

**Calendar No. 279**111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 409****[Report No. 111-129]**

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.

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**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

MARCH 2, 2010

Reported by Mr. BINGAMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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**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”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

8 (1) to authorize, direct, facilitate, and expedite  
9 the conveyance and exchange of land between the  
10 United States and Resolution Copper;

11 (2) to provide for the permanent protection of  
12 cultural resources and uses of the Apache Leap es-  
13 carpment located near the town of Superior, Ari-  
14 zona; and

15 (3) to secure Federal ownership and protection  
16 of land with significant natural, scenic, recreational,  
17 water, riparian, cultural and other resources.

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

20 (1) **APACHE LEAP.**—The term “Apache Leap”  
21 means the approximately 822 acres of land (includ-  
22 ing the approximately 110 acres of land of Resolu-  
23 tion Copper described in section 4(e)(1)(G)), as de-  
24 picted on the map entitled “Apache Leap” and  
25 dated January 2009.

1           (2) ~~FEDERAL LAND.~~—The term “Federal land”  
2 means the approximately 2,406 acres of land located  
3 in Pinal County, Arizona, depicted on the map enti-  
4 tled “Southeast Arizona Land Exchange and Con-  
5 servation Act of 2009—Federal Parcel—Oak Flat”  
6 and dated January 2009.

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

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

12           (A) comprised of approximately 16 devel-  
13 oped campsites and adjacent acreage at a total  
14 of approximately 50 acres; and

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

17          (5) ~~OAK FLAT WITHDRAWAL AREA.~~—The term  
18 “Oak Flat Withdrawal Area” means the approxi-  
19 mately 760 acres of land depicted on the map enti-  
20 tled “Oak Flat Withdrawal Area” and dated Janu-  
21 ary 2009.

22          (6) ~~RESOLUTION COPPER.~~—The term “Resolu-  
23 tion Copper” means—

24           (A) Resolution Copper Mining, LLC, a  
25 Delaware limited liability company; and

1           (B) any successor, assign, affiliate, mem-  
 2           ber, or joint venturer of Resolution Copper Min-  
 3           ing, LLC.

4           (7) SECRETARY.—The term “Secretary” means  
 5           the Secretary of Agriculture.

6           (8) SECRETARY CONCERNED.—The term “Sec-  
 7           retary concerned” means the Secretary of Agri-  
 8           culture or the Secretary of the Interior, as applica-  
 9           ble.

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

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

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

15               (1) to secure Federal ownership and protection  
 16               of significant natural, scenic, and recreational re-  
 17               sources; and

18               (2) to facilitate efficient extraction of mineral  
 19               resources.

20          (b) OFFER BY RESOLUTION COPPER.—

21               (1) IN GENERAL.—Subject to section 9(b)(1), if  
 22               Resolution Copper submits to the Secretary of Agri-  
 23               culture a written offer, in accordance with para-  
 24               graph (2), to convey to the United States all right,

1 title, and interest of Resolution Copper in and to the  
 2 non-Federal land, the Secretary shall—

3 (A) accept the offer; and

4 (B) convey to Resolution Copper all right,  
 5 title, and interest of the United States in and  
 6 to the Federal land, subject to—

7 (i) section 10(c); and

8 (ii) any valid existing right or title  
 9 reservation, easement, or other exception  
 10 required by law or agreed to by the Sec-  
 11 retary concerned and Resolution Copper.

12 ~~(2) REQUIREMENTS.—~~Title to any non-Federal  
 13 land conveyed by Resolution Copper to the United  
 14 States under paragraph (1) shall—

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

17 (B) conform to the title approval standards  
 18 of the Attorney General of the United States  
 19 applicable to land acquisitions by the Federal  
 20 Government.

21 ~~(c) RESOLUTION COPPER LAND EXCHANGE.—~~On re-  
 22 ceipt of title to the Federal land under subsection  
 23 (b)(1)(B), Resolution Copper shall simultaneously con-  
 24 vey—

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

4           (A) the approximately 147 acres of land lo-  
5 cated in Gila County, Arizona, depicted on the  
6 map entitled “Southeast Arizona Land Ex-  
7 change and Conservation Act of 2009–Non-  
8 Federal Parcel–Turkey Creek” and dated Janu-  
9 ary 2009;

10           (B) the approximately 148 acres of land  
11 located in Yavapai County Arizona, depicted on  
12 the map entitled “Southeast Arizona Land Ex-  
13 change and Conservation Act of 2009–Non-  
14 Federal Parcel–Tangle Creek” and dated Janu-  
15 ary 2009;

16           (C) the approximately 149 acres of land lo-  
17 cated in Maricopa County, Arizona, depicted on  
18 the map entitled “Southeast Arizona Land Ex-  
19 change and Conservation Act of 2009–Non-  
20 Federal Parcel–Cave Creek” and dated January  
21 2009;

22           (D) the approximately 88 acres of land lo-  
23 cated in Pinal County, Arizona, depicted on the  
24 map entitled “Southeast Arizona Land Ex-  
25 change and Conservation Act of 2009–Non-

1 Federal Parcel—J-I Ranch” and dated January  
2 2009;

3 (E) the approximately 640 acres of land  
4 located in Coconino County, Arizona, depicted  
5 on the map entitled “Southeast Arizona Land  
6 Exchange and Conservation Act of 2009—Non-  
7 Federal Parcel—East Clear Creek” and dated  
8 January 2009;

9 (F) the approximately 95 acres of land lo-  
10 cated in Pinal County, Arizona, depicted on the  
11 map entitled “Southeast Arizona Land Ex-  
12 change and Conservation Act of 2009—Non-  
13 Federal Parcel—The Pond” and dated January  
14 2009; and

15 (G) subject to the retained rights under  
16 subsection (d)(2), the approximately 110 acres  
17 of land located in Pinal County, Arizona, de-  
18 picted on the map entitled “Southeast Arizona  
19 Land Exchange and Conservation Act of 2009—  
20 Non-Federal Parcel—Apache Leap South End”  
21 and dated January 2009; and

22 (2) to the Secretary of the Interior, all right,  
23 title, and interest that the Secretary of the Interior  
24 determines to be acceptable in and to—

1           (A) the approximately 3,073 acres of land  
 2           located in Pinal County, Arizona, depicted on  
 3           the map entitled “Southeast Arizona Land Ex-  
 4           change and Conservation Act of 2009–Non-  
 5           Federal Parcel–Lower San Pedro River” and  
 6           dated January 2009;

7           (B) the approximately 160 acres of land  
 8           located in Gila and Pinal Counties, Arizona, de-  
 9           picted on the map entitled “Southeast Arizona  
 10          Land Exchange and Conservation Act of 2009–  
 11          Non-Federal Parcel–Dripping Springs” and  
 12          dated January 2009; and

13          (C) the approximately 956 acres of land lo-  
 14          cated in Santa Cruz County, Arizona, depicted  
 15          on the map entitled “Southeast Arizona Land  
 16          Exchange and Conservation Act of 2009–Non-  
 17          Federal Parcel–Appleton Ranch” and dated  
 18          January 2009.

