

# Union Calendar No. 162

112TH CONGRESS  
1ST SESSION

# H. R. 1904

[Report No. 112-246]

To facilitate the efficient extraction of mineral resources in southeast Arizona by authorizing and directing an exchange of Federal and non-Federal land, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2011

Mr. GOSAR (for himself, Mr. FRANKS of Arizona, Mr. QUAYLE, Mr. FLAKE, and Mr. SCHWEIKERT) introduced the following bill; which was referred to the Committee on Natural Resources

OCTOBER 14, 2011

Additional sponsors: Mr. TIPTON, Mr. MANZULLO, Mr. CHAFFETZ, Mr. BISHOP of Utah, Mrs. LUMMIS, Mr. PEARCE, Mr. LUETKEMEYER, Mr. SESSIONS, Mr. LANDRY, Mr. BROOKS, Mr. CARTER, Mr. FLORES, Mr. REED, Mr. WALDEN, Mrs. McMORRIS RODGERS, Mr. YOUNG of Alaska, Mr. KELLY, Mr. HECK, Mr. AMODEI, Mr. SOUTHERLAND, Mr. THOMPSON of Pennsylvania, Mr. STUTZMAN, Mr. LANKFORD, and Mr. SIMPSON

OCTOBER 14, 2011

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on May 13, 2011]

# **A BILL**

To facilitate the efficient extraction of mineral resources in southeast Arizona 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; TABLE OF CONTENTS.**

4        (a) *SHORT TITLE.*—*This Act may be cited as the*  
 5        *“Southeast Arizona Land Exchange and Conservation Act*  
 6        *of 2011”.*

7        (b) *TABLE OF CONTENTS.*—*The table of contents for*  
 8        *this Act is as follows:*

*Sec. 1. Short title; table of contents.*  
*Sec. 2. Findings and purpose.*  
*Sec. 3. Definitions.*  
*Sec. 4. Land exchange.*  
*Sec. 5. Conveyance and management of non-Federal land.*  
*Sec. 6. Value adjustment payment to United States.*  
*Sec. 7. Withdrawal.*  
*Sec. 8. Apache leap.*  
*Sec. 9. Conveyances to town of Superior, Arizona.*  
*Sec. 10. Miscellaneous provisions.*

9        **SEC. 2. FINDINGS AND PURPOSE.**

10        (a) *FINDINGS.*—*Congress finds that—*

11                (1) *the land exchange furthers public objectives*  
 12                *referenced in section 206 of the Federal Land Policy*  
 13                *and Management Act of 1976 (43 U.S.C. 1716) in-*  
 14                *cluding—*

15                        (A) *promoting significant job and other eco-*  
 16                        *nomie opportunities in a part of the State of Ar-*  
 17                        *izona that has a long history of mining, but is*  
 18                        *currently experiencing high unemployment rates*  
 19                        *and economic difficulties;*

1           (B) facilitating the development of a world-  
2           class domestic copper deposit capable of meeting  
3           a significant portion of the annual United States  
4           demand for this strategic and important min-  
5           eral, in an area which has already been subject  
6           to mining operations;

7           (C) significantly enhancing Federal, State,  
8           and local revenue collections in a time of severe  
9           governmental budget shortfalls;

10          (D) securing Federal ownership and protec-  
11          tion of land with significant fish and wildlife,  
12          recreational, scenic, water, riparian, cultural,  
13          and other public values;

14          (E) assisting more efficient Federal land  
15          management via Federal acquisition of land for  
16          addition to the Las Cienegas and San Pedro Na-  
17          tional Conservation Areas, and to the Tonto and  
18          Coconino National Forests;

19          (F) providing opportunity for community  
20          expansion and economic diversification adjacent  
21          to the towns of Superior, Miami, and Globe, Ari-  
22          zona; and

23          (G) protecting the cultural resources and  
24          other values of the Apache Leap escarpment lo-  
25          cated near Superior, Arizona; and

