

111TH CONGRESS
1ST SESSION

H. R. 2509

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 HOUSE OF REPRESENTATIVES

MAY 20, 2009

Mrs. KIRKPATRICK of Arizona (for herself and Mr. FLAKE) introduced the following bill; which was referred to the Committee on 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) PRE-EXCHANGE NEPA COMPLIANCE.—

24 (1) SECRETARIAL DETERMINATION.—The Sec-
25 retary shall determine whether the exchange directed

1 by section 4 is subject to section 102(2) of the Na-
2 tional Environmental Policy Act of 1969 (42 U.S.C.
3 4322(2)).

4 (2) ANALYSIS.—If the Secretary determines
5 pursuant to paragraph (1) that the exchange is sub-
6 ject to section 102(2) of such Act—

7 (A) the Secretary shall be responsible for
8 the preparation of the document;

9 (B) the document prepared pursuant to
10 section 102(2) of such Act shall adhere to the
11 provisions of this paragraph notwithstanding
12 any provision of such section to the contrary;
13 and

14 (C) the analysis in the document, including
15 the analysis of any impacts, effects, and com-
16 mitments shall—

17 (i) detail the ecological values (includ-
18 ing fish and wildlife, plant communities,
19 wetlands and flood plains, and habitat and
20 potential habitat for threatened and endan-
21 gered species) of the Federal land and all
22 non-Federal land parcels identified for ex-
23 change in section 4(b);

24 (ii) consider impacts, effects, and
25 commitments, on or related to those values

1 from or of only current uses of the Federal
2 land and all non-Federal land parcels iden-
3 tified for exchange in section 3(b) as of the
4 date of enactment of this Act and any new
5 uses of those lands that may occur prior to
6 consummation of the exchange, except as
7 provided in subsection (e);

8 (iii) shall not consider impacts, ef-
9 fects, and commitments on or related to
10 those values of any uses to be considered
11 in post-exchange compliance with section
12 102(2) of the National Environmental Pol-
13 icy Act of 1969 described in subsection
14 (d); and

15 (iv) be based on the assumption that
16 the Federal land and non-Federal land in
17 the exchange shall be determined to be of
18 equal value, or the values shall be equal-
19 ized, or a donation made by Resolution
20 Copper, pursuant to section 6.

21 (3) DEADLINE.—The document described in
22 this subsection, if determined necessary under para-
23 graph (1), shall be completed within 270 days of the
24 date of enactment of this Act.

1 (4) NO PRECEDENT.—The procedures under
2 this subsection with regard to the National Environ-
3 mental Policy Act of 1969 compliance on this land
4 exchange do not establish a precedent with respect
5 to future land exchanges or other Federal land ac-
6 tions directed or mandated by Congress.

7 (c) EXCHANGE PROCESSING.—Before the date of
8 consummation of the exchange under section 4, the Sec-
9 retary concerned shall complete any necessary land sur-
10 veys and required preexchange clearances, reviews, mitiga-
11 tion activities, and approvals relating to—

12 (1) threatened or endangered species;

13 (2) cultural or historic resources;

14 (3) wetland or floodplains; or

15 (4) hazardous materials.

16 (d) POST-EXCHANGE PROCESSING.—Before com-
17 mencing production in commercial quantities of any valu-
18 able mineral from the Federal land conveyed to Resolution
19 Copper under section 4(b)(1)(B) (except for any such pro-
20 duction from any exploration and mine development
21 shafts, adits, and tunnels needed to determine feasibility
22 and pilot plant testing of commercial production or to ac-
23 cess the ore body and tailings deposition areas), the Sec-
24 retary shall publish an environmental impact statement in
25 accordance with section 102(2)(C) of the National Envi-

1 ronmental Policy Act of 1969 (42 U.S.C. 4322(2)(C)) re-
2 garding any Federal agency action carried out relating to
3 the commercial production, including an analysis of the
4 impacts of the production.