19          (d) ADDITIONAL CONSIDERATION TO UNITED  
 20 STATES.—

21           (1) SURRENDER OF RIGHTS.—Subject to para-  
 22           graph (2), in addition to the non-Federal land to be  
 23           conveyed to the United States under subsection (c),  
 24           and as a condition of the land exchange under this  
 25           section, Resolution Copper shall surrender to the



1 United States, without compensation, the rights held  
2 by Resolution Copper under mining and other laws  
3 of the United States—

4 (A) to commercially extract minerals  
5 under—

6 (i) Apache Leap; or

7 (ii) the parcel identified in subsection

8 (c)(1)(F); and

9 (B) to disturb the surface of Apache Leap,  
10 except with respect to such fences, signs, moni-  
11 toring wells, and other devices, instruments, or  
12 improvements as are necessary to monitor the  
13 public health and safety or achieve other appro-  
14 priate administrative purposes, as determined  
15 by the Secretary, in consultation with Resolu-  
16 tion Copper.

17 (2) EXPLORATION ACTIVITIES.—Nothing in this  
18 Act prohibits Resolution Copper from using any ex-  
19 isting mining claim held by Resolution Copper on  
20 Apache Leap, or from retaining any right held by  
21 Resolution Copper to the parcel described in sub-  
22 section (c)(1)(G), to carry out any underground ac-  
23 tivities under Apache Leap in a manner that the  
24 Secretary determines will not adversely impact the  
25 surface of Apache Leap (including drilling or locat-

1 ing any tunnels, shafts, or other facilities relating to  
 2 mining, monitoring, or collecting geological or  
 3 hydrological information) that do not involve com-  
 4 mercial mineral extraction under Apache Leap.

5 (e) USE OF EQUALIZATION PAYMENT.—

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

16 (A) the acquisition from willing sellers of  
 17 land or interests in land within the hydro-  
 18 graphic boundary of the San Pedro River and  
 19 tributaries in the State of Arizona; and

20 (B) the management and protection of en-  
 21 dangered species and other sensitive environ-  
 22 mental values and land within the San Pedro  
 23 Riparian National Conservation Area estab-  
 24 lished by section 101(a) of the Arizona-Idaho  
 25 Conservation Act of 1988 (16 U.S.C. 460xx(a))

1 (including any additions to the area), including  
2 management under any cooperative manage-  
3 ment agreement entered into by the Secretary  
4 of the Interior and a State or local agency  
5 under section 103(e) of that Act (16 U.S.C.  
6 ~~460xx-2(e)~~).

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

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

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

22 (a) SENSE OF CONGRESS REGARDING TIMING OF  
23 EXCHANGE.—It is the sense of Congress that the land ex-  
24 change directed by section 4 should be consummated by

1 not later than 1 year after the date of enactment of this  
2 Act.

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

- 8 (1) threatened or endangered species;
- 9 (2) cultural or historic resources;
- 10 (3) wetland or floodplains; or
- 11 (4) hazardous materials.

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

1 (d) OAK FLAT WITHDRAWAL AREA RESTRICTION.—

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

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

22 (e) EXCHANGE AND POST-EXCHANGE COSTS.—In ac-  
23 cordance with sections 254.4 and 254.7 of title 36, Code  
24 of Federal Regulations (or successor regulations), Resolu-  
25 tion Copper shall assume responsibility for—

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

4           (2) paying, without compensation under section  
5 254.7 of title 36, Code of Federal Regulations (or a  
6 successor regulation)—

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

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

17           (C) the costs of achieving compliance with  
18 the National Environmental Policy Act of 1969  
19 (42 U.S.C. 4321 et seq.) under subsection (c);  
20 and

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

23 (f) CONTRACTOR WORK AND APPROVALS.—

24           (1) IN GENERAL.—Any work relating to the ex-  
25 change or conveyance of land under this Act that is

1 performed by a contractor shall be subject to the  
 2 mutual agreement of the Secretary concerned and  
 3 Resolution Copper, including any agreement with re-  
 4 spect to—

5 (A) the selection of the contractor; and

6 (B) the scope of work performed by the  
 7 contractor.

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

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

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

18 (a) CONVEYANCE REQUIREMENTS.—

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

22 (2) DESCRIPTION OF REQUEST.—A request re-  
 23ferred to in paragraph (1) is a request by the  
 24 Town—

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

3           (B) that is submitted to the Secretary by  
4 not later than 90 days after the date of con-  
5 summation of the land exchange under section  
6 4.

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

12           (b) IDENTIFICATION OF PARCELS.—The Town may  
13 request conveyance of any of—

14           (1) the approximately 30 acres of land located  
15 in Pinal County, Arizona, occupied on the date of  
16 enactment of this Act by the Fairview Cemetery and  
17 depicted on the map entitled “Southeast Arizona  
18 Land Exchange and Conservation Act of 2009—Fed-  
19 eral Parcel—Fairview Cemetery” and dated January  
20 2009;

21           (2) the reversionary interest, and any reserved  
22 mineral interest, of the United States in the approxi-  
23 mately 265 acres of land located in Pinal County,  
24 Arizona, depicted on the map entitled “Southeast  
25 Arizona Land Exchange and Conservation Act of



1       ~~2009–Federal Reversionary Interest–Superior Air-~~  
 2       ~~port~~<sup>2</sup> and dated January 2009; and

3           ~~(3) all or any portion of the approximately 250~~  
 4       ~~acres of land located in Pinal County, Arizona, de-~~  
 5       ~~pieted on the map entitled “Southeast Arizona Land~~  
 6       ~~Exchange and Conservation Act of 2009–Federal~~  
 7       ~~Parcel–Superior Airport Contiguous Parcels~~<sup>2</sup> and  
 8       ~~dated January 2009.~~

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

14      ~~**SEC. 7. VALUATION OF LAND EXCHANGED OR CONVEYED.**~~

15      ~~(a) EXCHANGE VALUATION.—~~

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

21           ~~(2) APPRAISALS.—~~

22           ~~(A) IN GENERAL.—An appraisal under this~~  
 23      ~~section shall be—~~

1 (i) performed by an appraiser mutu-  
 2 ally agreed to by the Secretary and Resolu-  
 3 tion Copper;

4 (ii) performed in accordance with—

5 (I) the Uniform Appraisal Stand-  
 6 ards for Federal Land Acquisitions  
 7 (Department of Justice, 5th Edition,  
 8 December 20, 2000);

9 (II) the Uniform Standards of  
 10 Professional Appraisal Practice; and

11 (III) Forest Service appraisal in-  
 12 structions; and

13 (iii) submitted to the Secretary for re-  
 14 view and approval.

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

21 (i) for a period of 3 years after the  
 22 approval by the Secretary of the final ap-  
 23 praised value under subparagraph (A)(iii);  
 24 or

1           (ii) at all, in accordance with section  
2           254.14 of title 36, Code of Federal Regula-  
3           tions (or a successor regulation); after an  
4           exchange agreement is entered into by Res-  
5           olution Copper and the Secretary.

