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111TH CONGRESS
1ST SESSION

H. R. 2509

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

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2009

Mrs. KIRKPATRICK of Arizona (for herself and Mr. FLAKE) introduced the following bill; which was referred to the Committee on Natural Resources

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Southeast Arizona Land Exchange and Conservation Act of 2009''.

SEC. 2. PURPOSES.

The purposes of this Act are—

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

(2) to provide for the permanent protection of cultural resources and uses of the Apache Leap escarpment located near the town of Superior, Arizona; and

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

SEC. 3. DEFINITIONS.

In this Act:

(1) APACHE LEAP.—The term ''Apache Leap'' means the approximately 822 acres of land (including the approximately 110 acres of land of Resolution Copper described in section 4(c)(1)(G)), as depicted on the map entitled ''Apache Leap'' and dated January 2009.

(2) FEDERAL LAND.—The term ''Federal land'' means the approximately 2,406 acres of land located in Pinal County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Federal Parcel–Oak Flat'' and dated January 2009.

(3) NON-FEDERAL LAND.—The term ''non-Federal land'' means each parcel of land described in section 4(c).

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

(A) comprised of approximately 16 developed campsites and adjacent acreage at a total of approximately 50 acres; and

(B) depicted on the map entitled ''Oak Flat Campground'' and dated January 2009.

(5) OAK FLAT WITHDRAWAL AREA.—The term ''Oak Flat Withdrawal Area'' means the approximately 760 acres of land depicted on the map entitled ''Oak Flat Withdrawal Area'' and dated January 2009.

(6) RESOLUTION COPPER.—The term ''Resolution Copper'' means—

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

(B) any successor, assign, affiliate, member, or joint venturer of Resolution Copper Mining, LLC.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(8) SECRETARY CONCERNED.—The term ''Secretary concerned'' means the Secretary of Agriculture or the Secretary of the Interior, as applicable.

(9) TOWN.—The term ''Town'' means the Town of Superior, Arizona, an incorporated municipality.

SEC. 4. LAND CONVEYANCES AND EXCHANGES.

(a) PURPOSES.—The purposes of the land conveyances and exchanges under this section are—

(1) to secure Federal ownership and protection of significant natural, scenic, and recreational resources; and

(2) to facilitate efficient extraction of mineral resources.

(b) OFFER BY RESOLUTION COPPER.—

(1) IN GENERAL.—Subject to section 9(b)(1), if Resolution Copper submits to the Secretary of Agriculture a written offer, in accordance with paragraph (2), to convey to the United States all right, title, and interest of Resolution Copper in and to the non-Federal land, the Secretary shall—

(A) accept the offer; and

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

(i) section 10(c); and

(ii) any valid existing right or title reservation, easement, or other exception required by law or agreed to by the Secretary concerned and Resolution Copper.

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

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

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

(c) RESOLUTION COPPER LAND EXCHANGE.—On receipt of title to the Federal land under subsection (b)(1)(B), Resolution Copper shall simultaneously convey—

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

(A) the approximately 147 acres of land located in Gila County, Arizona, depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2009–Non-

Federal Parcel–Turkey Creek'' and dated January 2009;

(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 2009–Non-Federal Parcel–Tangle Creek'' and dated January 2009;

(C) the approximately 149 acres of land located in Maricopa County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–Cave Creek'' and dated January 2009;

(D) the approximately 88 acres of land located in Pinal County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–J–I Ranch'' and dated January 2009;

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

Federal Parcel–East Clear Creek'' and dated January 2009;

(F) the approximately 95 acres of land located in Pinal County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–The Pond'' and dated January 2009; and

(G) subject to the retained rights under subsection (d)(2), the approximately 110 acres of land located in Pinal County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–Apache Leap South End'' and dated January 2009; and

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

(A) the approximately 3,073 acres of land located in Pinal County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–Lower San Pedro River'' and dated January 2009;

(B) the approximately 160 acres of land located in Gila and Pinal Counties, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–Dripping Springs'' and dated January 2009; and

(C) the approximately 956 acres of land located in Santa Cruz County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Non-Federal Parcel–Appleton Ranch'' and dated January 2009.