1           (2) *the land exchange is, therefore, in the public*  
2           *interest.*

3           (b) *PURPOSE.—It is the purpose of this Act to author-*  
4           *ize, direct, facilitate, and expedite the exchange of land be-*  
5           *tween Resolution Copper and the United States.*

6   **SEC. 3. DEFINITIONS.**

7           *In this Act:*

8           (1) *APACHE LEAP.—The term “Apache Leap”*  
9           *means the approximately 807 acres of land depicted*  
10           *on the map entitled “Southeast Arizona Land Ex-*  
11           *change and Conservation Act of 2011–Apache Leap”*  
12           *and dated March 2011.*

13           (2) *FEDERAL LAND.—The term “Federal land”*  
14           *means the approximately 2,422 acres of land located*  
15           *in Pinal County, Arizona, depicted on the map enti-*  
16           *tled “Southeast Arizona Land Exchange and Con-*  
17           *servation Act of 2011–Federal Parcel–Oak Flat” and*  
18           *dated March 2011.*

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

23           (4) *NON-FEDERAL LAND.—The term “non-Fed-*  
24           *eral land” means the parcels of land owned by Reso-*  
25           *lution Copper that are described in section 5(a) and,*

1 *if necessary to equalize the land exchange under sec-*  
2 *tion 4, section 4(e)(2)(A)(i).*

3 (5) *OAK FLAT CAMPGROUND.*—*The term “Oak*  
4 *Flat Campground” means the approximately 50 acres*  
5 *of land comprising approximately 16 developed*  
6 *campsites depicted on the map entitled “Southeast*  
7 *Arizona Land Exchange and Conservation Act of*  
8 *2011–Oak Flat Campground” and dated March 2011.*

9 (6) *OAK FLAT WITHDRAWAL AREA.*—*The term*  
10 *“Oak Flat Withdrawal Area” means the approxi-*  
11 *mately 760 acres of land depicted on the map entitled*  
12 *“Southeast Arizona Land Exchange and Conservation*  
13 *Act of 2011–Oak Flat Withdrawal Area” and dated*  
14 *March 2011.*

15 (7) *RESOLUTION COPPER.*—*The term “Resolu-*  
16 *tion Copper” means Resolution Copper Mining, LLC,*  
17 *a Delaware limited liability company, including any*  
18 *successor, assign, affiliate, member, or joint venturer*  
19 *of Resolution Copper Mining, LLC.*

20 (8) *SECRETARY.*—*The term “Secretary” means*  
21 *the Secretary of Agriculture.*

22 (9) *STATE.*—*The term “State” means the State*  
23 *of Arizona.*

24 (10) *TOWN.*—*The term “Town” means the incor-*  
25 *porated town of Superior, Arizona.*

1 **SEC. 4. LAND EXCHANGE.**

2       (a) *IN GENERAL.*—Subject to the provisions of this  
3 Act, if Resolution Copper offers to convey to the United  
4 States all right, title, and interest of Resolution Copper in  
5 and to the non-Federal land, the Secretary is authorized  
6 and directed to convey to Resolution Copper, all right, title,  
7 and interest of the United States in and to the Federal land.

8       (b) *CONDITIONS ON ACCEPTANCE.*—Title to any non-  
9 Federal land conveyed by Resolution Copper to the United  
10 States under this Act shall be in a form that—

11               (1) is acceptable to the Secretary, for land to be  
12 administered by the Forest Service and the Secretary  
13 of the Interior, for land to be administered by the Bu-  
14 reau of Land Management; and

15               (2) conforms to the title approval standards of  
16 the Attorney General of the United States applicable  
17 to land acquisitions by the Federal Government.

18       (c) *CONSULTATION WITH INDIAN TRIBES.*—If not un-  
19 dertaken prior to enactment of this Act, within 30 days of  
20 the date of enactment of this Act, the Secretary shall engage  
21 in government-to-government consultation with affected In-  
22 dian tribes concerning issues related to the land exchange,  
23 in accordance with applicable laws (including regulations).