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

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

17          (4) FEDERAL LAND APPRAISAL.—

18           (A) IN GENERAL.—The Federal land shall  
19           be appraised in accordance with the standards  
20           and instructions referred to in paragraph  
21           (2)(A)(ii) and other applicable requirements of  
22           this section.

23           (B) TREATMENT AS UNENCUMBERED.—  
24           The value of the Federal land outside the Oak  
25           Flat Withdrawal Area shall be determined as if

1 the land is unencumbered by any unpatented  
2 mining claims of Resolution Copper.

3 (C) EFFECT.—Nothing in this Act affects  
4 the validity of any unpatented mining claim or  
5 right of Resolution Copper.

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

18 (b) EQUALIZATION OF VALUE.—

19 (1) SURPLUS OF FEDERAL LAND VALUE.—

20 (A) IN GENERAL.—If the final appraised  
21 value of the Federal land exceeds the value of  
22 the non-Federal land involved in the exchange  
23 under section 4, Resolution Copper shall make  
24 a cash equalization payment into the Federal  
25 Land Disposal Account (as provided in sub-

1 section (c)) to equalize the values of the Fed-  
 2 eral land and non-Federal land.

3 (B) AMOUNT OF PAYMENT.—Notwith-  
 4 standing section 206(b) of the Federal Land  
 5 Policy and Management Act of 1976 (43 U.S.C.  
 6 1716(b)), the United States may accept a cash  
 7 equalization payment under subparagraph (A)  
 8 in an amount that is greater than 25 percent  
 9 of the value of the Federal land.

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

11 If the final appraised value of the non-Federal land  
 12 exceeds the value of the Federal land involved in the  
 13 exchange under section 4—

14 (A) the United States shall not make a  
 15 payment to Resolution Copper to equalize the  
 16 values of the land; and

17 (B) the surplus value of the non-Federal  
 18 land shall be considered to be a donation by  
 19 Resolution Copper to the United States.

20 (3) PAYMENT FOR LAND CONVEYED TO  
 21 TOWN.—

22 (A) IN GENERAL.—The Town shall pay the  
 23 Secretary market value for any land acquired  
 24 by the Town from the Secretary under section  
 25 6, as determined by the Secretary through an

1 appraisal conducted in accordance with sub-  
2 section (a)(2).

3 (B) CREDIT.—If the final appraised value  
4 of the non-Federal land exceeds the value of the  
5 Federal land in the exchange under section 4,  
6 the obligation of the Town to pay the United  
7 States under subparagraph (A) shall be reduced  
8 by an amount equal to the excess value of the  
9 non-Federal land conveyed to the United  
10 States.

11 (4) DISPOSITION AND USE OF PROCEEDS.—

12 (A) CASH EQUALIZATION PAYMENTS.—Any  
13 cash equalization payment under paragraph  
14 (1)(A) shall be deposited, without further ap-  
15 propriation, in the Federal Land Disposal Ac-  
16 count for use in accordance with section 4(c).

17 (B) PAYMENT FOR LAND CONVEYED TO  
18 TOWN.—Any payment received by the Secretary  
19 from the Town under paragraph (3)(A) shall  
20 be—

21 (i) deposited in the fund established  
22 under Public Law 90-171 (commonly  
23 known as the “Sisk Act”) (16 U.S.C.  
24 484a); and

1                   (ii) made available to the Secretary,  
2                   without further appropriation, for the ac-  
3                   quisition of land for addition to the Na-  
4                   tional Forest System in the State of Ari-  
5                   zona.

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

7       (a) APACHE LEAP PROTECTION AND MANAGE-  
8       MENT.—

9               (1) IN GENERAL.—To permanently protect the  
10              cultural, historic, educational, and natural resource  
11              values of Apache Leap, effective beginning on the  
12              date of enactment of this Act, the Secretary shall—

13              (A) manage Apache Leap in accordance  
14              with the laws (including regulations) applicable  
15              to the National Forest System; and

16              (B) place special emphasis on preserving  
17              the natural character of Apache Leap.

18              (2) WITHDRAWAL.—Subject to the valid exist-  
19              ing rights of Resolution Copper under section  
20              4(d)(2), effective beginning on the date of enactment  
21              of this Act, Apache Leap shall be permanently with-  
22              drawn from all forms of entry and appropriation  
23              under—

24              (A) the public land laws (including the  
25              mining and mineral leasing laws); and

1           (B) the Geothermal Steam Act of 1970  
2           (30 U.S.C. 1001 et seq.);

3           (b) ~~ADDITIONAL PROTECTIONS, ANALYSIS, AND~~  
4 ~~PLAN.—~~

5           (1) ~~MANAGEMENT PLAN.—~~Not later than 4  
6 years after the date of enactment of this Act, the  
7 Secretary, in consultation with the Town, Resolution  
8 Copper, the Yavapai and Apache Indian tribes, and  
9 other interested members of the public, shall solicit  
10 public comment regarding, and initiate implementa-  
11 tion of, a management plan for Apache Leap.

12           (2) ~~PLANNING CONSIDERATIONS.—~~The plan de-  
13 scribed in paragraph (1) shall examine, among other  
14 matters, whether Apache Leap should be managed  
15 to establish—

16           (A) additional cultural and historical re-  
17 source protections or measures, including per-  
18 manent or seasonal closures of any portion of  
19 Apache Leap to protect cultural or archeological  
20 resources;

21           (B) additional or alternative public access  
22 routes, trails, and trailheads to Apache Leap;  
23 or

24           (C) additional opportunities (including ap-  
25 propriate access) for rock climbing, with special



1 emphasis on improved rock climbing access to  
2 Apache Leap from the west.

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

7 **SEC. 9. INCORPORATION, MANAGEMENT, AND STATUS OF**  
8 **ACQUIRED LAND.**

9 (a) LAND ACQUIRED BY SECRETARY.—

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

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

14 (B) be administered in accordance with the  
15 laws (including regulations) applicable to the  
16 National Forest System.

17 (2) BOUNDARIES.—For purposes of section 7 of  
18 the Land and Water Conservation Fund Act of 1965  
19 (16 U.S.C. 4601 et seq.), the boundaries of a Na-  
20 tional Forest in which land acquired by the Sec-  
21 retary is located shall be deemed to be the bound-  
22 aries of that forest as in existence on January 1,  
23 1965.

24 (3) MANAGEMENT OF J-I RANCH.—

1           (A) IN GENERAL.—On the date on which  
 2           the Secretary acquires the J-I Ranch parcel de-  
 3           scribed in section 4(e)(1)(D), the Secretary  
 4           shall manage the land to allow Yavapai and  
 5           Apache Indian tribes—

6                     (i) to access the land; and

7                     (ii) to undertake traditional activities  
 8           relating to the gathering of acorns.