(d) ADDITIONAL CONSIDERATION TO UNITED STATES.—

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

(A) to commercially extract minerals under—

(i) Apache Leap; or

(ii) the parcel identified in subsection (c)(1)(F); and

(B) to disturb the surface of Apache Leap, except with respect to such fences, signs, monitoring wells, and other devices, instruments, or improvements as are necessary to monitor the public health and safety or achieve other appropriate administrative purposes, as determined by the Secretary, in consultation with Resolution Copper.

(2) EXPLORATION ACTIVITIES.—Nothing in this Act prohibits Resolution Copper from using any existing mining claim held by Resolution Copper on Apache Leap, or from retaining any right held by Resolution Copper to the parcel described in subsection (c)(1)(G), to carry out any underground activities under Apache Leap in a manner that the Secretary determines will not adversely impact the surface of Apache Leap (including drilling or locating any tunnels, shafts, or other facilities relating to mining, monitoring, or collecting geological or hydrological information) that do not involve commercial mineral extraction under Apache Leap.

(e) USE OF EQUALIZATION PAYMENT.—

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

(A) the acquisition from willing sellers of land or interests in land within the hydrographic boundary of the San Pedro River and tributaries in the State of Arizona; and

(B) the management and protection of endangered species and other sensitive environmental values and land within the San Pedro Riparian National Conservation Area established by section 101(a) of the Arizona-Idaho Conservation Act of 1988 (16 U.S.C. 460xx(a)) (including any additions to the area), including management under any cooperative management agreement entered into by the Secretary of the Interior and a State or local agency

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

(2) PERIOD OF USE.—To the maximum extent feasible, the amount paid into the Federal Land Disposal Account by Resolution Copper under paragraph (1) shall be used by the Secretary and the Secretary of the Interior during the 2-year period beginning on the date of payment.

(3) COOPERATIVE MANAGEMENT AGREEMENTS.—The Secretary of the Interior may enter into such cooperative management agreements with qualified organizations (as defined in section 170(h) of the Internal Revenue Code of 1986) as the Secretary of the Interior determines to be appropriate to administer portions of the San Pedro Riparian National Conservation Area.

SEC. 5. TIMING AND PROCESSING OF EXCHANGE.

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

(b) PRE-EXCHANGE NEPA COMPLIANCE.—

(1) SECRETARIAL DETERMINATION.—The Secretary shall determine whether the exchange directed

by section 4 is subject to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4322(2)).

(2) ANALYSIS.—If the Secretary determines pursuant to paragraph (1) that the exchange is subject to section 102(2) of such Act—

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

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

(C) the analysis in the document, including the analysis of any impacts, effects, and commitments shall—

(i) detail the ecological values (including fish and wildlife, plant communities, wetlands and flood plains, and habitat and potential habitat for threatened and endangered species) of the Federal land and all non-Federal land parcels identified for exchange in section 4(b);

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

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

(iii) shall not consider impacts, effects, and commitments on or related to those values of any uses to be considered in post-exchange compliance with section 102(2) of the National Environmental Policy Act of 1969 described in subsection (d); and

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

(3) DEADLINE.—The document described in this subsection, if determined necessary under paragraph (1), shall be completed within 270 days of the date of enactment of this Act.

(4) NO PRECEDENT.—The procedures under this subsection with regard to the National Environmental Policy Act of 1969 compliance on this land exchange do not establish a precedent with respect to future land exchanges or other Federal land actions directed or mandated by Congress.

(c) EXCHANGE PROCESSING.—Before the date of consummation of the exchange under section 4, the Secretary concerned shall complete any necessary land surveys and required preexchange clearances, reviews, mitigation activities, and approvals relating to—

(1) threatened or endangered species;

(2) cultural or historic resources;

(3) wetland or floodplains; or

(4) hazardous materials.

(d) POST-EXCHANGE PROCESSING.—Before commencing production in commercial quantities of any valuable mineral from the Federal land conveyed to Resolution Copper under section 4(b)(1)(B) (except for any such production from any exploration and mine development shafts, adits, and tunnels needed to determine feasibility and pilot plant testing of commercial production or to access the ore body and tailings deposition areas), the Secretary shall publish an environmental impact statement in accordance with section 102(2)(C) of the National Envi-

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

(e) OAK FLAT WITHDRAWAL AREA RESTRICTION.—

(1) MINERAL EXPLORATION.—To ensure the collection and consideration of adequate information to analyze possible commercial production of minerals by Resolution Copper from the Oak Flat Withdrawal Area, notwithstanding any other provision of law, Resolution Copper may carry out mineral exploration activities under the Oak Flat Withdrawal Area during the period beginning on the date of enactment of this Act and ending on the date of conveyance of the Oak Flat Withdrawal Area to Resolution Copper under section 4(b)(1)(B) by directional drilling or any other method that will not disturb the surface of the land.

