

109TH CONGRESS  
1ST SESSION

# H. R. 2618

To authorize and direct the exchange and conveyance of certain National Forest land and other land in southeast Arizona.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2005

Mr. RENZI (for himself, Mr. PASTOR, Mr. KOLBE, Mr. HAYWORTH, Mr. SHADEGG, Mr. FLAKE, and Mr. FRANKS of Arizona) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To authorize and direct the exchange and conveyance of certain National Forest land and other land in southeast Arizona.

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 2005”.

**6 SEC. 2. PURPOSE.**

7       The purpose of this Act is to further the public interest by authorizing, directing, facilitating, and expediting

1 the conveyance and exchange of land between the United  
2 States and Resolution Copper.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) APACHE LEAP.—The term “Apache Leap”  
6 means the approximately 562 acres of land referred  
7 to as the “Apache Leap Conservation Easement  
8 Area” on the map entitled “Southeast Arizona Land  
9 Exchange and Conservation Act of 2005—Federal  
10 Parcel—Oak Flat”, dated January 2005.

11 (2) FEDERAL LAND.—The term “Federal land”  
12 means the approximately 3,025 acres of land located  
13 in Pinal County, Arizona, depicted on the map enti-  
14 tled “Southeast Arizona Land Exchange and Con-  
15 servation Act of 2005—Federal Parcel—Oak Flat”,  
16 dated January 2005.

17 (3) NON-FEDERAL LAND.—The term “non-Fed-  
18 eral land” means the land described in paragraphs  
19 (1) and (2) of section 4(c).

20 (4) RESOLUTION COPPER.—The term “Resolu-  
21 tion Copper” means—

22 (A) Resolution Copper Mining, LLC, a  
23 Delaware limited liability company; and

1 (B) any successor, assign, transferee,  
2 member, or joint venturer of Resolution Copper  
3 Cooper Mining, LLC.

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

8       (a) IN GENERAL.—On receipt of an offer from Reso-  
9 lution Copper to convey title acceptable to the Secretary  
10 of Agriculture and the Secretary of the Interior, as appli-  
11 cable, to the non-Federal land, the Secretary of Agri-  
12 culture shall convey to Resolution Copper all right, title,  
13 and interest of the United States in and to the Federal  
14 land, subject to any valid existing right or title reservation,  
15 easement, or other exception required by law or agreed  
16 to by the Secretary of Agriculture and Resolution Copper.

17 (b) MANDATED LAND CONVEYANCE.—As a condition  
18 of carrying out the land exchange directed by subsection

19 (a), Reservation Copper shall convey to the United States

20 (1) each parcel of land described in subparagraphs

21 graphs (A) through (D) of subsection (c)(1); and

22 (2) each parcel of land described in subparagraphs

23 graphs (A) and (B) of subsection (c)(2).

24 (c) RESOLUTION COPPER LAND EXCHANGE.—Simul-  
25 taneously with the receipt of title to the Federal land

1 under subsection (a), Resolution Copper shall convey to  
2 the United States—

3 (1) title acceptable to the Secretary of Agriculture to—

5 (A) the approximately 147 acres of land located in Gila County, Arizona, depicted on the  
6 map entitled “Southeast Arizona Land Exchange and Conservation Act of 2005–Non-  
7 Federal Parcel–Turkey Creek”, dated January  
8 2005;

11 (B) the approximately 148 acres of land located in Yavapai County Arizona, depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2005–Non-  
12 Federal Parcel–Tangle Creek”, dated January  
13 2005;

17 (C) the approximately 149.3 acres of land located in Maricopa County, Arizona, depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2005–Non-  
18 Federal Parcel–Cave Creek”, dated January  
19 2005; and

23 (D) the approximately 266 acres of land located in Pinal County, Arizona, depicted on the map entitled “Southeast Arizona Land Ex-

1           change and Conservation Act of 2005–Non-  
2           Federal Parcel–JI Ranch”, dated January  
3           2005; and

4           (2) title acceptable to the Secretary of the Inter-  
5           rior to—

6                   (A) the approximately 3,073 acres of land  
7           located in Pinal County, Arizona, depicted on  
8           the map entitled “Southeast Arizona Land Ex-  
9           change and Conservation Act of 2005–Non-  
10           Federal Parcel–Lower San Pedro River”, dated  
11           January 2005; and

12                   (B) the approximately 1031 acres of land  
13           located in Santa Cruz County, Arizona, de-  
14           picted on the map entitled “Southeast Arizona  
15           Land Exchange and Conservation Act of 2005–  
16           Non-Federal Parcel–Appleton Ranch”, dated  
17           January 2005.