24       (d) *APPRAISALS.*—

25               (1) *IN GENERAL.*—As soon as practicable after  
26 the date of enactment of this Act, the Secretary and

1       *Resolution Copper shall select an appraiser to con-*  
2       *duct appraisals of the Federal land and non-Federal*  
3       *land in compliance with the requirements of section*  
4       *254.9 of title 36, Code of Federal Regulations.*

5               (2) *REQUIREMENTS.*—

6               (A) *IN GENERAL.*—*Except as provided in*  
7       *subparagraph (B), an appraisal prepared under*  
8       *this subsection shall be conducted in accordance*  
9       *with nationally recognized appraisal standards,*  
10       *including—*

11               (i) *the Uniform Appraisal Standards*  
12       *for Federal Land Acquisitions; and*

13               (ii) *the Uniform Standards of Profes-*  
14       *sional Appraisal Practice.*

15               (B) *FINAL APPRAISED VALUE.*—*After the*  
16       *final appraised values of the Federal land and*  
17       *non-Federal land are determined and approved*  
18       *by the Secretary, the Secretary shall not be re-*  
19       *quired to reappraise or update the final ap-*  
20       *praised value—*

21               (i) *for a period of 3 years beginning on*  
22       *the date of the approval by the Secretary of*  
23       *the final appraised value; or*

24               (ii) *at all, in accordance with section*  
25       *254.14 of title 36, Code of Federal Regula-*



1                    *tions (or a successor regulation), after an*  
 2                    *exchange agreement is entered into by Reso-*  
 3                    *lution Copper and the Secretary.*

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

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

13                    (3) *APPRAISAL INFORMATION.*—*The appraisal*  
 14                    *prepared under this subsection shall include a de-*  
 15                    *tailed income capitalization approach analysis of the*  
 16                    *market value of the Federal land which may be uti-*  
 17                    *lized, as appropriate, to determine the value of the*  
 18                    *Federal land, and shall be the basis for calculation of*  
 19                    *any payment under section 6.*

20                    (e) *EQUAL VALUE LAND EXCHANGE.*—

21                    (1) *IN GENERAL.*—*The value of the Federal land*  
 22                    *and non-Federal land to be exchanged under this Act*  
 23                    *shall be equal or shall be equalized in accordance with*  
 24                    *this subsection.*

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

1           (A) *IN GENERAL.*—*If the final appraised*  
2           *value of the Federal land exceeds the value of the*  
3           *non-Federal land, Resolution Copper shall—*

4                   (i) *convey additional non-Federal land*  
5                   *in the State to the Secretary or the Sec-*  
6                   *retary of the Interior, consistent with the re-*  
7                   *quirements of this Act and subject to the ap-*  
8                   *proval of the applicable Secretary;*

9                   (ii) *make a cash payment to the*  
10                  *United States; or*

11                  (iii) *use a combination of the methods*  
12                  *described in clauses (i) and (ii), as agreed*  
13                  *to by Resolution Copper, the Secretary, and*  
14                  *the Secretary of the Interior.*

15           (B) *AMOUNT OF PAYMENT.*—*The Secretary*  
16           *may accept a payment in excess of 25 percent of*  
17           *the total value of the land or interests conveyed,*  
18           *notwithstanding section 206(b) of the Federal*  
19           *Land Policy and Management Act of 1976 (43*  
20           *U.S.C. 1716(b)).*

21           (C) *DISPOSITION AND USE OF PROCEEDS.*—  
22           *Any amounts received by the United States*  
23           *under this subparagraph shall be deposited in*  
24           *the fund established under Public Law 90–171*  
25           *(commonly known as the “Sisk Act”; 16 U.S.C.*

1           484a) and shall be made available to the Sec-  
2           retary for the acquisition of land for addition to  
3           the National Forest System.