(2) SENSE OF CONGRESS REGARDING PERMIT.—It is the sense of Congress that the Secretary should issue to Resolution Copper a permit to conduct appropriate directional drilling or other nonsurface-disturbing exploration in the Oak Flat Withdrawal Area as soon as practicable after the date of enactment of this Act.

(f) EXCHANGE AND POST-EXCHANGE COSTS.—In accordance with sections 254.4 and 254.7 of title 36, Code of Federal Regulations (or successor regulations), Resolution Copper shall assume responsibility for—

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

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

(A) the costs of any appraisal relating to an exchange or conveyance under this Act, including any reasonable reimbursements to the Secretary on request of the Secretary for the cost of reviewing and approving an appraisal;

(B) the costs of any clearances, reviews, mitigation activities, and approvals under subsection (c), including any necessary land surveys conducted by the Bureau of Land Management Cadastral Survey program;

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

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

(g) CONTRACTOR WORK AND APPROVALS.—

(1) IN GENERAL.—Any work relating to the exchange or conveyance of land under this Act that is performed by a contractor shall be subject to the mutual agreement of the Secretary concerned and Resolution Copper, including any agreement with respect to—

(A) the selection of the contractor; and

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

(2) REVIEW AND APPROVAL.—Any required review and approval of work by a contractor shall be performed by the Secretary concerned, in accordance with applicable law (including regulations).

(3) LEAD ACTOR AGREEMENT.—The Secretary of Agriculture and the Secretary of the Interior may mutually agree to designate the Secretary of Agriculture as the lead actor for any action under this subsection.

SEC. 6. CONVEYANCE OF LAND TO TOWN.

(a) CONVEYANCE REQUIREMENTS.—

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

(2) DESCRIPTION OF REQUEST.—A request referred to in paragraph (1) is a request by the Town—

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

(B) that is submitted to the Secretary by not later than 90 days after the date of consummation of the land exchange under section 4.

(3) PRICE.—The Town shall pay to the Secretary a price equal to the market value of any land conveyed under this subsection, as appraised under section 7, less the amount of any credit under section 7(b)(3).

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

(1) the approximately 30 acres of land located in Pinal County, Arizona, occupied on the date of enactment of this Act by the Fairview Cemetery and depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2009–Fed-

eral Parcel–Fairview Cemetery'' and dated January 2009;

(2) the reversionary interest, and any reserved mineral interest, of the United States in the approximately 265 acres of land located in Pinal County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Federal Reversionary Interest–Superior Airport'' and dated January 2009; and

(3) all or any portion of the approximately 250 acres of land located in Pinal County, Arizona, depicted on the map entitled ''Southeast Arizona Land Exchange and Conservation Act of 2009–Federal Parcel–Superior Airport Contiguous Parcels'' and dated January 2009.

(c) CONDITION OF CONVEYANCE.—A conveyance of land under this section shall be carried out in a manner that provides the United States manageable boundaries on any parcel retained by the Secretary, to the maximum extent practicable.

SEC. 7. VALUATION OF LAND EXCHANGED OR CONVEYED.

(a) EXCHANGE VALUATION.—

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

through concurrent appraisals conducted in accordance with paragraph (2).

(2) APPRAISALS.—

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

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

(ii) performed in accordance with—

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

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

(III) Forest Service appraisal instructions; and

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

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

(i) for a period of 3 years after the approval by the Secretary of the final appraised value under subparagraph (A)(iii); or

(ii) at all, in accordance with section 254.14 of title 36, Code of Federal Regulations (or a successor regulation), after an exchange agreement is entered into by Resolution Copper and the Secretary.

(C) PUBLIC REVIEW.—Before consummating the land exchange under section 4, the Secretary shall make available for public review a summary of the appraisals of the land to be exchanged.