5 (e) OAK FLAT WITHDRAWAL AREA RESTRICTION.—

6 (1) MINERAL EXPLORATION.—To ensure the
7 collection and consideration of adequate information
8 to analyze possible commercial production of min-
9 erals by Resolution Copper from the Oak Flat With-
10 drawal Area, notwithstanding any other provision of
11 law, Resolution Copper may carry out mineral explo-
12 ration activities under the Oak Flat Withdrawal
13 Area during the period beginning on the date of en-
14 actment of this Act and ending on the date of con-
15 veyance of the Oak Flat Withdrawal Area to Resolu-
16 tion Copper under section 4(b)(1)(B) by directional
17 drilling or any other method that will not disturb the
18 surface of the land.

19 (2) SENSE OF CONGRESS REGARDING PER-
20 MIT.—It is the sense of Congress that the Secretary
21 should issue to Resolution Copper a permit to con-
22 duct appropriate directional drilling or other nonsur-
23 face-disturbing exploration in the Oak Flat With-
24 drawal Area as soon as practicable after the date of
25 enactment of this Act.

1 (f) EXCHANGE AND POST-EXCHANGE COSTS.—In ac-
2 cordance with sections 254.4 and 254.7 of title 36, Code
3 of Federal Regulations (or successor regulations), Resolu-
4 tion Copper shall assume responsibility for—

5 (1) hiring such contractors as are necessary for
6 carrying out any exchange or conveyance of land
7 under this Act; and

8 (2) paying, without compensation under section
9 254.7 of title 36, Code of Federal Regulations (or a
10 successor regulation)—

11 (A) the costs of any appraisal relating to
12 an exchange or conveyance under this Act, in-
13 cluding any reasonable reimbursements to the
14 Secretary on request of the Secretary for the
15 cost of reviewing and approving an appraisal;

16 (B) the costs of any clearances, reviews,
17 mitigation activities, and approvals under sub-
18 section (c), including any necessary land sur-
19 veys conducted by the Bureau of Land Manage-
20 ment Cadastral Survey program;

21 (C) the costs of achieving compliance with
22 the National Environmental Policy Act of 1969
23 (42 U.S.C. 4321 et seq.) under subsection (d);
24 and

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

3 (g) CONTRACTOR WORK AND APPROVALS.—

4 (1) IN GENERAL.—Any work relating to the ex-
5 change or conveyance of land under this Act that is
6 performed by a contractor shall be subject to the
7 mutual agreement of the Secretary concerned and
8 Resolution Copper, including any agreement with re-
9 spect to—

10 (A) the selection of the contractor; and

11 (B) the scope of work performed by the
12 contractor.

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

17 (3) LEAD ACTOR AGREEMENT.—The Secretary
18 of Agriculture and the Secretary of the Interior may
19 mutually agree to designate the Secretary of Agri-
20 culture as the lead actor for any action under this
21 subsection.

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

23 (a) CONVEYANCE REQUIREMENTS.—

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

4 (2) DESCRIPTION OF REQUEST.—A request re-
5 ferred to in paragraph (1) is a request by the
6 Town—

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

9 (B) that is submitted to the Secretary by
10 not later than 90 days after the date of con-
11 summation of the land exchange under section
12 4.

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

18 (b) IDENTIFICATION OF PARCELS.—The Town may
19 request conveyance of any of—

20 (1) the approximately 30 acres of land located
21 in Pinal County, Arizona, occupied on the date of
22 enactment of this Act by the Fairview Cemetery and
23 depicted on the map entitled “Southeast Arizona
24 Land Exchange and Conservation Act of 2009—Fed-

1 eral Parcel–Fairview Cemetery” and dated January
2 2009;

3 (2) the reversionary interest, and any reserved
4 mineral interest, of the United States in the approxi-
5 mately 265 acres of land located in Pinal County,
6 Arizona, depicted on the map entitled “Southeast
7 Arizona Land Exchange and Conservation Act of
8 2009–Federal Reversionary Interest–Superior Air-
9 port” and dated January 2009; and

10 (3) all or any portion of the approximately 250
11 acres of land located in Pinal County, Arizona, de-
12 picted on the map entitled “Southeast Arizona Land
13 Exchange and Conservation Act of 2009–Federal
14 Parcel–Superior Airport Contiguous Parcels” and
15 dated January 2009.