4           (3) *SURPLUS OF NON-FEDERAL LAND.*—If the  
5           final appraised value of the non-Federal land exceeds  
6           the value of the Federal land—

7                   (A) the United States shall not make a pay-  
8                   ment to Resolution Copper to equalize the value;  
9                   and

10                   (B) except as provided in section  
11                   9(b)(2)(B), the surplus value of the non-Federal  
12                   land shall be considered to be a donation by Res-  
13                   olution Copper to the United States.

14           (f) *OAK FLAT WITHDRAWAL AREA.*—

15                   (1) *PERMITS.*—Subject to the provisions of this  
16                   subsection and notwithstanding any withdrawal of  
17                   the Oak Flat Withdrawal Area from the mining, min-  
18                   eral leasing, or public land laws, the Secretary, upon  
19                   enactment of this Act, shall issue to Resolution Cop-  
20                   per—

21                           (A) if so requested by Resolution Copper,  
22                           within 30 days of such request, a special use per-  
23                           mit to carry out mineral exploration activities  
24                           under the Oak Flat Withdrawal Area from exist-  
25                           ing drill pads located outside the Area, if the ac-

1            *tivities would not disturb the surface of the Area;*  
2            *and*

3            *(B) if so requested by Resolution Copper,*  
4            *within 90 days of such request, a special use per-*  
5            *mit to carry out mineral exploration activities*  
6            *within the Oak Flat Withdrawal Area (but not*  
7            *within the Oak Flat Campground), if the activi-*  
8            *ties are conducted from a single exploratory drill*  
9            *pad which is located to reasonably minimize vis-*  
10           *ual and noise impacts on the Campground.*

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

15           *(3) TERMINATION.—The authorization for Reso-*  
16           *lution Copper to undertake mineral exploration ac-*  
17           *tivities under this subsection shall remain in effect*  
18           *until the Oak Flat Withdrawal Area land is conveyed*  
19           *to Resolution Copper in accordance with this Act.*

20           *(g) COSTS.—As a condition of the land exchange under*  
21           *this Act, Resolution Copper shall agree to pay, without com-*  
22           *pensation, all costs that are—*

23           *(1) associated with the land exchange and any*  
24           *environmental review document under subsection (j);*  
25           *and*

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

2           (h) *USE OF FEDERAL LAND.—The Federal land to be*  
3 *conveyed to Resolution Copper under this Act shall be avail-*  
4 *able to Resolution Copper for mining and related activities*  
5 *subject to and in accordance with applicable Federal, State,*  
6 *and local laws pertaining to mining and related activities*  
7 *on land in private ownership.*

8           (i) *INTENT OF CONGRESS.—It is the intent of Congress*  
9 *that the land exchange directed by this Act shall be con-*  
10 *summated not later than one year after the date of enact-*  
11 *ment of this Act.*

12          (j) *ENVIRONMENTAL COMPLIANCE.—Compliance with*  
13 *the requirements of the National Environmental Policy Act*  
14 *of 1969 (42 U.S.C. 4321 et seq.) under this Act shall be*  
15 *as follows:*

16           (1) *Prior to commencing production in commer-*  
17 *cial quantities of any valuable mineral from the Fed-*  
18 *eral land conveyed to Resolution Copper under this*  
19 *Act (except for any production from exploration and*  
20 *mine development shafts, adits, and tunnels needed to*  
21 *determine feasibility and pilot plant testing of com-*  
22 *mercial production or to access the ore body and tail-*  
23 *ing deposition areas), Resolution Copper shall submit*  
24 *to the Secretary a proposed mine plan of operations.*

1           (2) *The Secretary shall, within 3 years of such*  
 2           *submission, complete preparation of an environ-*  
 3           *mental review document in accordance with section*  
 4           *102(2) of the National Environmental Policy Act of*  
 5           *1969 (42 U.S.C. 4322(2)) which shall be used as the*  
 6           *basis for all decisions under applicable Federal laws,*  
 7           *rules and regulations regarding any Federal actions*  
 8           *or authorizations related to the proposed mine and*  
 9           *mine plan of operations of Resolution Copper, includ-*  
 10          *ing the construction of associated power, water, trans-*  
 11          *portation, processing, tailings, waste dump, and other*  
 12          *ancillary facilities.*

