel—Superior Airport Contiguous Parcels” and
 6 dated January 2009.

7 (c) **CONDITION OF CONVEYANCE.**—A conveyance of
 8 land under this section shall be carried out in a manner
 9 that provides the United States manageable boundaries on
 10 any parcel retained by the Secretary, to the maximum ex-
 11 tent practicable.

12 **SEC. 7. VALUATION OF LAND EXCHANGED OR CONVEYED.**

13 (a) **EXCHANGE VALUATION.**—

14 (1) **IN GENERAL.**—The value of the land to be
 15 exchanged under section 4 or conveyed to the Town
 16 under section 6 shall be determined by the Secretary
 17 through concurrent appraisals conducted in accord-
 18 ance with paragraph (2).

19 (2) **APPRAISALS.**—

20 (A) **IN GENERAL.**—An appraisal under this
 21 section shall be—

22 (i) performed by an appraiser mutu-
 23 ally agreed to by the Secretary and Resolu-
 24 tion Copper;

25 (ii) performed in accordance with—

1 (I) the Uniform Appraisal Stand-
2 ards for Federal Land Acquisitions
3 (Department of Justice, 5th Edition,
4 December 20, 2000);

5 (II) the Uniform Standards of
6 Professional Appraisal Practice; and

7 (III) Forest Service appraisal in-
8 structions; and

9 (iii) submitted to the Secretary for re-
10 view and approval.

11 (B) REAPPRAISALS AND UPDATED AP-
12 PRAISED VALUES.—After the final appraised
13 value of a parcel is determined and approved
14 under subparagraph (A), the Secretary shall
15 not be required to reappraise or update the
16 final appraised value—

17 (i) for a period of 3 years after the
18 approval by the Secretary of the final ap-
19 praised value under subparagraph (A)(iii);
20 or

21 (ii) at all, in accordance with section
22 254.14 of title 36, Code of Federal Regula-
23 tions (or a successor regulation), after an
24 exchange agreement is entered into by Res-
25 olution Copper and the Secretary.

1 (C) PUBLIC REVIEW.—Before consum-
2 mating the land exchange under section 4, the
3 Secretary shall make available for public review
4 a summary of the appraisals of the land to be
5 exchanged.

6 (3) FAILURE TO AGREE.—If the Secretary and
7 Resolution Copper fail to agree on the value of a
8 parcel to be exchanged, the final value of the parcel
9 shall be determined in accordance with section
10 206(d) of the Federal Land Policy and Management
11 Act of 1976 (43 U.S.C. 1716(d)).

12 (4) FEDERAL LAND APPRAISAL.—

13 (A) IN GENERAL.—The Federal land shall
14 be appraised in accordance with the standards
15 and instructions referred to in paragraph
16 (2)(A)(ii) and other applicable requirements of
17 this section.

18 (B) TREATMENT AS UNENCUMBERED.—
19 The value of the Federal land outside the Oak
20 Flat Withdrawal Area shall be determined as if
21 the land is unencumbered by any unpatented
22 mining claims of Resolution Copper.

23 (C) EFFECT.—Nothing in this Act affects
24 the validity of any unpatented mining claim or
25 right of Resolution Copper.

1 (D) ADDITIONAL APPRAISAL INFORMA-
2 TION.—To provide information necessary to cal-
3 culate a value adjustment payment for purposes
4 of section 12, the appraiser under this para-
5 graph shall include in the appraisal report a de-
6 tailed royalty income approach analysis, in ac-
7 cordance with the Uniform Appraisal Standards
8 for Federal Land Acquisition, of the market
9 value of the Federal land, even if the royalty in-
10 come approach analysis is not the appraisal ap-
11 proach relied on by the appraiser to determine
12 the final market value of the Federal land.

13 (b) EQUALIZATION OF VALUE.—

14 (1) SURPLUS OF FEDERAL LAND VALUE.—

15 (A) IN GENERAL.—If the final appraised
16 value of the Federal land exceeds the value of
17 the non-Federal land involved in the exchange
18 under section 4, Resolution Copper shall make
19 a cash equalization payment into the Federal
20 Land Disposal Account (as provided in sub-
21 section (e)) to equalize the values of the Fed-
22 eral land and non-Federal land.

23 (B) AMOUNT OF PAYMENT.—Notwith-
24 standing section 206(b) of the Federal Land
25 Policy and Management Act of 1976 (43 U.S.C.