9           (B) AUTHORITY OF SECRETARY.—On re-  
 10          ceipt of a request from the Yavapai or Apache  
 11          Indian tribe, the Secretary may temporarily or  
 12          seasonally close to the public any portion of the  
 13          J-I Ranch during the period in which the  
 14          Yavapai or Apache Indian tribe carries out any  
 15          activity described in subparagraph (A)(ii).

16       (b) ROCK CLIMBING.—

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

20           (2) USE OF FUNDS.—The Secretary shall use  
 21          the amount described in paragraph (1), without fur-  
 22          ther appropriation, to construct or improve road ac-  
 23          cess, turnouts, trails, camping, parking areas, or  
 24          other facilities to promote and enhance rock climb-  
 25          ing, bouldering, and such other outdoor recreational

1 opportunities as the Secretary determines to be ap-  
2 propriate—

3 (A) in the general area north of Arizona  
4 State Highway 60 encompassing the parcel de-  
5 scribed in section 4(c)(1)(F) and adjacent Na-  
6 tional Forest land to the north of that parcel  
7 (commonly known as the “upper Pond area”);  
8 or

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

13 (3) TIMING.—To the maximum extent prac-  
14 ticable, the Secretary shall use the amount described  
15 in paragraph (1) during the 2-year period beginning  
16 on the date of consummation of the land exchange  
17 under section 4.

18 (4) THE POND PARCEL WORK.—

19 (A) IN GENERAL.—To improve rock climb-  
20 ing opportunities in the parcel described in sec-  
21 tion 4(c)(1)(F) and the upper Pond area, Reso-  
22 lution Copper, in consultation with the Sec-  
23 retary and rock climbing interests, may con-  
24 struct roads or improve road access to, con-  
25 struct trails, camping, parking areas, or other

1 facilities on, or provide other access to, the  
2 Pond parcel described in section 4(e)(1)(F) be-  
3 fore the date of the conveyance under section  
4 4(e).

5 (B) COSTS.—Resolution Copper shall pay  
6 the cost of any activity carried out under sub-  
7 paragraph (A), in addition to the amount speci-  
8 fied in paragraph (1).

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

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

12 (A) become part of the Federal administra-  
13 tive area (including the Las Cienegas National  
14 Conservation Area or other national conserva-  
15 tion area, if applicable) within which the land  
16 is located or to which the land is adjacent; and

17 (B) be managed in accordance with the  
18 laws (including regulations) applicable to the  
19 Federal administrative area or national con-  
20 servation area within which the land is located  
21 or to which the land is adjacent.

22 (2) LOWER SAN PEDRO RIVER LAND.—To pre-  
23 serve and enhance the natural character and con-  
24 servation value of the lower San Pedro River land  
25 described in section 4(e)(2)(A), on acquisition of the

1 land by the Secretary of the Interior, the land shall  
 2 be automatically incorporated in, and administered  
 3 as part of, the San Pedro Riparian National Con-  
 4 servation Area.

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

10 (1) the public land laws (including the mining  
 11 and mineral leasing laws); and

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

14 **SEC. 10. OAK FLAT CAMPGROUND.**

15 (a) REPLACEMENT CAMPGROUNDS.—

16 (1) IN GENERAL.—Not later than 4 years after  
 17 the date of enactment of this Act, the Secretary, in  
 18 consultation with Resolution Copper, the Town, and  
 19 other interested parties, shall design and construct  
 20 in the Globe Ranger District of the Tonto National  
 21 Forest 1 or more replacement campgrounds for the  
 22 Oak Flat Campground (including appropriate access  
 23 routes to any replacement campgrounds).

24 (2) PUBLIC FACILITIES.—Any replacement  
 25 campgrounds under this subsection shall be designed

1 and constructed in a manner that adequately (as de-  
 2 termined in the sole discretion of the Secretary) re-  
 3 places, or improves on, the facilities, functions, and  
 4 amenities available to the public at the Oak Flat  
 5 Campground.

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

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

13 (1) during the 4-year period beginning on the  
 14 date of enactment of this Act, the Secretary shall re-  
 15 tain title to, operate, and maintain the Oak Flat  
 16 Campground; and

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

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

20 (B) title to the Oak Flat Campground  
 21 shall be simultaneously conveyed to Resolution  
 22 Copper.

23 (d) BOULDERBLAST COMPETITION.—During the 5-  
 24 year period beginning on the date of enactment of this  
 25 Act, the Secretary, in consultation with Resolution Cop-

1 per, may issue not more than 1 special use permit per  
 2 calendar year to provide public access to the bouldering  
 3 area on the Federal land for purposes of the annual  
 4 “BoulderBlast” competition.

5 **SEC. 11. TRADITIONAL ACORN GATHERING AND RELATED**  
 6 **ACTIVITIES IN AND AROUND OAK FLAT**  
 7 **CAMPGROUND.**

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

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

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

23 (2) may be modified or revoked by Resolution  
 24 Copper if Resolution Copper, in consultation with  
 25 the Indian tribes, determines that all or a portion of

1 the authorized use area needs to be closed on a tem-  
 2 porary or permanent basis—

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

4 or

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

7 **SEC. 12. VALUE ADJUSTMENT PAYMENT TO UNITED**  
 8 **STATES.**

9 (a) ANNUAL PRODUCTION REPORTING.—

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

21 (2) REPORT CONTENTS.—The reports under  
 22 paragraph (1) shall comply with all recordkeeping  
 23 and reporting requirements of applicable Federal  
 24 laws (including regulations) in effect at the time of  
 25 production relating to the production of valuable



1 locatable minerals in commercial quantities on any  
2 federally owned land.

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

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

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

23 (c) STATE LAW UNAFFECTED.—Nothing in this Act  
24 modifies, expands, diminishes, amends, or otherwise af-  
25 fects any State law (including regulations) relating to the

1 imposition, application, timing, or collection of a State ex-  
 2 cise or severance tax under Arizona Revised Statutes ~~42-~~  
 3 ~~5201-5206~~.

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

6 (1) be deposited in a special account of the  
 7 Treasury; and

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

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

14 (a) REVOCATION OF ORDERS; WITHDRAWAL.—

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

20 (2) WITHDRAWAL.—On the date of enactment  
 21 of this Act, if the Federal land or any Federal inter-  
 22 est in the non-Federal land to be exchanged under  
 23 section 4 is not withdrawn or segregated from entry  
 24 and appropriation under a public land law (including  
 25 mining and mineral leasing laws and the Geothermal

1       Steam Act of 1970 (30 U.S.C. 1001 et seq.)), the  
 2       land or interest shall be withdrawn, without further  
 3       action required by the Secretary concerned, from  
 4       entry and appropriation, subject to the valid existing  
 5       rights of Resolution Copper, until the date of the  
 6       conveyance of Federal land under section 4(b).