13   **SEC. 5. CONVEYANCE AND MANAGEMENT OF NON-FEDERAL**  
 14           **LAND.**

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

17                  (1) *to the Secretary, all right, title, and interest*  
 18                  *that the Secretary determines to be acceptable in and*  
 19                  *to—*

20                          (A) *the approximately 147 acres of land lo-*  
 21                          *cated in Gila County, Arizona, depicted on the*  
 22                          *map entitled “Southeast Arizona Land Exchange*  
 23                          *and Conservation Act of 2011–Non-Federal Par-*  
 24                          *cel–Turkey Creek” and dated March 2011;*

1           (B) the approximately 148 acres of land lo-  
2 cated in Yavapai County, Arizona, depicted on  
3 the map entitled “Southeast Arizona Land Ex-  
4 change and Conservation Act of 2011–Non-Fed-  
5 eral Parcel–Tangle Creek” and dated March  
6 2011;

7           (C) the approximately 149 acres of land lo-  
8 cated in Maricopa County, Arizona, depicted on  
9 the map entitled “Southeast Arizona Land Ex-  
10 change and Conservation Act of 2011–Non-Fed-  
11 eral Parcel–Cave Creek” and dated March 2011;

12           (D) the approximately 640 acres of land lo-  
13 cated in Coconino County, Arizona, depicted on  
14 the map entitled “Southeast Arizona Land Ex-  
15 change and Conservation Act of 2011–Non-Fed-  
16 eral Parcel–East Clear Creek” and dated March  
17 2011; and

18           (E) the approximately 110 acres of land lo-  
19 cated in Pinal County, Arizona, depicted on the  
20 map entitled “Southeast Arizona Land Exchange  
21 and Conservation Act of 2011–Non-Federal Par-  
22 cel–Apache Leap South End” and dated March  
23 2011; and

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

4                   (A) *the approximately 3,050 acres of land*  
5                   *located in Pinal County, Arizona, identified as*  
6                   *“Lands to DOI” as generally depicted on the*  
7                   *map entitled “Southeast Arizona Land Exchange*  
8                   *and Conservation Act of 2011–Non-Federal Par-*  
9                   *cel–Lower San Pedro River” and dated July 6,*  
10                  *2011;*

11                  (B) *the approximately 160 acres of land lo-*  
12                  *cated in Gila and Pinal Counties, Arizona, iden-*  
13                  *tified as “Lands to DOI” as generally depicted*  
14                  *on the map entitled “Southeast Arizona Land*  
15                  *Exchange and Conservation Act of 2011–Non-*  
16                  *Federal Parcel–Dripping Springs” and dated*  
17                  *July 6, 2011; and*

18                  (C) *the approximately 940 acres of land lo-*  
19                  *cated in Santa Cruz County, Arizona, identified*  
20                  *as “Lands to DOI” as generally depicted on the*  
21                  *map entitled “Southeast Arizona Land Exchange*  
22                  *and Conservation Act of 2011–Non-Federal Par-*  
23                  *cel–Appleton Ranch” and dated July 6, 2011.*

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

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



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

3                   (i) *become part of the national forest*  
 4                   *in which the land is located; and*

5                   (ii) *be administered in accordance*  
 6                   *with the laws applicable to the National*  
 7                   *Forest System.*

8                   (B) *BOUNDARY REVISION.*—*On the acquisi-*  
 9                   *tion of land by the Secretary under this Act, the*  
 10                   *boundaries of the national forest shall be modi-*  
 11                   *fied to reflect the inclusion of the acquired land.*