1 1716(b)), the United States may accept a cash
2 equalization payment under subparagraph (A)
3 in an amount that is greater than 25 percent
4 of the value of the Federal land.

5 (2) SURPLUS OF NON-FEDERAL LAND VALUE.—

6 If the final appraised value of the non-Federal land
7 exceeds the value of the Federal land involved in the
8 exchange under section 4—

9 (A) the United States shall not make a
10 payment to Resolution Copper to equalize the
11 values of the land; and

12 (B) the surplus value of the non-Federal
13 land shall be considered to be a donation by
14 Resolution Copper to the United States.

15 (3) PAYMENT FOR LAND CONVEYED TO
16 TOWN.—

17 (A) IN GENERAL.—The Town shall pay the
18 Secretary market value for any land acquired
19 by the Town from the Secretary under section
20 6, as determined by the Secretary through an
21 appraisal conducted in accordance with sub-
22 section (a)(2).

23 (B) CREDIT.—If the final appraised value
24 of the non-Federal land exceeds the value of the
25 Federal land in the exchange under section 4,

1 the obligation of the Town to pay the United
2 States under subparagraph (A) shall be reduced
3 by an amount equal to the excess value of the
4 non-Federal land conveyed to the United
5 States.

6 (4) DISPOSITION AND USE OF PROCEEDS.—

7 (A) CASH EQUALIZATION PAYMENTS.—Any
8 cash equalization payment under paragraph
9 (1)(A) shall be deposited, without further ap-
10 propriation, in the Federal Land Disposal Ac-
11 count for use in accordance with section 4(e).

12 (B) PAYMENT FOR LAND CONVEYED TO
13 TOWN.—Any payment received by the Secretary
14 from the Town under paragraph (3)(A) shall
15 be—

16 (i) deposited in the fund established
17 under Public Law 90–171 (commonly
18 known as the “Sisk Act”) (16 U.S.C.
19 484a); and

20 (ii) made available to the Secretary,
21 without further appropriation, for the ac-
22 quisition of land for addition to the Na-
23 tional Forest System in the State of Ari-
24 zona.

1 **SEC. 8. APACHE LEAP PROTECTION AND MANAGEMENT.**

2 (a) APACHE LEAP PROTECTION AND MANAGE-
3 MENT.—

4 (1) IN GENERAL.—To permanently protect the
5 cultural, historic, educational, and natural resource
6 values of Apache Leap, effective beginning on the
7 date of enactment of this Act, the Secretary shall—

8 (A) manage Apache Leap in accordance
9 with the laws (including regulations) applicable
10 to the National Forest System; and

11 (B) place special emphasis on preserving
12 the natural character of Apache Leap.

13 (2) WITHDRAWAL.—Subject to the valid exist-
14 ing rights of Resolution Copper under section
15 4(d)(2), effective beginning on the date of enactment
16 of this Act, Apache Leap shall be permanently with-
17 drawn from all forms of entry and appropriation
18 under—

19 (A) the public land laws (including the
20 mining and mineral leasing laws); and

21 (B) the Geothermal Steam Act of 1970
22 (30 U.S.C. 1001 et seq.).

23 (b) ADDITIONAL PROTECTIONS, ANALYSIS, AND
24 PLAN.—

25 (1) MANAGEMENT PLAN.—Not later than 4
26 years after the date of enactment of this Act, the

1 Secretary, in consultation with the Town, Resolution
2 Copper, the Yavapai and Apache Indian tribes, and
3 other interested members of the public, shall solicit
4 public comment regarding, and initiate implementa-
5 tion of, a management plan for Apache Leap.

6 (2) PLANNING CONSIDERATIONS.—The plan de-
7 scribed in paragraph (1) shall examine, among other
8 matters, whether Apache Leap should be managed
9 to establish—

10 (A) additional cultural and historical re-
11 source protections or measures, including per-
12 manent or seasonal closures of any portion of
13 Apache Leap to protect cultural or archeological
14 resources;

15 (B) additional or alternative public access
16 routes, trails, and trailheads to Apache Leap;
17 or

18 (C) additional opportunities (including ap-
19 propriate access) for rock climbing, with special
20 emphasis on improved rock climbing access to
21 Apache Leap from the west.

22 (c) MINING ACTIVITIES.—Nothing in this section im-
23 poses any restriction on any exploration or mining activity
24 carried out by Resolution Copper outside of Apache Leap
25 after the date of enactment of this Act.