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

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

22 (a) **EXCHANGE VALUATION.**—

23 (1) **IN GENERAL.**—The value of the land to be
24 exchanged under section 4 or conveyed to the Town
25 under section 6 shall be determined by the Secretary

1 through concurrent appraisals conducted in accord-
2 ance with paragraph (2).

3 (2) APPRAISALS.—

4 (A) IN GENERAL.—An appraisal under this
5 section shall be—

6 (i) performed by an appraiser mutu-
7 ally agreed to by the Secretary and Resolu-
8 tion Copper;

9 (ii) performed in accordance with—

10 (I) the Uniform Appraisal Stand-
11 ards for Federal Land Acquisitions
12 (Department of Justice, 5th Edition,
13 December 20, 2000);

14 (II) the Uniform Standards of
15 Professional Appraisal Practice; and

16 (III) Forest Service appraisal in-
17 structions; and

18 (iii) submitted to the Secretary for re-
19 view and approval.

20 (B) REAPPRAISALS AND UPDATED AP-
21 PRAISED VALUES.—After the final appraised
22 value of a parcel is determined and approved
23 under subparagraph (A), the Secretary shall
24 not be required to reappraise or update the
25 final appraised value—

1 (i) for a period of 3 years after the
2 approval by the Secretary of the final ap-
3 praised value under subparagraph (A)(iii);
4 or

5 (ii) at all, in accordance with section
6 254.14 of title 36, Code of Federal Regula-
7 tions (or a successor regulation), after an
8 exchange agreement is entered into by Res-
9 olution Copper and the Secretary.

10 (C) PUBLIC REVIEW.—Before consum-
11 mating the land exchange under section 4, the
12 Secretary shall make available for public review
13 a summary of the appraisals of the land to be
14 exchanged.

15 (3) FAILURE TO AGREE.—If the Secretary and
16 Resolution Copper fail to agree on the value of a
17 parcel to be exchanged, the final value of the parcel
18 shall be determined in accordance with section
19 206(d) of the Federal Land Policy and Management
20 Act of 1976 (43 U.S.C. 1716(d)).

21 (4) FEDERAL LAND APPRAISAL.—

22 (A) IN GENERAL.—The Federal land shall
23 be appraised in accordance with the standards
24 and instructions referred to in paragraph

1 (2)(A)(ii) and other applicable requirements of
2 this section.

3 (B) TREATMENT AS UNENCUMBERED.—

4 The value of the Federal land outside the Oak
5 Flat Withdrawal Area shall be determined as if
6 the land is unencumbered by any unpatented
7 mining claims of Resolution Copper.

8 (C) EFFECT.—Nothing in this Act affects
9 the validity of any unpatented mining claim or
10 right of Resolution Copper.

11 (D) ADDITIONAL APPRAISAL INFORMA-

12 TION.—To provide information necessary to cal-
13 culate a value adjustment payment for purposes
14 of section 12, the appraiser under this para-
15 graph shall include in the appraisal report a de-
16 tailed royalty income approach analysis, in ac-
17 cordance with the Uniform Appraisal Standards
18 for Federal Land Acquisition, of the market
19 value of the Federal land, even if the royalty in-
20 come approach analysis is not the appraisal ap-
21 proach relied on by the appraiser to determine
22 the final market value of the Federal land.