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

(4) FEDERAL LAND APPRAISAL.—

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

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

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

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

(D) ADDITIONAL APPRAISAL INFORMATION.—To provide information necessary to calculate a value adjustment payment for purposes of section 12, the appraiser under this paragraph shall include in the appraisal report a detailed royalty income approach analysis, in accordance with the Uniform Appraisal Standards for Federal Land Acquisition, of the market value of the Federal land, even if the royalty income approach analysis is not the appraisal approach relied on by the appraiser to determine the final market value of the Federal land.

(b) EQUALIZATION OF VALUE.—

(1) SURPLUS OF FEDERAL LAND VALUE.—

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

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

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

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

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

(3) PAYMENT FOR LAND CONVEYED TO TOWN.—

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

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

(4) DISPOSITION AND USE OF PROCEEDS.—

(A) CASH EQUALIZATION PAYMENTS.—Any cash equalization payment under paragraph (1)(A) shall be deposited, without further appropriation, in the Federal Land Disposal Account for use in accordance with section 4(e).

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

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

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

(ii) made available to the Secretary, without further appropriation, for the acquisition of land for addition to the National Forest System in the State of Arizona.

SEC. 8. APACHE LEAP PROTECTION AND MANAGEMENT.

(a) APACHE LEAP PROTECTION AND MANAGEMENT.—

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

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

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

(2) WITHDRAWAL.—Subject to the valid existing rights of Resolution Copper under section

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

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

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

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

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

(2) PLANNING CONSIDERATIONS.—The plan described in paragraph (1) shall examine, among other matters, whether Apache Leap should be managed to establish—

(A) additional cultural and historical resource protections or measures, including permanent or seasonal closures of any portion of

Apache Leap to protect cultural or archeological resources;

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

(C) additional opportunities (including appropriate access) for rock climbing, with special emphasis on improved rock climbing access to Apache Leap from the west.

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

SEC. 9. INCORPORATION, MANAGEMENT, AND STATUS OF ACQUIRED LAND.

(a) LAND ACQUIRED BY SECRETARY.—

(1) IN GENERAL.—Land acquired by the Secretary under this Act shall—

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

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

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

(16 U.S.C. 4601 et seq.), the boundaries of a National Forest in which land acquired by the Secretary is located shall be deemed to be the boundaries of that forest as in existence on January 1, 1965.

(3) MANAGEMENT OF J–I RANCH.—

(A) IN GENERAL.—On the date on which the Secretary acquires the J–I Ranch parcel described in section 4(c)(1)(D), the Secretary shall manage the land to allow Yavapai and Apache Indian tribes—

(i) to access the land; and

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

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

(b) ROCK CLIMBING.—

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

(2) USE OF FUNDS.—The Secretary shall use the amount described in paragraph (1), without further appropriation, to construct or improve road access, turnouts, trails, camping, parking areas, or other facilities to promote and enhance rock climbing, bouldering, and such other outdoor recreational opportunities as the Secretary determines to be appropriate—

(A) in the general area north of Arizona State Highway 60 encompassing the parcel described in section 4(c)(1)(F) and adjacent National Forest land to the north of that parcel (commonly known as the ''upper Pond area''); or

(B) in the areas commonly known as ''Inconceivables'' and ''Chill Hill'' located in or adjacent to secs. 26, 35, and 36, T. 2 S., R. 12 E., Gila and Salt River Meridian.

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

(4) THE POND PARCEL WORK.—

(A) IN GENERAL.—To improve rock climbing opportunities in the parcel described in section 4(c)(1)(F) and the upper Pond area, Resolution Copper, in consultation with the Secretary and rock climbing interests, may construct roads or improve road access to, construct trails, camping, parking areas, or other facilities on, or provide other access to, the Pond parcel described in section 4(c)(1)(F) before the date of the conveyance under section 4(c).

(B) COSTS.—Resolution Copper shall pay the cost of any activity carried out under subparagraph (A), in addition to the amount specified in paragraph (1).

(c) LAND ACQUIRED BY SECRETARY OF INTERIOR.—

(1) IN GENERAL.—Land acquired by the Secretary of the Interior under this Act shall—

(A) become part of the Federal administrative area (including the Las Cienegas National Conservation Area or other national conservation area, if applicable) within which the land is located or to which the land is adjacent; and

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

Federal administrative area or national conservation area within which the land is located or to which the land is adjacent.