1 **SEC. 9. INCORPORATION, MANAGEMENT, AND STATUS OF**
2 **ACQUIRED LAND.**

3 (a) LAND ACQUIRED BY SECRETARY.—

4 (1) IN GENERAL.—Land acquired by the Sec-
5 retary under this Act shall—

6 (A) become part of the National Forest
7 within which the land is located; and

8 (B) be administered in accordance with the
9 laws (including regulations) applicable to the
10 National Forest System.

11 (2) BOUNDARIES.—For purposes of section 7 of
12 the Land and Water Conservation Fund Act of 1965
13 (16 U.S.C. 4601 et seq.), the boundaries of a Na-
14 tional Forest in which land acquired by the Sec-
15 retary is located shall be deemed to be the bound-
16 aries of that forest as in existence on January 1,
17 1965.

18 (3) MANAGEMENT OF J-I RANCH.—

19 (A) IN GENERAL.—On the date on which
20 the Secretary acquires the J-I Ranch parcel de-
21 scribed in section 4(c)(1)(D), the Secretary
22 shall manage the land to allow Yavapai and
23 Apache Indian tribes—

24 (i) to access the land; and

25 (ii) to undertake traditional activities
26 relating to the gathering of acorns.

1 (B) AUTHORITY OF SECRETARY.—On re-
2 ceipt of a request from the Yavapai or Apache
3 Indian tribe, the Secretary may temporarily or
4 seasonally close to the public any portion of the
5 J–I Ranch during the period in which the
6 Yavapai or Apache Indian tribe carries out any
7 activity described in subparagraph (A)(ii).

8 (b) ROCK CLIMBING.—

9 (1) IN GENERAL.—Before consummating the
10 land exchange under section 4, Resolution Copper
11 shall pay to the Secretary \$1,250,000.

12 (2) USE OF FUNDS.—The Secretary shall use
13 the amount described in paragraph (1), without fur-
14 ther appropriation, to construct or improve road ac-
15 cess, turnouts, trails, camping, parking areas, or
16 other facilities to promote and enhance rock climb-
17 ing, bouldering, and such other outdoor recreational
18 opportunities as the Secretary determines to be ap-
19 propriate—

20 (A) in the general area north of Arizona
21 State Highway 60 encompassing the parcel de-
22 scribed in section 4(c)(1)(F) and adjacent Na-
23 tional Forest land to the north of that parcel
24 (commonly known as the “upper Pond area”);
25 or

1 (B) in the areas commonly known as
2 “Inconceivables” and “Chill Hill” located in or
3 adjacent to secs. 26, 35, and 36, T. 2 S., R. 12
4 E., Gila and Salt River Meridian.

5 (3) TIMING.—To the maximum extent prac-
6 ticable, the Secretary shall use the amount described
7 in paragraph (1) during the 2-year period beginning
8 on the date of consummation of the land exchange
9 under section 4.

10 (4) THE POND PARCEL WORK.—

11 (A) IN GENERAL.—To improve rock climb-
12 ing opportunities in the parcel described in sec-
13 tion 4(c)(1)(F) and the upper Pond area, Reso-
14 lution Copper, in consultation with the Sec-
15 retary and rock climbing interests, may con-
16 struct roads or improve road access to, con-
17 struct trails, camping, parking areas, or other
18 facilities on, or provide other access to, the
19 Pond parcel described in section 4(c)(1)(F) be-
20 fore the date of the conveyance under section
21 4(c).

22 (B) COSTS.—Resolution Copper shall pay
23 the cost of any activity carried out under sub-
24 paragraph (A), in addition to the amount speci-
25 fied in paragraph (1).

1 (c) LAND ACQUIRED BY SECRETARY OF INTERIOR.—

2 (1) IN GENERAL.—Land acquired by the Sec-
3 retary of the Interior under this Act shall—

4 (A) become part of the Federal administra-
5 tive area (including the Las Cienegas National
6 Conservation Area or other national conserva-
7 tion area, if applicable) within which the land
8 is located or to which the land is adjacent; and

9 (B) be managed in accordance with the
10 laws (including regulations) applicable to the
11 Federal administrative area or national con-
12 servation area within which the land is located
13 or to which the land is adjacent.