18           (d) CONVEYANCE OF LAND TO TOWN.—

19                   (1) IN GENERAL.—Not later than 60 days be-  
20           fore carrying out the land exchange under subsection  
21           (a), on receipt of a request from the Town, the Sec-  
22           retary of Agriculture shall convey to the Town, for  
23           a price equal to market value, as appraised under  
24           section 5—

15 (C) on receipt of a request from the Town,  
16 any of the 7 parcels of land totaling approxi-  
17 mately 100 acres, located in Pinal County, Ari-  
18 zona, depicted on the map entitled "Southeast  
19 Arizona Land Exchange and Conservation Act  
20 of 2005—Federal Parcel—Superior Airport Con-  
21 tiguous Parcels 1–7", dated January 2005.

22 (2) CONDITION OF CONVEYANCE.—Any convey-  
23 ance of land under paragraph (1) shall be carried  
24 out in a manner that provides the United States  
25 manageable boundaries on any parcel retained by

1 the Secretary of Agriculture, to the maximum extent  
2 practicable.

3 (e) TIMING OF EXCHANGE.—It is the intent of Con-  
4 gress that the land exchange directed by this section be  
5 carried out not later than 1 year after the date of enact-  
6 ment of this Act.

7 (f) COSTS OF CONVEYANCES AND EXCHANGES.—  
8 Resolution Copper shall be responsible for hiring all con-  
9 tractors and paying the costs associated with—

10 (1) all appraisals of land (including reasonable  
11 reimbursement to the Secretary of Agriculture on re-  
12 quest of the Secretary of Agriculture for the cost of  
13 reviewing and approving an appraisal);

14 (2) land surveys, including any necessary land  
15 surveys by the Bureau of Land Management Cadas-  
16 tral Survey; and

17 (3) any other cost agreed to by Resolution Cop-  
18 per and the Secretary of Agriculture.

19 **SEC. 5. VALUATION OF LAND CONVEYED OR EXCHANGED.**

20 (a) EXCHANGE VALUATION.—

21 (1) IN GENERAL.—The values of land ex-  
22 changed or conveyed under section 4 (including any  
23 Federal reversionary interest) shall be equal, as de-  
24 termined by the Secretary of Agriculture through an

1 appraisal conducted in accordance with paragraph  
2 (2).

3 (2) APPRAISALS.—

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

6 (i) performed by an appraiser mutually  
7 agreed to by the Secretary of Agriculture and Resolution Copper;

8 (ii) performed in accordance with—

9 (I) the Uniform Appraisal Standards for Federal Land Acquisitions  
10 (Department of Justice, 5th Edition, December 20, 2000);

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

12 (III) Forest Service appraisal instructions; and

13 (iii) submitted to the Secretary of Agriculture for review and approval.

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

1 (i) for a period of 3 years after the  
2 approval by the Secretary of Agriculture of  
3 the final appraised value under subpara-  
4 graph (A)(iii); or

5 (ii) at all, after an exchange agree-  
6 ment is entered into by Resolution Copper  
7 and the Secretary of Agriculture.

8 (C) PUBLIC REVIEW.—Before carrying out  
9 a land exchange under section 4, the Secretary  
10 of Agriculture shall make available for public  
11 review a summary of the appraisals of the land  
12 to be exchanged.

## 24 (b) EQUALIZATION OF VALUE.—

25 (1) SURPLUS OF FEDERAL LAND VALUE.—

8 (B) COMPLIANCE WITH FEDERAL LAND  
9 POLICY AND MANAGEMENT ACT.—A payment  
10 under subparagraph (A) may be in excess of an  
11 amount authorized by section 206(b) of the  
12 Federal Land Policy and Management Act of  
13 1976 (43 U.S.C. 1716(b)).

14 (C) USE OF FUNDS.—Any funds received  
15 by the Secretary of Agriculture shall be consid-  
16 ered to be money received and deposited in the  
17 fund established under Public Law 90-171  
18 (commonly known as the “Sisk Act”) (16  
19 U.S.C. 484a), and may be used by the Sec-  
20 retary, without further appropriation, for the  
21 acquisition of land for addition to the National  
22 Forest System in the State of Arizona.

23 (2) SURPLUS OF NON-FEDERAL LAND VALUE.—  
24 (A) IN GENERAL.—If the final appraised  
25 value of the non-Federal land exceeds the value

1 of the Federal land in an exchange under sec-  
2 tion 4, the Secretary of the Interior, subject to  
3 the availability of funds, shall make a payment  
4 to Resolution Copper to equalize the values of  
5 the land.

6 (B) WAIVER.—

7 (i) IN GENERAL.—A payment under  
8 subparagraph (A) may be waived in whole  
9 or in part by Resolution Copper.