(2) LOWER SAN PEDRO RIVER LAND.—To preserve and enhance the natural character and conservation value of the lower San Pedro River land described in section 4(c)(2)(A), on acquisition of the land by the Secretary of the Interior, the land shall be automatically incorporated in, and administered as part of, the San Pedro Riparian National Conservation Area.

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

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

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

SEC. 10. OAK FLAT CAMPGROUND.

(a) REPLACEMENT CAMPGROUNDS.—

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

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

(2) PUBLIC FACILITIES.—Any replacement campgrounds under this subsection shall be designed and constructed in a manner that adequately (as determined in the sole discretion of the Secretary) replaces, or improves on, the facilities, functions, and amenities available to the public at the Oak Flat Campground.

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

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

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

(2) at the end of that 4-year period—

(A) the withdrawal of the Oak Flat Campground shall be revoked; and

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

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

SEC. 11. TRADITIONAL ACORN GATHERING AND RELATED ACTIVITIES IN AND AROUND OAK FLAT CAMPGROUND.

(a) SENSE OF CONGRESS REGARDING ACORN GATHERING.—In addition to the acorn gathering opportunities described in section 9(a)(3)(A)(ii), it is the sense of Congress that, on receipt of a request from the Apache or Yavapai Indian tribe or any other Indian tribe during the 180-day period beginning on the date of conveyance of the Federal land to Resolution Copper under section 4, Resolution Copper should endeavor to negotiate and execute a revocable authorization to each applicable Indian tribe

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

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

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

(2) may be modified or revoked by Resolution Copper if Resolution Copper, in consultation with the Indian tribes, determines that all or a portion of the authorized use area needs to be closed on a temporary or permanent basis—

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

(B) to accommodate an exploration or mining plan of Resolution Copper.

SEC. 12. VALUE ADJUSTMENT PAYMENT TO UNITED STATES.

(a) ANNUAL PRODUCTION REPORTING.—

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

tion Copper shall file with the Secretary of the Interior a report indicating the quantity of locatable minerals in commercial quantities produced from the Federal land during the preceding calendar year.

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

(b) PAYMENT ON PRODUCTION.—If the cumulative production of valuable locatable minerals in commercial quantities produced from the Federal land conveyed to Resolution Copper under section 4(b) exceeds the quantity of production of locatable minerals from the Federal land used in the royalty income approach analysis under the Uniform Appraisal Standards for Federal Land Acquisitions prepared under section 7(a)(4)(D), Resolution Copper shall pay to the United States, by not later than March 15 of each applicable calendar year, a value adjustment payment for the quantity of excess production at a rate equal to—

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

ally owned land, if such a rate is enacted before December 31, 2012; or

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

(c) STATE LAW UNAFFECTED.—Nothing in this Act modifies, expands, diminishes, amends, or otherwise affects any State law (including regulations) relating to the imposition, application, timing, or collection of a State excise or severance tax under Arizona Revised Statutes 42–5201–5206.

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

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

(2) remain available, without further appropriation, to the Secretary and the Secretary of the Interior, as the Secretaries jointly determine to be appropriate, for the acquisition of land or interests in land from willing sellers in the State of Arizona.

SEC. 13. MISCELLANEOUS PROVISIONS.

(a) REVOCATION OF ORDERS; WITHDRAWAL.—

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

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

(2) WITHDRAWAL.—On the date of enactment of this Act, if the Federal land or any Federal interest in the non-Federal land to be exchanged under section 4 is not withdrawn or segregated from entry and appropriation under a public land law (including mining and mineral leasing laws and the Geothermal Steam Act of l970 (30 U.S.C. 1001 et seq.)), the land or interest shall be withdrawn, without further action required by the Secretary concerned, from entry and appropriation, subject to the valid existing rights of Resolution Copper, until the date of the conveyance of Federal land under section 4(b).

(b) MAPS, ESTIMATES, AND DESCRIPTIONS.—

(1) MINOR ERRORS.—The Secretary concerned and Resolution Copper, may correct, by mutual agreement, any minor errors in any map, acreage estimate, or description of any land conveyed or exchanged under this Act.

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

retary concerned and Resolution Copper mutually agree otherwise.

(3) AVAILABILITY.—On the date of enactment of this Act, the Secretary shall file and make available for public inspection in the Office of the Supervisor, Tonto National Forest, each map referred to in this Act.

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