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

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

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

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

23   **SECTION 1. SHORT TITLE.**

24        *This Act may be cited as the “Southeast Arizona Land*  
 25    *Exchange and Conservation Act of 2009”.*

1 **SEC. 2. DEFINITIONS.**

2 *In this Act:*

3 (1) *APACHE LEAP.*—*The term “Apache Leap”*  
4 *means the approximately 822 acres of land depicted*  
5 *on the map entitled “Apache Leap” and dated Janu-*  
6 *ary 2009.*

7 (2) *FEDERAL LAND.*—*The term “Federal land”*  
8 *means the approximately 2,406 acres of land located*  
9 *in Pinal County, Arizona, depicted on the map enti-*  
10 *tled “Southeast Arizona Land Exchange and Con-*  
11 *servation Act of 2009–Federal Parcel–Oak Flat” and*  
12 *dated January 2009.*

13 (3) *INDIAN TRIBE.*—*The term “Indian tribe” has*  
14 *the meaning given the term in section 4 of the Indian*  
15 *Self-Determination and Education Assistance Act (25*  
16 *U.S.C. 450b).*

17 (4) *NON-FEDERAL LAND.*—*The term “non-Fed-*  
18 *eral land” means the parcels of land owned by Reso-*  
19 *lution Copper that are described in section 4(a).*

20 (5) *OAK FLAT WITHDRAWAL AREA.*—*The term*  
21 *“Oak Flat Withdrawal Area” means the approxi-*  
22 *mately 760 acres of land depicted on the map entitled*  
23 *“Oak Flat Withdrawal Area” and dated January*  
24 *2009.*

25 (6) *RESOLUTION COPPER.*—*The term “Resolu-*  
26 *tion Copper” means Resolution Copper Mining, LLC,*

1        *a Delaware limited liability company, including any*  
2        *successor, assign, affiliate, member, or joint venturer*  
3        *of Resolution Copper Mining, LLC.*

4            (7) *SECRETARY.—The term “Secretary” means*  
5        *the Secretary of Agriculture.*

6            (8) *STATE.—The term “State” means the State*  
7        *of Arizona.*

8            (9) *TOWN.—The term “Town” means the town of*  
9        *Superior, Arizona.*

10 **SEC. 3. LAND EXCHANGE.**

11        (a) *IN GENERAL.—Subject to the provisions of this*  
12 *Act, if Resolution Copper offers to convey to the United*  
13 *States all right, title, and interest of Resolution Copper in*  
14 *and to the non-Federal land, and if the Secretary deter-*  
15 *mines that the public interest would be well served by mak-*  
16 *ing the exchange, the Secretary shall convey to Resolution*  
17 *Copper, all right, title, and interest of the United States*  
18 *in and to the Federal land.*

19        (b) *COMPLIANCE WITH APPLICABLE LAW.—*

20            (1) *IN GENERAL.—Except as otherwise provided*  
21 *in this Act, the Secretary shall carry out the land ex-*  
22 *change under this section in accordance with section*  
23 *206 of the Federal Land Policy and Management Act*  
24 *of 1976 (43 U.S.C. 1716) and other applicable laws,*

1       *including the National Environmental Policy Act of*  
2       *1969 (42 U.S.C. 4321 et seq.).*

3           (2) *ENVIRONMENTAL REVIEW DOCUMENT.—*

4               (A) *IN GENERAL.—To the maximum extent*  
5       *practicable under the National Environmental*  
6       *Policy Act of 1969 (42 U.S.C. 4321 et seq.) and*  
7       *Council on Environmental Quality regulations,*  
8       *the Secretary, in consultation with the Secretary*  
9       *of the Interior and other affected Federal agen-*  
10       *cies, shall prepare a single environmental review*  
11       *document, which shall be used as the basis for all*  
12       *decisions under Federal law related to the land*  
13       *exchange and connected agency decisions related*  
14       *to the proposed mine on the Federal land.*

15               (B) *EFFECT OF PARAGRAPH.—Nothing in*  
16       *this paragraph precludes the Secretary from*  
17       *using separate environmental review documents*  
18       *prepared in accordance with the National Envi-*  
19       *ronmental Policy Act of 1969 (42 U.S.C. 4321 et*  
20       *seq.) or other applicable laws for exploration or*  
21       *other activities not involving—*

22                       (i) *the land exchange; or*

23                       (ii) *the extraction of minerals in com-*  
24       *mercial quantities by Resolution Copper on*  
25       *or under the Federal land.*

1       (c) *CONDITIONS ON ACCEPTANCE.*—

2             (1) *TITLE.*—*Title to any non-Federal land con-*  
3 *veyed by Resolution Copper to the United States*  
4 *under this Act shall be in a form that is acceptable*  
5 *to—*

6                     (A) *the Secretary, for land to be adminis-*  
7 *tered by the Forest Service; and*

8                     (B) *the Secretary of the Interior, for land to*  
9 *be administered by the Bureau of Land Manage-*  
10 *ment.*

11             (2) *TERMS AND CONDITIONS.*—*The conveyance of*  
12 *the Federal land and non-Federal land under this Act*  
13 *shall be subject to such terms and conditions as the*  
14 *Secretary and the Secretary of the Interior may re-*  
15 *quire.*

16       (d) *CONSULTATION WITH INDIAN TRIBES.*—*Prior to*  
17 *making a public interest determination under subsection*  
18 *(a), the Secretary shall engage in government-to-govern-*  
19 *ment consultation with affected Indian tribes concerning*  
20 *issues related to the exchange, in accordance with applicable*  
21 *laws (including regulations).*

22       (e) *APPRAISALS.*—

23             (1) *IN GENERAL.*—*As soon as practicable after*  
24 *the date of enactment of this Act, the Secretary and*  
25 *Resolution Copper shall select an appraiser to con-*

1        *duct appraisals of the Federal land and non-Federal*  
2        *land.*

3            (2) *REQUIREMENTS.*—

4            (A) *IN GENERAL.*—*Except as provided in*  
5        *subparagraph (B), an appraisal prepared under*  
6        *paragraph (1) shall be conducted in accordance*  
7        *with nationally recognized appraisal standards,*  
8        *including—*

9            (i) *the Uniform Appraisal Standards*  
10        *for Federal Land Acquisitions; and*

11          (ii) *the Uniform Standards of Profes-*  
12        *sional Appraisal Practice.*

13          (B) *FINAL APPRAISED VALUE.*—

14          (i) *IN GENERAL.*—*After the final ap-*  
15        *praised value is determined and approved*  
16        *by the Secretary, the Secretary shall not be*  
17        *required to reappraise or update the final*  
18        *appraised value for a period of 3 years be-*  
19        *ginning on the date of the approval by the*  
20        *Secretary of the final appraised value.*

21          (ii) *REAPPRAISAL.*—*Nothing in this*  
22        *subparagraph precludes the Secretary, prior*  
23        *to entering into an exchange agreement*  
24        *with Resolution Copper, from requiring a*  
25        *reappraisal or update of the final appraisal*



1           *if the Secretary determines that such re-*  
2           *appraisal or update is necessary.*

3           (iii) *IMPROVEMENTS.*—*Any improve-*  
4           *ments made by Resolution Copper prior to*  
5           *entering into an exchange agreement shall*  
6           *not be included in the appraised value of*  
7           *the Federal land.*

8           (C) *PUBLIC REVIEW.*—*Before implementing*  
9           *the land exchange under this Act, the Secretary*  
10          *shall make the appraisals of the land to be ex-*  
11          *changed (or a summary thereof) available for*  
12          *public review.*

13          (3) *ADDITIONAL APPRAISAL INFORMATION.*—

14          (A) *IN GENERAL.*—*The appraiser selected*  
15          *under this subsection shall prepare a detailed in-*  
16          *come capitalization approach analysis, in ac-*  
17          *cordance with the appraisal requirements re-*  
18          *ferred to in paragraph (2)(A), of the market*  
19          *value of the Federal land, even if the income cap-*  
20          *italization approach analysis is not the ap-*  
21          *praisal approach relied on by the appraiser to*  
22          *determine the market value of the Federal land.*

23          (B) *INCLUSION IN FINAL APPRAISAL RE-*  
24          *PORT.*—*The income capitalization approach*  
25          *analysis under subparagraph (A) shall be in-*

1           *cluded in the final appraisal report of the Fed-*  
2           *eral land.*

3           *(f) EQUAL VALUE LAND EXCHANGE.—*

4           *(1) IN GENERAL.—The value of the Federal land*  
5           *and non-Federal land to be exchanged under this Act*  
6           *shall be equal or shall be equalized in accordance with*  
7           *this subsection.*

8           *(2) SURPLUS OF FEDERAL LAND VALUE.—*

9           *(A) IN GENERAL.—If the final appraised*  
10          *value of the Federal land exceeds the value of the*  
11          *non-Federal land, Resolution Copper shall—*

12                 *(i) convey additional non-Federal land*  
13                 *in the State to the Secretary or the Sec-*  
14                 *retary of the Interior, consistent with the re-*  
15                 *quirements of this Act and subject to the ap-*  
16                 *proval of the applicable Secretary;*

17                 *(ii) make a cash payment to the*  
18                 *United States; or*

19                 *(iii) use a combination of the methods*  
20                 *described in clauses (i) and (ii), as agreed*  
21                 *to by Resolution Copper, the Secretary, and*  
22                 *the Secretary of the Interior.*

23           *(B) AMOUNT OF PAYMENT.—The Secretary*  
24           *may accept a payment in excess of 25 percent of*  
25           *the total value of the land or interests conveyed,*

1           *notwithstanding section 206(b) of the Federal*  
2           *Land Policy and Management Act of 1976 (43*  
3           *U.S.C. 1716(b)).*

4           (C) *DISPOSITION AND USE OF PROCEEDS.—*  
5           *Any amounts received by the United States*  
6           *under this paragraph shall be deposited in the*  
7           *fund established under Public Law 90-171 (com-*  
8           *monly known as the “Sisk Act”) (16 U.S.C.*  
9           *484a) and shall be made available to the Sec-*  
10          *retary, without further appropriation, for the ac-*  
11          *quisition of land for addition to the National*  
12          *Forest System in the State.*

13          (3) *SURPLUS OF NON-FEDERAL LAND.—If the*  
14          *final appraised value of the non-Federal land exceeds*  
15          *the value of the Federal land—*

16                 (A) *the United States shall not make a pay-*  
17                 *ment to Resolution Copper to equalize the value;*  
18                 *and*

19                 (B) *except as provided in section 9, the sur-*  
20                 *plus value of the non-Federal land shall be con-*  
21                 *sidered to be a donation by Resolution Copper to*  
22                 *the United States.*

23          (g) *OAK FLAT WITHDRAWAL AREA.—*

24                 (1) *IN GENERAL.—Subject to the provisions of*  
25                 *this subsection and notwithstanding any withdrawal*

1 of the Oak Flat Withdrawal Area from the mining,  
2 mineral leasing, or public land laws, the Secretary  
3 may authorize Resolution Copper to carry out min-  
4 eral exploration activities—

5 (A) under the Oak Flat Withdrawal Area,  
6 so long as such activities would not disturb the  
7 surface of the area; and

8 (B) on the Oak Flat Withdrawal Area (but  
9 not within the Oak Flat Campground), so long  
10 as such activities are conducted from a single ex-  
11 ploratory drill pad.

12 (2) *CONDITIONS.*—Any activities undertaken in  
13 accordance with this subsection shall be subject to  
14 such terms and conditions as the Secretary may re-  
15 quire.

16 (3) *TERMINATION.*—The authorization for Reso-  
17 lution Copper to undertake mineral exploration ac-  
18 tivities under this subsection shall terminate on the  
19 earlier of—

20 (A) the date the land is conveyed to Resolu-  
21 tion Copper in accordance with this Act; or

22 (B) the date that is 3 years after the date  
23 a special use permit is issued in accordance with  
24 this subsection.

1       (h) *COSTS.*—As a condition of the land exchange, Reso-  
2 lution Copper shall agree to pay, without compensation,  
3 any costs that are—

4           (1) *associated with the land exchange; and*

5           (2) *agreed to by the Secretary.*

6       (i) *INTENT OF CONGRESS.*—

7           (1) *IN GENERAL.*—It is the intent of Congress  
8 that the Secretary shall complete any necessary envi-  
9 ronmental reviews and public interest determination  
10 on the land exchange not later than 3 years after the  
11 date Resolution Copper submits a mining plan of op-  
12 eration to the Secretary.

13           (2) *AGREEMENT.*—If the Secretary determines  
14 that the public interest would be well served by mak-  
15 ing the land exchange, it is the intent of Congress  
16 that the Secretary seek to enter into an exchange  
17 agreement not later than 90 days after the date of the  
18 public interest determination.

19 **SEC. 4. CONVEYANCE AND MANAGEMENT OF NON-FEDERAL**  
20 **LAND.**

21       (a) *CONVEYANCE.*—On receipt of title to the Federal  
22 land, Resolution Copper shall simultaneously convey—

23           (1) *to the Secretary of Agriculture, all right,*  
24 *title, and interest that the Secretary determines to be*  
25 *acceptable in and to—*

1           (A) the approximately 147 acres of land lo-  
2 cated in Gila County, Arizona, depicted on the  
3 map entitled “Southeast Arizona Land Con-  
4 servation Act of 2009–Non-Federal Parcel–Tur-  
5 key Creek” and dated January 2009;

6           (B) the approximately 148 acres of land lo-  
7 cated in Yavapai County, Arizona, depicted on  
8 the map entitled “Southeast Arizona Land Con-  
9 servation Act of 2009–Non-Federal Parcel–Tan-  
10 gle Creek” and dated January 2009;

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

16           (D) the approximately 640 acres of land lo-  
17 cated in Coconino County, Arizona, depicted on  
18 the map entitled “Southeast Arizona Land Ex-  
19 change and Conservation Act of 2009–Non-Fed-  
20 eral Parcel–East Clear Creek” and dated Janu-  
21 ary 2009;

22           (E) the approximately 95 acres of land lo-  
23 cated in Pinal County, Arizona, depicted on the  
24 map entitled “Southeast Arizona Land Con-

1           *ervation Act of 2009–Non-Federal Parcel–The*  
2           *Pond” and dated January 2009; and*

3                     *(F) the approximately 110 acres of land lo-*  
4                     *cated in Pinal County, Arizona, depicted on the*  
5                     *map entitled “Southeast Arizona Land Con-*  
6                     *servation Act of 2009–Non-Federal Parcel–*  
7                     *Apache Leap South End” and dated January*  
8                     *2009, subject to the retained right of Resolution*  
9                     *Copper to conduct underground activities that—*

10                             *(i) the Secretary determines would not*  
11                             *disturb the surface of Apache Leap; and*

12                             *(ii) do not involve commercial mineral*  
13                             *extraction under Apache Leap; and*

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

17                             *(A) the approximately 3,050 acres of land*  
18                             *located in Pinal County, Arizona, identified as*  
19                             *“Lands to DOI” as generally depicted on the*  
20                             *map entitled “Lower San Pedro River” and*  
21                             *dated June 3, 2009;*

22                             *(B) the approximately 160 acres of land lo-*  
23                             *cated in Gila and Pinal Counties, Arizona, iden-*  
24                             *tified as “Lands to DOI” as generally depicted*

1           on the map entitled “Dripping Springs” and  
2           dated June 3, 2009; and

3           (C) the approximately 940 acres of land lo-  
4           cated in Santa Cruz County, Arizona, identified  
5           as “Lands to DOI” as generally depicted on the  
6           map entitled “Appleton Ranch” and dated June  
7           3, 2009.

8           (b) *MANAGEMENT OF ACQUIRED LAND.*—

9           (1) *LAND ACQUIRED BY THE SECRETARY.*—

10           (A) *IN GENERAL.*—Land acquired by the  
11           Secretary under this Act shall—

12                   (i) become part of the national forest  
13                   in which the land is located; and

14                   (ii) be administered in accordance  
15                   with the laws applicable to the National  
16                   Forest System.

17           (B) *BOUNDARY REVISION.*—On acquisition  
18           of land by the Secretary under this Act, the  
19           boundaries of the national forest shall be modi-  
20           fied to reflect the inclusion of the acquired land.

21           (C) *LAND AND WATER CONSERVATION*  
22           *FUND.*—For purposes of section 7 of the Land  
23           and Water Conservation Fund Act of 1965 (16  
24           U.S.C. 460l–9), the boundaries of a national for-  
25           est in which land acquired by the Secretary is



1           *located shall be deemed to be the boundaries of*  
2           *that forest as in existence on January 1, 1965.*

3           (2) *LAND ACQUIRED BY THE SECRETARY OF THE*  
4           *INTERIOR.—*

5                     (A) *SAN PEDRO RIPARIAN NATIONAL CON-*  
6                     *SERVATION AREA.—*

7                             (i) *IN GENERAL.—The following land*  
8                             *shall be added to, and administered as part*  
9                             *of, the San Pedro Riparian National Con-*  
10                            *servation Area in accordance with the laws*  
11                            *(including regulations) applicable to the*  
12                            *Conservation Area:*

13                                     (I) *The land acquired by the Sec-*  
14                                     *retary of the Interior under subsection*  
15                                     *(a)(2)(A).*

16                                     (II) *Any land acquired by the*  
17                                     *Secretary of the Interior which is adja-*  
18                                     *cent to the San Pedro Riparian Na-*  
19                                     *tional Conservation Area.*

20                                     (ii) *MANAGEMENT PLAN.—Not later*  
21                                     *than 2 years after the date on which the*  
22                                     *land is acquired, the Secretary of the Inte-*  
23                                     *rior shall update the management plan for*  
24                                     *the San Pedro Riparian National Conserva-*

1                    *tion Area to reflect the management require-*  
2                    *ments of the acquired land.*

3                    *(B) DRIPPING SPRINGS.—Land acquired by*  
4                    *the Secretary of the Interior under subsection*  
5                    *(a)(2)(B) shall be managed in accordance with*  
6                    *the Federal Land Policy and Management Act of*  
7                    *1976 (43 U.S.C. 1701 et seq.) and applicable*  
8                    *land use plans.*

9                    *(C) LAS CIENEGAS NATIONAL CONSERVA-*  
10                    *TION AREA.—Land acquired by the Secretary of*  
11                    *the Interior under subsection (a)(2)(C) shall be*  
12                    *added to, and administered as part of, the Las*  
13                    *Cienegas National Conservation Area in accord-*  
14                    *ance with the laws (including regulations) appli-*  
15                    *cable to the Conservation Area.*

16                    *(c) SURRENDER OF RIGHTS.—In addition to the con-*  
17                    *veyance of the non-Federal land conveyed to the United*  
18                    *States under this Act, and as a condition of the land ex-*  
19                    *change, Resolution Copper shall surrender to the United*  
20                    *States, without compensation, the rights held by Resolution*  
21                    *Copper under the mining laws and other laws of the United*  
22                    *States to commercially extract minerals under—*

23                    *(1) Apache Leap; and*

24                    *(2) the property described in subsection*  
25                    *(a)(1)(E) (commonly known as “The Pond”).*

1 **SEC. 5. RECREATIONAL ACCESS AND IMPROVEMENTS.**

2 (a) *RECREATIONAL ACCESS AND FACILITIES.*—

3 (1) *IN GENERAL.*—As a condition of the land ex-  
4 change under this Act, Resolution Copper shall pay to  
5 the Secretary \$1,250,000, to improve access and fa-  
6 cilities for dispersed recreation and other outdoor rec-  
7 reational activities as provided in paragraph (2).

8 (2) *USE OF AMOUNTS.*—The Secretary shall use  
9 the amount paid in accordance with paragraph (1),  
10 without further appropriation, to construct or im-  
11 prove road access, turnouts, trails, parking areas, or  
12 facilities for dispersed recreation and other outdoor  
13 recreational activities as the Secretary determines to  
14 be appropriate.

15 (3) *PREFERRED LOCATIONS.*—To the maximum  
16 extent practicable, the funds made available under  
17 this subsection shall be used by the Secretary on na-  
18 tional forest land—

19 (A) *in the general area north of Arizona*  
20 *State Highway 60; or*

21 (B) *in the general area along Arizona State*  
22 *Highway 177.*

23 (b) *DETERMINATION OF VALUE.*—Amounts paid by  
24 Resolution Copper under this section shall not be considered  
25 in determining the value of the Federal and non-Federal  
26 land under section 3(f).

1 **SEC. 6. VALUE ADJUSTMENT PAYMENT TO UNITED STATES.**

2 (a) *ANNUAL PRODUCTION REPORTING.*—

3 (1) *IN GENERAL.*—As a condition of the ex-  
4 change, beginning on February 15 of the first cal-  
5 endar year beginning after the date of commencement  
6 of production of valuable locatable minerals in com-  
7 mercial quantities from the Federal land conveyed to  
8 Resolution Copper under section 3, and annually  
9 thereafter, Resolution Copper shall file with the Sec-  
10 retary of the Interior a report indicating the quantity  
11 of locatable minerals produced in commercial quan-  
12 tities from the Federal land during the preceding cal-  
13 endar year.

14 (2) *REPORT CONTENTS.*—The reports under  
15 paragraph (1) shall comply with any recordkeeping  
16 and reporting requirements prescribed by the Sec-  
17 retary or required by applicable Federal laws in effect  
18 at the time of production.

19 (b) *PAYMENT ON PRODUCTION.*—If the cumulative  
20 production of valuable locatable minerals produced in com-  
21 mercial quantities from the Federal land conveyed to Reso-  
22 lution Copper under section 3 exceeds the quantity of pro-  
23 duction of locatable minerals from the Federal land used  
24 in the income capitalization approach analysis prepared  
25 under section 3(e)(3), Resolution Copper shall pay to the  
26 United States, by not later than March 15 of each applica-

1 ble calendar year, a value adjustment payment for the  
 2 quantity of excess production at the same rate assumed for  
 3 the income capitalization approach analysis prepared  
 4 under section 3(e)(3).

5 (c) *STATE LAW UNAFFECTED.*—Nothing in this section  
 6 modifies, expands, diminishes, amends, or otherwise affects  
 7 any State law relating to the imposition, application, tim-  
 8 ing, or collection of a State excise or severance tax.

9 (d) *USE OF FUNDS.*—The funds paid to the United  
 10 States under this section shall be deposited in the fund es-  
 11 tablished under Public Law 90-171 (commonly known as  
 12 the “Sisk Act”) (16 U.S.C. 484a) and shall be made avail-  
 13 able to the Secretary, without further appropriation, for the  
 14 acquisition of land for addition to the National Forest Sys-  
 15 tem in the State.

16 **SEC. 7. WITHDRAWAL.**

17 Subject to valid existing rights, Apache Leap and any  
 18 land acquired by the United States under this Act is with-  
 19 drawn from all forms of—

20 (1) entry, appropriation, or disposal under the  
 21 public land laws;

22 (2) location, entry, and patent under the mining  
 23 laws; and

24 (3) disposition under the mineral leasing, min-  
 25 eral materials, and geothermal leasing laws.

1 **SEC. 8. APACHE LEAP.**

2 (a) *MANAGEMENT.*—

3 (1) *IN GENERAL.*—*The Secretary shall manage*  
4 *Apache Leap to preserve the natural character of*  
5 *Apache Leap and to protect archeological and cul-*  
6 *tural resources located on Apache Leap.*

7 (2) *SPECIAL USE PERMITS.*—*The Secretary may*  
8 *issue to Resolution Copper special use permits allow-*  
9 *ing Resolution Copper to carry out underground ac-*  
10 *tivities (other than the commercial extraction of min-*  
11 *erals) under the surface of Apache Leap that the Sec-*  
12 *retary determines would not disturb the surface of the*  
13 *land, subject to any terms and conditions that the*  
14 *Secretary may require.*

15 (3) *FENCES; SIGNAGE.*—*The Secretary may*  
16 *allow use of the surface of Apache Leap for installa-*  
17 *tion of fences, signs, or other measures necessary to*  
18 *protect the health and safety of the public, protect re-*  
19 *sources located on Apache Leap, or to ensure that ac-*  
20 *tivities conducted under paragraph (2) do not affect*  
21 *the surface of Apache Leap.*

22 (b) *PLAN.*—

23 (1) *IN GENERAL.*—*Not later than 3 years after*  
24 *the date of enactment of this Act, the Secretary, in*  
25 *consultation with applicable Indian tribes, the Town,*  
26 *Resolution Copper, and other interested members of*

1        *the public, shall prepare a management plan for*  
 2        *Apache Leap.*

3            (2) *CONSIDERATIONS.—In preparing the plan*  
 4        *under paragraph (1), the Secretary shall consider*  
 5        *whether additional measures are necessary to—*

6            (A) *protect the cultural, archaeological, or*  
 7        *historical resources of Apache Leap, including*  
 8        *permanent or seasonal closures of all or a por-*  
 9        *tion of Apache Leap; and*

10          (B) *provide access for recreation.*

11 **SEC. 9. CONVEYANCES TO TOWN OF SUPERIOR, ARIZONA.**

12        (a) *CONVEYANCES.—*

13            (1) *IN GENERAL.—On request from the Town*  
 14        *and subject to the provisions of this section, the Sec-*  
 15        *retary shall convey to the Town the following:*

16            (A) *Approximately 30 acres of land as de-*  
 17        *scribed on the map entitled “Southeast Arizona*  
 18        *Land Exchange and Conservation Act of 2009–*  
 19        *Federal Parcel–Fairview Cemetery” and dated*  
 20        *January 2009.*

21            (B) *The reversionary interest and any re-*  
 22        *served mineral interest of the United States in*  
 23        *the approximately 265 acre of land located in*  
 24        *Pinal County, Arizona, as depicted on the map*  
 25        *entitled “Southeast Arizona Land Exchange and*

1           *Conservation Act of 2009–Federal Reversionary*  
2           *Interest–Superior Airport” and dated January*  
3           *2009.*

4           (C) *The approximately 250 acres of land lo-*  
5           *cated in Pinal County, Arizona, as depicted on*  
6           *the map entitled “Southeast Arizona Land Ex-*  
7           *change and Conservation Act of 2009–Federal*  
8           *Parcel–Superior Airport Contiguous Parcels”*  
9           *and dated January 2009.*

10       (b) *PAYMENT.—*

11           (1) *IN GENERAL.—The Town shall pay to the*  
12           *Secretary the fair market value for each parcel of*  
13           *land or interest in land acquired under this section,*  
14           *as determined by appraisals conducted in accordance*  
15           *with section 3(e).*

16           (2) *REDUCTION.—If the final appraised value of*  
17           *the non-Federal land exceeds the value of the Federal*  
18           *land under section 3—*

19                   (A) *the obligation of the Town to pay the*  
20                   *United States shall be reduced by an amount not*  
21                   *to exceed the excess value of the non-Federal land*  
22                   *conveyed to the United States; and*

23                   (B) *the amount donated by Resolution Cop-*  
24                   *per to the United States shall be reduced accord-*  
25                   *ingly.*



1           (c) *SISK ACT.*—Any payment received by the Sec-  
2   retary from the Town under this section shall be deposited  
3   in the fund established under Public Law 90-171 (com-  
4   monly known as the “Sisk Act”) (16 U.S.C. 484a) and shall  
5   be made available to the Secretary, without further appro-  
6   priation, for the acquisition of land for addition to the Na-  
7   tional Forest System in the State.

8           (d) *TERMS AND CONDITIONS.*—The conveyances under  
9   this section shall be subject to such terms and conditions  
10 as the Secretary may require.

Calendar No. 279

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 409**

[Report No. 111-129]

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**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.

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MARCH 2, 2010

Reported with an amendment