23 (b) EQUALIZATION OF VALUE.—

24 (1) SURPLUS OF FEDERAL LAND VALUE.—

1 (A) IN GENERAL.—If the final appraised
2 value of the Federal land exceeds the value of
3 the non-Federal land involved in the exchange
4 under section 4, Resolution Copper shall make
5 a cash equalization payment into the Federal
6 Land Disposal Account (as provided in sub-
7 section (e)) to equalize the values of the Fed-
8 eral land and non-Federal land.

9 (B) AMOUNT OF PAYMENT.—Notwith-
10 standing section 206(b) of the Federal Land
11 Policy and Management Act of 1976 (43 U.S.C.
12 1716(b)), the United States may accept a cash
13 equalization payment under subparagraph (A)
14 in an amount that is greater than 25 percent
15 of the value of the Federal land.

16 (2) SURPLUS OF NON-FEDERAL LAND VALUE.—
17 If the final appraised value of the non-Federal land
18 exceeds the value of the Federal land involved in the
19 exchange under section 4—

20 (A) the United States shall not make a
21 payment to Resolution Copper to equalize the
22 values of the land; and

23 (B) the surplus value of the non-Federal
24 land shall be considered to be a donation by
25 Resolution Copper to the United States.

1 (3) PAYMENT FOR LAND CONVEYED TO
2 TOWN.—

3 (A) IN GENERAL.—The Town shall pay the
4 Secretary market value for any land acquired
5 by the Town from the Secretary under section
6 6, as determined by the Secretary through an
7 appraisal conducted in accordance with sub-
8 section (a)(2).

9 (B) CREDIT.—If the final appraised value
10 of the non-Federal land exceeds the value of the
11 Federal land in the exchange under section 4,
12 the obligation of the Town to pay the United
13 States under subparagraph (A) shall be reduced
14 by an amount equal to the excess value of the
15 non-Federal land conveyed to the United
16 States.

17 (4) DISPOSITION AND USE OF PROCEEDS.—

18 (A) CASH EQUALIZATION PAYMENTS.—Any
19 cash equalization payment under paragraph
20 (1)(A) shall be deposited, without further ap-
21 propriation, in the Federal Land Disposal Ac-
22 count for use in accordance with section 4(e).

23 (B) PAYMENT FOR LAND CONVEYED TO
24 TOWN.—Any payment received by the Secretary

1 from the Town under paragraph (3)(A) shall
2 be—

3 (i) deposited in the fund established
4 under Public Law 90–171 (commonly
5 known as the “Sisk Act”) (16 U.S.C.
6 484a); and

7 (ii) made available to the Secretary,
8 without further appropriation, for the ac-
9 quisition of land for addition to the Na-
10 tional Forest System in the State of Ari-
11 zona.

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

13 (a) APACHE LEAP PROTECTION AND MANAGE-
14 MENT.—

15 (1) IN GENERAL.—To permanently protect the
16 cultural, historic, educational, and natural resource
17 values of Apache Leap, effective beginning on the
18 date of enactment of this Act, the Secretary shall—

19 (A) manage Apache Leap in accordance
20 with the laws (including regulations) applicable
21 to the National Forest System; and

22 (B) place special emphasis on preserving
23 the natural character of Apache Leap.

24 (2) WITHDRAWAL.—Subject to the valid exist-
25 ing rights of Resolution Copper under section

1 4(d)(2), effective beginning on the date of enactment
2 of this Act, Apache Leap shall be permanently with-
3 drawn from all forms of entry and appropriation
4 under—

5 (A) the public land laws (including the
6 mining and mineral leasing laws); and

7 (B) the Geothermal Steam Act of 1970
8 (30 U.S.C. 1001 et seq.).

9 (b) ADDITIONAL PROTECTIONS, ANALYSIS, AND
10 PLAN.—

11 (1) MANAGEMENT PLAN.—Not later than 4
12 years after the date of enactment of this Act, the
13 Secretary, in consultation with the Town, Resolution
14 Copper, the Yavapai and Apache Indian tribes, and
15 other interested members of the public, shall solicit
16 public comment regarding, and initiate implementa-
17 tion of, a management plan for Apache Leap.