12                   (C) *LAND AND WATER CONSERVATION*  
 13                   *FUND.*—*For purposes of section 7 of the Land*  
 14                   *and Water Conservation Fund Act of 1965 (16*  
 15                   *U.S.C. 4601–9), the boundaries of a national for-*  
 16                   *est in which land acquired by the Secretary is*  
 17                   *located shall be deemed to be the boundaries of*  
 18                   *that forest as in existence on January 1, 1965.*

19                   (2) *LAND ACQUIRED BY THE SECRETARY OF THE*  
 20                   *INTERIOR.*—

21                   (A) *SAN PEDRO NATIONAL CONSERVATION*  
 22                   *AREA.*—

23                   (i) *IN GENERAL.*—*The land acquired*  
 24                   *by the Secretary of the Interior under sub-*  
 25                   *section (a)(2)(A) shall be added to, and ad-*

1           *ministered as part of, the San Pedro Na-*  
2           *tional Conservation Area in accordance*  
3           *with the laws (including regulations) appli-*  
4           *cable to the Conservation Area.*

5           (ii) *MANAGEMENT PLAN.*—*Not later*  
6           *than 2 years after the date on which the*  
7           *land is acquired, the Secretary of the Inte-*  
8           *rior shall update the management plan for*  
9           *the San Pedro National Conservation Area*  
10          *to reflect the management requirements of*  
11          *the acquired land.*

12          (B) *DRIPPING SPRINGS.*—*Land acquired by*  
13          *the Secretary of the Interior under subsection*  
14          *(a)(2)(B) shall be managed in accordance with*  
15          *the Federal Land Policy and Management Act of*  
16          *1976 (43 U.S.C. 1701 et seq.) and applicable*  
17          *land use plans.*

18          (C) *LAS CIENEGAS NATIONAL CONSERVA-*  
19          *TION AREA.*—*Land acquired by the Secretary of*  
20          *the Interior under subsection (a)(2)(C) shall be*  
21          *added to, and administered as part of, the Las*  
22          *Cienegas National Conservation Area in accord-*  
23          *ance with the laws (including regulations) appli-*  
24          *cable to the Conservation Area.*

1       (c) *SURRENDER OF RIGHTS.*—*In addition to the con-*  
 2 *veyance of the non-Federal land to the United States under*  
 3 *this Act, and as a condition of the land exchange, Resolu-*  
 4 *tion Copper shall surrender to the United States, without*  
 5 *compensation, the rights held by Resolution Copper under*  
 6 *the mining laws and other laws of the United States to com-*  
 7 *mercially extract minerals under Apache Leap.*

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

9       (a) *ANNUAL PRODUCTION REPORTING.*—

10           (1) *REPORT REQUIRED.*—*As a condition of the*  
 11 *land exchange under this Act, Resolution Copper shall*  
 12 *submit to the Secretary of the Interior an annual re-*  
 13 *port indicating the quantity of locatable minerals*  
 14 *produced during the preceding calendar year in com-*  
 15 *mercial quantities from the Federal land conveyed to*  
 16 *Resolution Copper under section 4. The first report is*  
 17 *required to be submitted not later than February 15*  
 18 *of the first calendar year beginning after the date of*  
 19 *commencement of production of valuable locatable*  
 20 *minerals in commercial quantities from such Federal*  
 21 *land. The reports shall be submitted February 15 of*  
 22 *each calendar year thereafter.*

23           (2) *SHARING REPORTS WITH STATE.*—*The Sec-*  
 24 *retary shall make each report received under para-*  
 25 *graph (1) available to the State.*

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

6           (b) *PAYMENT ON PRODUCTION.*—*If the cumulative*  
 7           *production of valuable locatable minerals produced in com-*  
 8           *mercial quantities from the Federal land conveyed to Reso-*  
 9           *lution Copper under section 4 exceeds the quantity of pro-*  
 10          *duction of locatable minerals from the Federal land used*  
 11          *in the income capitalization approach analysis prepared*  
 12          *under section 4(d)(3), Resolution Copper shall pay to the*  
 13          *United States, by not later than March 15 of each applica-*  
 14          *ble calendar year, a value adjustment payment for the*  
 15          *quantity of excess production at the same rate assumed for*  
 16          *the income capitalization approach analysis prepared*  
 17          *under section 4(d)(3).*