14 (2) LOWER SAN PEDRO RIVER LAND.—To pre-
15 serve and enhance the natural character and con-
16 servation value of the lower San Pedro River land
17 described in section 4(c)(2)(A), on acquisition of the
18 land by the Secretary of the Interior, the land shall
19 be automatically incorporated in, and administered
20 as part of, the San Pedro Riparian National Con-
21 servation Area.

22 (d) WITHDRAWAL.—On acquisition by the United
23 States of any land under this Act, subject to valid existing
24 rights and without further action by the Secretary con-

1 cerned, the acquired land is permanently withdrawn from
2 all forms of entry and appropriation under—

3 (1) the public land laws (including the mining
4 and mineral leasing laws); and

5 (2) the Geothermal Steam Act of 1970 (30
6 U.S.C. 1001 et seq.).

7 **SEC. 10. OAK FLAT CAMPGROUND.**

8 (a) **REPLACEMENT CAMPGROUNDS.**—

9 (1) **IN GENERAL.**—Not later than 4 years after
10 the date of enactment of this Act, the Secretary, in
11 consultation with Resolution Copper, the Town, and
12 other interested parties, shall design and construct
13 in the Globe Ranger District of the Tonto National
14 Forest 1 or more replacement campgrounds for the
15 Oak Flat Campground (including appropriate access
16 routes to any replacement campgrounds).

17 (2) **PUBLIC FACILITIES.**—Any replacement
18 campgrounds under this subsection shall be designed
19 and constructed in a manner that adequately (as de-
20 termined in the sole discretion of the Secretary) re-
21 places, or improves on, the facilities, functions, and
22 amenities available to the public at the Oak Flat
23 Campground.

24 (b) **COSTS OF REPLACEMENT.**—Resolution Copper
25 shall pay the actual cost of designing, constructing, and

1 providing access to any replacement campgrounds under
2 this subsection, not to exceed \$1,000,000.

3 (c) INTERIM OAK FLAT CAMPGROUND ACCESS.—The
4 document conveying the Federal land to Resolution Cop-
5 per under section 4(b) shall specify that—

6 (1) during the 4-year period beginning on the
7 date of enactment of this Act, the Secretary shall re-
8 tain title to, operate, and maintain the Oak Flat
9 Campground; and

10 (2) at the end of that 4-year period—

11 (A) the withdrawal of the Oak Flat Camp-
12 ground shall be revoked; and

13 (B) title to the Oak Flat Campground
14 shall be simultaneously conveyed to Resolution
15 Copper.

16 (d) BOULDERBLAST COMPETITION.—During the 5-
17 year period beginning on the date of enactment of this
18 Act, the Secretary, in consultation with Resolution Cop-
19 per, may issue not more than 1 special use permit per
20 calendar year to provide public access to the bouldering
21 area on the Federal land for purposes of the annual
22 “BoulderBlast” competition.

1 **SEC. 11. TRADITIONAL ACORN GATHERING AND RELATED**
2 **ACTIVITIES IN AND AROUND OAK FLAT**
3 **CAMPGROUND.**

4 (a) SENSE OF CONGRESS REGARDING ACORN GATH-
5 ERING.—In addition to the acorn gathering opportunities
6 described in section 9(a)(3)(A)(ii), it is the sense of Con-
7 gress that, on receipt of a request from the Apache or
8 Yavapai Indian tribe or any other Indian tribe during the
9 180-day period beginning on the date of conveyance of the
10 Federal land to Resolution Copper under section 4, Reso-
11 lution Copper should endeavor to negotiate and execute
12 a revocable authorization to each applicable Indian tribe
13 to use an area in and around the Oak Flat Campground
14 for traditional acorn gathering and related activities.

15 (b) AREA AND TERMS.—The precise area and terms
16 of use described in subsection (a)—

17 (1) shall be agreed to by Resolution Copper and
18 the applicable Indian tribes; and

19 (2) may be modified or revoked by Resolution
20 Copper if Resolution Copper, in consultation with
21 the Indian tribes, determines that all or a portion of
22 the authorized use area needs to be closed on a tem-
23 porary or permanent basis—

24 (A) to protect the health or safety of users;

25 or

1 (B) to accommodate an exploration or min-
2 ing plan of Resolution Copper.

3 **SEC. 12. VALUE ADJUSTMENT PAYMENT TO UNITED**
4 **STATES.**

5 (a) ANNUAL PRODUCTION REPORTING.—

6 (1) IN GENERAL.—Beginning on February 15
7 of the first calendar year beginning after the date of
8 commencement of production of valuable locatable
9 minerals in commercial quantities (as defined by ap-
10 plicable Federal laws (including regulations)) from
11 the Federal land conveyed to Resolution Copper
12 under section 4(b), and annually thereafter, Resolu-
13 tion Copper shall file with the Secretary of the Inte-
14 rior a report indicating the quantity of locatable
15 minerals in commercial quantities produced from the
16 Federal land during the preceding calendar year.

17 (2) REPORT CONTENTS.—The reports under
18 paragraph (1) shall comply with all recordkeeping
19 and reporting requirements of applicable Federal
20 laws (including regulations) in effect at the time of
21 production relating to the production of valuable
22 locatable minerals in commercial quantities on any
23 federally owned land.

24 (b) PAYMENT ON PRODUCTION.—If the cumulative
25 production of valuable locatable minerals in commercial

1 quantities produced from the Federal land conveyed to
2 Resolution Copper under section 4(b) exceeds the quantity
3 of production of locatable minerals from the Federal land
4 used in the royalty income approach analysis under the
5 Uniform Appraisal Standards for Federal Land Acquisi-
6 tions prepared under section 7(a)(4)(D), Resolution Cop-
7 per shall pay to the United States, by not later than
8 March 15 of each applicable calendar year, a value adjust-
9 ment payment for the quantity of excess production at a
10 rate equal to—

11 (1) the Federal royalty rate in effect for the
12 production of valuable locatable minerals from feder-
13 ally owned land, if such a rate is enacted before De-
14 cember 31, 2012; or

15 (2) if no Federal royalty rate is enacted by the
16 date described in paragraph (1), the royalty rate
17 used for purposes of the royalty income approach
18 analysis prepared under section 7(a)(4)(D).

19 (c) STATE LAW UNAFFECTED.—Nothing in this Act
20 modifies, expands, diminishes, amends, or otherwise af-
21 fects any State law (including regulations) relating to the
22 imposition, application, timing, or collection of a State ex-
23 cise or severance tax under Arizona Revised Statutes 42–
24 5201–5206.

1 (d) USE OF FUNDS.—The funds paid to the United
2 States under this section shall—

3 (1) be deposited in a special account of the
4 Treasury; and

5 (2) remain available, without further appropria-
6 tion, to the Secretary and the Secretary of the Inte-
7 rior, as the Secretaries jointly determine to be ap-
8 propriate, for the acquisition of land or interests in
9 land from willing sellers in the State of Arizona.

10 **SEC. 13. MISCELLANEOUS PROVISIONS.**

11 (a) REVOCATION OF ORDERS; WITHDRAWAL.—

12 (1) REVOCATION OF ORDERS.—Any public land
13 order that withdraws the Federal land from appro-
14 priation or disposal under a public land law shall be
15 revoked to the extent necessary to permit disposal of
16 the land.

17 (2) WITHDRAWAL.—On the date of enactment
18 of this Act, if the Federal land or any Federal inter-
19 est in the non-Federal land to be exchanged under
20 section 4 is not withdrawn or segregated from entry
21 and appropriation under a public land law (including
22 mining and mineral leasing laws and the Geothermal
23 Steam Act of 1970 (30 U.S.C. 1001 et seq.)), the
24 land or interest shall be withdrawn, without further
25 action required by the Secretary concerned, from

1 entry and appropriation, subject to the valid existing
2 rights of Resolution Copper, until the date of the
3 conveyance of Federal land under section 4(b).

4 (b) MAPS, ESTIMATES, AND DESCRIPTIONS.—

5 (1) MINOR ERRORS.—The Secretary concerned
6 and Resolution Copper, may correct, by mutual
7 agreement, any minor errors in any map, acreage es-
8 timate, or description of any land conveyed or ex-
9 changed under this Act.

10 (2) CONFLICT.—If there is a conflict between a
11 map, an acreage estimate, or a description of land
12 under this Act, the map shall control unless the Sec-
13 retary concerned and Resolution Copper mutually
14 agree otherwise.

15 (3) AVAILABILITY.—On the date of enactment
16 of this Act, the Secretary shall file and make avail-
17 able for public inspection in the Office of the Super-
18 visor, Tonto National Forest, each map referred to
19 in this Act.

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