10 (ii) EFFECT.—An amount waived  
11 under clause (i) shall be considered to be  
12 a donation by Resolution Copper to the  
13 United States for all purposes of law.

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

16 (A) IN GENERAL.—The Town shall pay the  
17 Secretary of Agriculture market value for any  
18 land acquired by the Town from the Secretary  
19 of Agriculture under section 4(d).

20 (B) CREDIT.—If the Secretary of the Inter-  
21 rior owes a payment to Resolution Copper  
22 under paragraph (2)—

23 (i) the Secretary of the Interior shall  
24 credit against the amount owed to Resolu-  
25 tion Copper the market value of any land

2 and

3 (ii) the obligation of the Town to pay  
4 the United States shall be reduced by the  
5 amount of the credit.

6 (C) EFFECT.—An amount credited under  
7 subparagraph (B) shall be considered to be a  
8 donation by Resolution Copper to the Town for  
9 all purposes of law.

## 10 SEC. 6. CONSERVATION EASEMENT.

11 (a) IN GENERAL.—Before the Federal land is con-  
12 veyed under section 4(a), Resolution Copper shall deliver  
13 to the Secretary of Agriculture an executed document  
14 granting a permanent conservation easement to an entity  
15 (referred to in this section as the “grantee”) that is—

16 (1) a qualified unit of government; or

17 (2) a land trust or other qualified organization  
18 as defined in section 170(h) of the Internal Revenue  
19 Code of 1986.

20 (b) EASEMENT AREA.—The area of the conservation  
21 easement under this section shall be the surface estate of  
22 Apache Leap.

23 (c) TERMS.—The conservation easement under this  
24 section shall—

10 (3) provide for appropriate nonmotorized public  
11 access to and use of the easement area, as deter-  
12 mined by Resolution Copper and the grantee.

13 (d) ADDITIONAL PUBLIC ACCESS ROUTES.—

1       able cost of establishing an additional public access  
2       routes, trails, or trailheads under this subsection,  
3       not to exceed \$250,000.

4       (e) EASEMENT AND APPRAISAL.—

5           (1) IN GENERAL.—The requirement for Resolu-  
6       tion Copper to grant the conservation easement shall  
7       not be considered in determining, or result in any  
8       diminution in, the market value of the Federal land  
9       for purposes of the appraisals required under section  
10       5.

11          (2) EFFECT.—The market value of the con-  
12       servation easement and any amount paid by Resolu-  
13       tion Copper under subsection (d)(2) shall be consid-  
14       ered to be a donation by Resolution Copper to the  
15       United States.

16       (f) MINING ACTIVITIES.—

17           (1) IN GENERAL.—Except as provided in sub-  
18       section (c) and other Federal law (including regula-  
19       tions) relating to mining activities on private land,  
20       the conservation easement shall not impose any ad-  
21       ditional restrictions on mining activities carried out  
22       by Resolution Copper after the date of the convey-  
23       ance under section 4(a).

24          (2) LIABILITY.—Resolution Copper shall not be  
25       liable for any damage to the easement area caused

1 by future use or failure of any tunnel or other un-  
2 derground mining works established on the Federal  
3 land on or before the date of the conveyance under  
4 section 4(a).

5 (g) ROLE OF SECRETARY.—Unless otherwise agreed  
6 by the Secretary of Agriculture and Resolution Copper,  
7 the Secretary of Agriculture shall not be—

8 (1) a party to the conservation easement under  
9 this section; or  
10 (2) involved in the drafting, monitoring, or en-  
11 forcement of the conservation easement.

12 **SEC. 7. INCORPORATION, MANAGEMENT, AND STATUS OF**  
13 **ACQUIRED LAND.**

14 (a) LAND ACQUIRED BY THE SECRETARY OF AGRI-  
15 CULTURE.—

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

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

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

23 (2) BOUNDARIES.—For purposes of section 7 of  
24 the Land and Water Conservation Fund Act of 1965  
25 (16 U.S.C. 4601 et seq.), the boundaries of a Na-

1       tional Forest in which land acquired by the Sec-  
2       retary of Agriculture is located shall be deemed to  
3       be the boundaries of that forest as in existence on  
4       January 1, 1965.

5       (b) LAND ACQUIRED BY THE SECRETARY OF THE IN-  
6       TERIOR.—Land acquired by the Secretary of the Interior  
7       under this Act shall—

8               (1) become part of the administrative unit or  
9               area within which the land is located; and  
10              (2) be administered in accordance with the laws  
11              (including regulations) applicable to public land.

12 **SEC. 8. PUBLIC USES OF FEDERAL LAND.**

13       (a) OAK FLAT CAMPGROUND.—

14              (1) REPLACEMENT CAMPGROUND.—

15               (A) IN GENERAL.—Not later than 2 years  
16               after the date of enactment of this Act, the Sec-  
17               retary of Agriculture, in consultation with Reso-  
18               lution Copper, the Town, and other interested  
19               parties, shall design and construct in the Globe  
20               Ranger District of the Tonto National Forest a  
21               replacement campground or campgrounds for  
22               the Oak Flat Campground (including an access  
23               route or routes thereto).

24               (B) PUBLIC FACILITIES.—The replacement  
25               campground or campgrounds shall be designed

1 and constructed in a manner that adequately  
2 (as determined in the sole discretion of the Sec-  
3 retary of Agriculture) replaces, or improves on,  
4 the facilities, functions, and amenities available  
5 to the public at the Oak Flat Campground.

6 (2) COSTS OF REPLACEMENT.—Resolution Cop-  
7 per shall pay the cost of designing, constructing, and  
8 providing access to the replacement campground or  
9 campgrounds under this subsection, not to exceed  
10 \$500,000.

11 (3) INTERIM OAK FLAT CAMPGROUND AC-  
12 CESS.—

13 (A) IN GENERAL.—The document con-  
14veying the Federal land to Resolution Copper  
15 under section 4(a) shall specify that the Sec-  
16 retary of Agriculture shall continue to operate  
17 and maintain the Oak Flat Campground until  
18 the earlier of—

19 (i) the date that is 2 years after the  
20 date of enactment of this Act; or

21 (ii) the date on which the replacement  
22 campground under this subsection is devel-  
23 oped and opened for public use.

24 (B) LIABILITY.—During the interim period  
25 described in subparagraph (A), Resolution Cop-

1           per shall not be liable for any public use of the  
2           Oak Flat Campground.

3           (b) ROCK CLIMBING.—

4           (1) REPLACEMENT ROCK CLIMBING AREA.—

5           (A) IN GENERAL.—Not later than 1 year  
6           after the date of consummation of the land ex-  
7           change under section 4, the Secretary of Agri-  
8           culture, in consultation with the Secretary of  
9           the Interior, Resolution Copper, the Town, local  
10           climbing organizations, and other interested  
11           parties, shall identify and provide a replacement  
12           rock climbing area or areas (including public  
13           access thereto) on National Forest land or pub-  
14           lic land.

15           (B) CHARACTERISTICS.—The replacement  
16           rock climbing area under subparagraph (A)  
17           shall possess, to the maximum extent prac-  
18           ticable (in the sole discretion of the Secretary  
19           of Agriculture), the general characteristics of  
20           the rock climbing area on the Federal land.

21           (2) COSTS OF REPLACEMENT.—Resolution Cop-  
22           per shall pay any costs incurred by the Secretary of  
23           Agriculture or the Secretary of the Interior in study-  
24           ing, accessing, and developing the replacement rock

1 climbing area or areas under this subsection, not to  
2 exceed \$250,000.

3 (3) INTERIM USE.—

4 (A) IN GENERAL.—The document con-  
5veying the Federal land to Resolution Copper  
6 under section 4(a) shall specify that the Sec-  
7 retary of Agriculture—

8 (i) for a period of 2 years after the  
9 date of enactment of this Act, shall con-  
10 tinue to administer and allow public access  
11 to the rock climbing area on the Federal  
12 land; and

13 (ii) for a period of 5 years after the  
14 date of enactment of this Act, may issue  
15 once each year a special use permit for  
16 public access to the bouldering area on the  
17 Federal land for purposes of the annual  
18 “BoulderBlast” competition.

19 (B) LIABILITY.—During the periods de-  
20 scribed in subparagraph (A), Resolution Copper  
21 shall not be liable for any public use of—

22 (i) a rock climbing area on the Fed-  
23 eral land; or

24 (ii) a bouldering area on the Federal  
25 land.

### 3 SEC. 9. MISCELLANEOUS PROVISIONS.

#### 4 (a) CONTRACTORS.—

10 (A) the selection of the contractor; and

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

16 (A) performed by the Secretary concerned;  
17 and

18 (B) subject to Federal, State, and local  
19 laws (including regulations).

24 (b) REVOCATION OF ORDERS: WITHDRAWAL.—

15 (c) MAPS, ESTIMATES, AND DESCRIPTIONS.—

1       Secretary of Agriculture and Resolution Copper  
2       agree otherwise.

3                   (3) PUBLIC INSPECTION.—Upon the enactment  
4       of this Act, the Secretary of Agriculture shall file  
5       and make available for public inspection in the Of-  
6       fice of the Supervisor, Tonto National Forest, any  
7       map referred to in this Act.

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