18 (2) PLANNING CONSIDERATIONS.—The plan de-
19 scribed in paragraph (1) shall examine, among other
20 matters, whether Apache Leap should be managed
21 to establish—

22 (A) additional cultural and historical re-
23 source protections or measures, including per-
24 manent or seasonal closures of any portion of

1 Apache Leap to protect cultural or archeological
2 resources;

3 (B) additional or alternative public access
4 routes, trails, and trailheads to Apache Leap;
5 or

6 (C) additional opportunities (including ap-
7 propriate access) for rock climbing, with special
8 emphasis on improved rock climbing access to
9 Apache Leap from the west.

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

14 **SEC. 9. INCORPORATION, MANAGEMENT, AND STATUS OF**
15 **ACQUIRED LAND.**

16 (a) LAND ACQUIRED BY SECRETARY.—

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

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

21 (B) be administered in accordance with the
22 laws (including regulations) applicable to the
23 National Forest System.

24 (2) BOUNDARIES.—For purposes of section 7 of
25 the Land and Water Conservation Fund Act of 1965

1 (16 U.S.C. 4601 et seq.), the boundaries of a Na-
2 tional Forest in which land acquired by the Sec-
3 retary is located shall be deemed to be the bound-
4 aries of that forest as in existence on January 1,
5 1965.

6 (3) MANAGEMENT OF J-I RANCH.—

7 (A) IN GENERAL.—On the date on which
8 the Secretary acquires the J-I Ranch parcel de-
9 scribed in section 4(c)(1)(D), the Secretary
10 shall manage the land to allow Yavapai and
11 Apache Indian tribes—

12 (i) to access the land; and

13 (ii) to undertake traditional activities
14 relating to the gathering of acorns.

15 (B) AUTHORITY OF SECRETARY.—On re-
16 ceipt of a request from the Yavapai or Apache
17 Indian tribe, the Secretary may temporarily or
18 seasonally close to the public any portion of the
19 J-I Ranch during the period in which the
20 Yavapai or Apache Indian tribe carries out any
21 activity described in subparagraph (A)(ii).

22 (b) ROCK CLIMBING.—

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

1 (2) USE OF FUNDS.—The Secretary shall use
2 the amount described in paragraph (1), without fur-
3 ther appropriation, to construct or improve road ac-
4 cess, turnouts, trails, camping, parking areas, or
5 other facilities to promote and enhance rock climb-
6 ing, bouldering, and such other outdoor recreational
7 opportunities as the Secretary determines to be ap-
8 propriate—

9 (A) in the general area north of Arizona
10 State Highway 60 encompassing the parcel de-
11 scribed in section 4(c)(1)(F) and adjacent Na-
12 tional Forest land to the north of that parcel
13 (commonly known as the “upper Pond area”);
14 or

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

19 (3) TIMING.—To the maximum extent prac-
20 ticable, the Secretary shall use the amount described
21 in paragraph (1) during the 2-year period beginning
22 on the date of consummation of the land exchange
23 under section 4.

24 (4) THE POND PARCEL WORK.—

1 (A) IN GENERAL.—To improve rock climb-
2 ing opportunities in the parcel described in sec-
3 tion 4(c)(1)(F) and the upper Pond area, Reso-
4 lution Copper, in consultation with the Sec-
5 retary and rock climbing interests, may con-
6 struct roads or improve road access to, con-
7 struct trails, camping, parking areas, or other
8 facilities on, or provide other access to, the
9 Pond parcel described in section 4(c)(1)(F) be-
10 fore the date of the conveyance under section
11 4(e).

12 (B) COSTS.—Resolution Copper shall pay
13 the cost of any activity carried out under sub-
14 paragraph (A), in addition to the amount speci-
15 fied in paragraph (1).

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

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

19 (A) become part of the Federal administra-
20 tive area (including the Las Cienegas National
21 Conservation Area or other national conserva-
22 tion area, if applicable) within which the land
23 is located or to which the land is adjacent; and

24 (B) be managed in accordance with the
25 laws (including regulations) applicable to the

1 Federal administrative area or national con-
2 servation area within which the land is located
3 or to which the land is adjacent.

4 (2) LOWER SAN PEDRO RIVER LAND.—To pre-
5 serve and enhance the natural character and con-
6 servation value of the lower San Pedro River land
7 described in section 4(c)(2)(A), on acquisition of the
8 land by the Secretary of the Interior, the land shall
9 be automatically incorporated in, and administered
10 as part of, the San Pedro Riparian National Con-
11 servation Area.

12 (d) WITHDRAWAL.—On acquisition by the United
13 States of any land under this Act, subject to valid existing
14 rights and without further action by the Secretary con-
15 cerned, the acquired land is permanently withdrawn from
16 all forms of entry and appropriation under—

17 (1) the public land laws (including the mining
18 and mineral leasing laws); and

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

21 **SEC. 10. OAK FLAT CAMPGROUND.**

22 (a) REPLACEMENT CAMPGROUNDS.—

23 (1) IN GENERAL.—Not later than 4 years after
24 the date of enactment of this Act, the Secretary, in
25 consultation with Resolution Copper, the Town, and

1 other interested parties, shall design and construct
2 in the Globe Ranger District of the Tonto National
3 Forest 1 or more replacement campgrounds for the
4 Oak Flat Campground (including appropriate access
5 routes to any replacement campgrounds).

6 (2) PUBLIC FACILITIES.—Any replacement
7 campgrounds under this subsection shall be designed
8 and constructed in a manner that adequately (as de-
9 termined in the sole discretion of the Secretary) re-
10 places, or improves on, the facilities, functions, and
11 amenities available to the public at the Oak Flat
12 Campground.

13 (b) COSTS OF REPLACEMENT.—Resolution Copper
14 shall pay the actual cost of designing, constructing, and
15 providing access to any replacement campgrounds under
16 this subsection, not to exceed \$1,000,000.

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

20 (1) during the 4-year period beginning on the
21 date of enactment of this Act, the Secretary shall re-
22 tain title to, operate, and maintain the Oak Flat
23 Campground; and

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

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

3 (B) title to the Oak Flat Campground
4 shall be simultaneously conveyed to Resolution
5 Copper.

6 (d) BOULDERBLAST COMPETITION.—During the 5-
7 year period beginning on the date of enactment of this
8 Act, the Secretary, in consultation with Resolution Cop-
9 per, may issue not more than 1 special use permit per
10 calendar year to provide public access to the bouldering
11 area on the Federal land for purposes of the annual
12 “BoulderBlast” competition.

13 **SEC. 11. TRADITIONAL ACORN GATHERING AND RELATED**
14 **ACTIVITIES IN AND AROUND OAK FLAT**
15 **CAMPGROUND.**

16 (a) SENSE OF CONGRESS REGARDING ACORN GATH-
17 ERING.—In addition to the acorn gathering opportunities
18 described in section 9(a)(3)(A)(ii), it is the sense of Con-
19 gress that, on receipt of a request from the Apache or
20 Yavapai Indian tribe or any other Indian tribe during the
21 180-day period beginning on the date of conveyance of the
22 Federal land to Resolution Copper under section 4, Reso-
23 lution Copper should endeavor to negotiate and execute
24 a revocable authorization to each applicable Indian tribe

1 to use an area in and around the Oak Flat Campground
2 for traditional acorn gathering and related activities.

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

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

7 (2) may be modified or revoked by Resolution
8 Copper if Resolution Copper, in consultation with
9 the Indian tribes, determines that all or a portion of
10 the authorized use area needs to be closed on a tem-
11 porary or permanent basis—

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

13 or

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

16 **SEC. 12. VALUE ADJUSTMENT PAYMENT TO UNITED**
17 **STATES.**

18 (a) ANNUAL PRODUCTION REPORTING.—

19 (1) IN GENERAL.—Beginning on February 15
20 of the first calendar year beginning after the date of
21 commencement of production of valuable locatable
22 minerals in commercial quantities (as defined by ap-
23 plicable Federal laws (including regulations)) from
24 the Federal land conveyed to Resolution Copper
25 under section 4(b), and annually thereafter, Resolu-

1 tion Copper shall file with the Secretary of the Inte-
2 rior a report indicating the quantity of locatable
3 minerals in commercial quantities produced from the
4 Federal land during the preceding calendar year.

5 (2) REPORT CONTENTS.—The reports under
6 paragraph (1) shall comply with all recordkeeping
7 and reporting requirements of applicable Federal
8 laws (including regulations) in effect at the time of
9 production relating to the production of valuable
10 locatable minerals in commercial quantities on any
11 federally owned land.

12 (b) PAYMENT ON PRODUCTION.—If the cumulative
13 production of valuable locatable minerals in commercial
14 quantities produced from the Federal land conveyed to
15 Resolution Copper under section 4(b) exceeds the quantity
16 of production of locatable minerals from the Federal land
17 used in the royalty income approach analysis under the
18 Uniform Appraisal Standards for Federal Land Acquisi-
19 tions prepared under section 7(a)(4)(D), Resolution Cop-
20 per shall pay to the United States, by not later than
21 March 15 of each applicable calendar year, a value adjust-
22 ment payment for the quantity of excess production at a
23 rate equal to—

24 (1) the Federal royalty rate in effect for the
25 production of valuable locatable minerals from feder-

1 ally owned land, if such a rate is enacted before De-
2 cember 31, 2012; or

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

7 (c) STATE LAW UNAFFECTED.—Nothing in this Act
8 modifies, expands, diminishes, amends, or otherwise af-
9 fects any State law (including regulations) relating to the
10 imposition, application, timing, or collection of a State ex-
11 cise or severance tax under Arizona Revised Statutes 42–
12 5201–5206.

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

15 (1) be deposited in a special account of the
16 Treasury; and

17 (2) remain available, without further appropria-
18 tion, to the Secretary and the Secretary of the Inte-
19 rior, as the Secretaries jointly determine to be ap-
20 propriate, for the acquisition of land or interests in
21 land from willing sellers in the State of Arizona.

22 **SEC. 13. MISCELLANEOUS PROVISIONS.**

23 (a) REVOCATION OF ORDERS; WITHDRAWAL.—

24 (1) REVOCATION OF ORDERS.—Any public land
25 order that withdraws the Federal land from appro-

1 priation or disposal under a public land law shall be
2 revoked to the extent necessary to permit disposal of
3 the land.

4 (2) WITHDRAWAL.—On the date of enactment
5 of this Act, if the Federal land or any Federal inter-
6 est in the non-Federal land to be exchanged under
7 section 4 is not withdrawn or segregated from entry
8 and appropriation under a public land law (including
9 mining and mineral leasing laws and the Geothermal
10 Steam Act of 1970 (30 U.S.C. 1001 et seq.)), the
11 land or interest shall be withdrawn, without further
12 action required by the Secretary concerned, from
13 entry and appropriation, subject to the valid existing
14 rights of Resolution Copper, until the date of the
15 conveyance of Federal land under section 4(b).

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

17 (1) MINOR ERRORS.—The Secretary concerned
18 and Resolution Copper, may correct, by mutual
19 agreement, any minor errors in any map, acreage es-
20 timate, or description of any land conveyed or ex-
21 changed under this Act.

22 (2) CONFLICT.—If there is a conflict between a
23 map, an acreage estimate, or a description of land
24 under this Act, the map shall control unless the Sec-

1 retary concerned and Resolution Copper mutually
2 agree otherwise.

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

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