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

22          (d) *USE OF FUNDS.*—

23               (1) *SEPARATE FUND.*—*All funds paid to the*  
 24               *United States under this section shall be deposited in*  
 25               *a special fund established in the Treasury and shall*

1        *be available to the Secretary and the Secretary of the*  
 2        *Interior only for the purposes authorized by para-*  
 3        *graph (2).*

4            (2) *AUTHORIZED USE.*—*Amounts in the special*  
 5        *fund established pursuant to paragraph (1) shall be*  
 6        *used for maintenance, repair, and rehabilitation*  
 7        *projects for Forest Service and Bureau of Land Man-*  
 8        *agement assets.*

9        **SEC. 7. WITHDRAWAL.**

10        *Subject to valid existing rights, Apache Leap and any*  
 11        *land acquired by the United States under this Act are with-*  
 12        *drawn from all forms of—*

13            (1) *entry, appropriation, or disposal under the*  
 14        *public land laws;*

15            (2) *location, entry, and patent under the mining*  
 16        *laws; and*

17            (3) *disposition under the mineral leasing, min-*  
 18        *eral materials, and geothermal leasing laws.*

19        **SEC. 8. APACHE LEAP.**

20            (a) *MANAGEMENT.*—

21            (1) *IN GENERAL.*—*The Secretary shall manage*  
 22        *Apache Leap to preserve the natural character of*  
 23        *Apache Leap and to protect archeological and cul-*  
 24        *tural resources located on Apache Leap.*

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

9           (3) *FENCES; SIGNAGE.*—*The Secretary may*  
10          *allow use of the surface of Apache Leap for installa-*  
11          *tion of fences, signs, monitoring devices, or other*  
12          *measures necessary to protect the health and safety of*  
13          *the public, protect resources located on Apache Leap,*  
14          *or to ensure that activities conducted under para-*  
15          *graph (2) do not affect the surface of Apache Leap.*

16          (b) *PLAN.*—

17               (1) *IN GENERAL.*—*Not later than 3 years after*  
18               *the date of enactment of this Act, the Secretary, in*  
19               *consultation with affected Indian tribes, the Town,*  
20               *Resolution Copper, and other interested members of*  
21               *the public, shall prepare a management plan for*  
22               *Apache Leap.*

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

1           (A) *protect the cultural, archaeological, or*  
 2           *historical resources of Apache Leap, including*  
 3           *permanent or seasonal closures of all or a por-*  
 4           *tion of Apache Leap; and*

5           (B) *provide access for recreation.*

6           (c) *MINING ACTIVITIES.—The provisions of this section*  
 7           *shall not impose additional restrictions on mining activi-*  
 8           *ties carried out by Resolution Copper adjacent to, or outside*  
 9           *of, the Apache Leap area beyond those otherwise applicable*  
 10          *to mining activities on privately owned land under Federal,*  
 11          *State, and local laws, rules and regulations.*

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

13          (a) *CONVEYANCES.—On request from the Town and*  
 14          *subject to the provisions of this section, the Secretary shall*  
 15          *convey to the Town the following:*

16               (1) *Approximately 30 acres of land as depicted*  
 17               *on the map entitled “Southeast Arizona Land Ex-*  
 18               *change and Conservation Act of 2011—Federal Parcel—*  
 19               *Fairview Cemetery” and dated March 2011.*

20               (2) *The reversionary interest and any reserved*  
 21               *mineral interest of the United States in the approxi-*  
 22               *mately 265 acres of land located in Pinal County, Ar-*  
 23               *izona, as depicted on the map entitled “Southeast Ar-*  
 24               *izona Land Exchange and Conservation Act of 2011—*

1       *Federal Reversionary Interest—Superior Airport” and*  
 2       *dated March 2011.*

3               (3) *The approximately 250 acres of land located*  
 4       *in Pinal County, Arizona, as depicted on the map en-*  
 5       *titled “Southeast Arizona Land Exchange and Con-*  
 6       *servation Act of 2011—Federal Parcel—Superior Air-*  
 7       *port Contiguous Parcels” and dated March 2011.*

8       (b) *PAYMENT.—The Town shall pay to the Secretary*  
 9       *the market value for each parcel of land or interest in land*  
 10       *acquired under this section, as determined by appraisals*  
 11       *conducted in accordance with section 4(d).*

12       (c) *SISK ACT.—Any payment received by the Sec-*  
 13       *retary from the Town under this section shall be deposited*  
 14       *in the fund established under Public Law 90–171 (com-*  
 15       *monly known as the “Sisk Act”) (16 U.S.C. 484a) and shall*  
 16       *be made available to the Secretary for the acquisition of*  
 17       *land for addition to the National Forest System.*

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

21       **SEC. 10. MISCELLANEOUS PROVISIONS.**

22       (a) *REVOCATION OF ORDERS; WITHDRAWAL.—*

23               (1) *REVOCATION OF ORDERS.—Any public land*  
 24       *order that withdraws the Federal land from appro-*  
 25       *priation or disposal under a public land law shall be*



1        *revoked to the extent necessary to permit disposal of*  
2        *the land.*

3            (2) *WITHDRAWAL.—On the date of enactment of*  
4        *this Act, if the Federal land or any Federal interest*  
5        *in the non-Federal land to be exchanged under section*  
6        *4 is not withdrawn or segregated from entry and ap-*  
7        *propriation under a public land law (including min-*  
8        *ing and mineral leasing laws and the Geothermal*  
9        *Steam Act of 1970 (30 U.S.C. 1001 et seq.)), the land*  
10       *or interest shall be withdrawn, without further action*  
11       *required by the Secretary concerned, from entry and*  
12       *appropriation. The withdrawal shall be terminated—*

13            (A) *on the date of consummation of the land*  
14        *exchange; or*

15            (B) *if Resolution Copper notifies the Sec-*  
16        *retary in writing that it has elected to withdraw*  
17        *from the land exchange pursuant to section*  
18        *206(d) of the Federal Land Policy and Manage-*  
19        *ment Act of 1976, as amended (43 U.S.C.*  
20        *1716(d)).*

21            (3) *RIGHTS OF RESOLUTION COPPER.—Nothing*  
22        *in this Act shall interfere with, limit, or otherwise*  
23        *impair, the unpatented mining claims or rights cur-*  
24        *rently held by Resolution Copper on the Federal land,*  
25        *nor in any way change, diminish, qualify, or other-*

1        *wise impact Resolution Copper's rights and ability to*  
2        *conduct activities on the Federal land under such*  
3        *unpatented mining claims and the general mining*  
4        *laws of the United States, including the permitting or*  
5        *authorization of such activities.*

6        *(b) MAPS, ESTIMATES, AND DESCRIPTIONS.—*

7            *(1) MINOR ERRORS.—The Secretary concerned*  
8        *and Resolution Copper may correct, by mutual agree-*  
9        *ment, any minor errors in any map, acreage esti-*  
10       *mate, or description of any land conveyed or ex-*  
11       *changed under this Act.*

12           *(2) CONFLICT.—If there is a conflict between a*  
13       *map, an acreage estimate, or a description of land in*  
14       *this Act, the map shall control unless the Secretary*  
15       *concerned and Resolution Copper mutually agree oth-*  
16       *erwise.*

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



Union Calendar No. 162

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 1904**

[Report No. 112-246]

**A BILL**

To facilitate the efficient extraction of mineral resources in southeast Arizona by authorizing and directing an exchange of Federal and non-Federal land, and for other purposes.

OCTOBER 14, 2011

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed