

APPENDIX A. SECTION 3003 OF THE NDAA

NDA Section 3003

Sec. 3003 Southeast Arizona Land Exchange and Conservation.

- (a) **PURPOSE.** – The purpose of this section is to authorize, direct, facilitate, and expedite the exchange of land between Resolution Copper and the United States.
- (b) **DEFINITIONS.** – In this section:
- (1) **APACHE LEAP.** – The term “Apache Leap” means the approximately 807 acres of land depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011-Apache Leap” and dated March 2011.
 - (2) **FEDERAL LAND.** – The term “Federal land” means the approximately 2,422 acres of land located in Pinal County, Arizona, depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011-Federal Parcel-Oak Flat” and dated March 2011.
 - (3) **INDIAN TRIBE.** – The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).
 - (4) **NON-FEDERAL LAND.** – The term “non-Federal land” means the parcels of land owned by Resolution Copper that are described in subsection (d)(1) and, if necessary to equalize the land exchange under subsection (c), subsection (c)(5)(B)(i)(I).
 - (5) **OAK FLAT CAMPGROUND.** – The term “Oak Flat Campground” means the approximately 50 acres of land comprising approximately 16 developed campsites depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011-Oak Flat Campground” and dated March 2011.
 - (6) **OAK FLAT WITHDRAWAL AREA.** – The term “Oak Flat Withdrawal Area” means the approximately 760 acres of land depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011-Oak Flat Withdrawal Area” and dated March 2011.
 - (7) **RESOLUTION COPPER.** – The term “Resolution Copper” means Resolution Copper Mining, LLC, a Delaware limited liability company, including any successor, assign, affiliate, member, or joint venturer of Resolution Copper Mining, LLC.
 - (8) **SECRETARY.** – The term “Secretary” means Secretary of Agriculture.
 - (9) **STATE.** – The term “State” means the State of Arizona.
 - (10) **TOWN.** – The term “Town” means the incorporated town of Superior, Arizona.
 - (11) **RESOLUTION MINE PLAN OF OPERATIONS.** – The term “Resolution mine plan of operations” means the mine plan of operations submitted to the Secretary by Resolution Copper in November, 2013, including any amendments or supplements.
- (c) **LAND EXCHANGE.** –
- (1) **IN GENERAL.** – Subject to the provisions of this section, if Resolution Copper offers to convey to the United States all right, title, and interest of Resolution Copper in and to the non-Federal land, the Secretary is authorized and directed to convey to Resolution Copper, all right, title, and interest of the United States in and to the Federal land.

- (2) **CONDITIONS ON ACCEPTANCE.** – Title to any non-Federal land conveyed by Resolution Copper to the United States under this section shall be in a form that-
- A. is acceptable to the Secretary, for land to be administered by the Forest Service and the Secretary of the Interior, for land to be administered by the Bureau of Land Management; and
 - B. conforms to the title approval standards of the Attorney General of the United States applicable to land acquisitions by the Federal Government.
- (3) **CONSULTATION WITH INDIAN TRIBES.** –
- A. **IN GENERAL.** – The Secretary shall engage government-to-government consultation with affected Indian Tribes concerning issues of concern to the affected Indian tribes related to the land exchange.
 - B. **IMPLEMENTATION.** – Following the consultations under paragraph (A), the Secretary shall consult with Resolution Copper and seek to find mutually acceptable measures to-
 - i. address the concerns of the affect Indian tribes; and
 - ii. minimize adverse effects on the affected Indian tribes resulting from mining and related activities on the Federal land conveyed to Resolution Copper under this section.
- (4) **APPRAISALS.** –
- A. **IN GENERAL.** – As soon as practicable after the date of enactment of this Act, the Secretary and Resolution Copper shall select an appraiser to conduct appraisals of the Federal land and non-Federal land in compliance with the requirements of section 254.9 of title 36, Code of Federal Regulations.
 - B. **REQUIREMENTS.** –
 - i. **IN GENERAL.** – Except as provided in clause (ii), an appraisal prepared under this paragraph shall be conducted in accordance with national recognized appraisal standards, including –
 - I. the Uniform Appraisals Standards for Federal Land Acquisitions; and
 - II. the Uniform Standards of Professional Appraisal Practice.
 - ii. **FINAL APPRAISED VALUE.** – After the final appraised values of the Federal land and non-Federal land are determined and approved by the Secretary, Secretary shall not be required to reappraise or update the final appraised value –
 - I. for a period of 3 years beginning on the date of the approval by the Secretary of the final appraised value; 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.

- iii. IMPROVEMENTS. – Any improvements made by Resolution Copper prior to entering an exchange agreement shall not be included in the appraised value of the Federal land.
 - iv. PUBLIC REVIEW. – Before consummating the land exchange under this section, the Secretary shall make the appraisals of the land to be exchange (or a summary thereof) available for public review.
- C. APPRAISAL INFORMATON. – The appraisal prepared under this paragraph shall include a detailed income capitalization approach analysis of the market value of the Federal land which may be utilized, as appropriate, to determine the value of the Federal land, and shall be the basis for calculation of any payment under subsection (e).
- (5) EQUAL VALUE LAND EXCHANGE. –
- A. IN GENERAL. – The value of the Federal land and non-Federal land to be exchanged under this section shall be equal or shall be equalized in accordance with this paragraph.
 - B. SURPLUS OF FEDERAL LAND VALUE. –
 - i. IN GENERAL. – If the final appraised value of the Federal land exceeds the value of the non-Federal land, Resolution Copper shall –
 - I. convey additional non-Federal land in the State to the Secretary or the Secretary of the Interior, consistent with the requirements of this section and subject to the approval of the applicable Secretary;
 - II. make a cash payment to the United States; or
 - III. use a combination of the methods described in subclauses (I) and (II), as agreed to by Resolution Copper, the Secretary, and the Secretary of the Interior.
 - ii. AMOUNT OF PAYMENT. – The Secretary may accept a payment in excess of 25 percent of the total value of the land or interests conveyed, notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).
 - iii. DISPOSITION AND USE OF PROCEEDS. – Any amounts received by the United States under this subparagraph shall be deposited in the fund established under Public Law 90-171 (commonly known as the “Sisk Act” 16 U.S.C. 484a) and shall be made available to the Secretary for the acquisition of land or interests in land in Region 3 of the Forest Service.
 - C. SURPLUS OF NON-FEDERAL LAND. – If the final appraised value of the non-Federal land exceeds the value of the Federal land –
 - i. the United States shall not make a payment to Resolution Copper to equalize the value; and

- ii. except as provided in subsection (h), the surplus value of the non-Federal land shall be considered to be a donation by Resolution Copper to the United States.
- (6) OAK FLAT WITHDRAWAL AREA. –
 - A. PERMITS. – Subject to the provisions of this paragraph and notwithstanding any withdrawal of the Oak Flat Withdrawal Area from the mining, mineral leasing, or public land laws, the Secretary, upon enactment of this Act, shall issue to Resolution Copper-
 - i. if so requested by Resolution Copper, within 30 days of such request, a special use permit to carry out mineral exploration activities under the Oak Flat Withdrawal Area from existing drill pads located outside the Area, if the activities would not disturb the surface of the Area; and
 - ii. if so requested by Resolution Copper, within 90 days of such request, a special use permit to carry out mineral exploration activities within the Oak Flat Withdrawal Area (but not within the Oak Flat Camp- ground), if the activities are conducted from a single exploratory drill pad which is located to reasonably minimize visual and noise impacts on the Campground.
 - B. CONDITIONS. – Any activities undertaken in accordance with this paragraph shall be subject to such reason- able terms and conditions as the Secretary may require.
 - C. TERMINATION. – The authorization for Resolution Copper to undertake mineral exploration activities under this paragraph shall remain in effect until the Oak Flat Withdrawal Area land is conveyed to Resolution Copper in accordance with this section.
- (7) COSTS. – As a condition of the land exchange under this section, Resolution Copper shall agree to pay, without compensation, all costs that are –
 - A. associated with the land exchange and any environ- mental review document under paragraph (9); and
 - B. agreed to by the Secretary.
- (8) USE OF FEDERAL LAND. – The Federal land to be conveyed to Resolution Copper under this section shall be available to Resolution Copper for mining and related activities subject to and in accordance with applicable Federal, State, and local laws pertaining to mining and related activities on land in private ownership.
- (9) ENVIRONMENTAL COMPLIANCE. –
 - A. IN GENERAL. – Except as otherwise provided in this section, the Secretary shall carry out the land exchange in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
 - B. ENVIRONMENTAL ANALYSIS. – Prior to conveying Federal land under this section, the Secretary shall prepare a single environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), which shall be used as the basis for all decisions under Federal law related to the proposed mine and the Resolution mine plan of operations and any related major Federal actions

significantly affecting the quality of the human environment, including the granting of any permits, rights-of-way, or approvals for the construction of associated power, water, transportation, processing, tailings, waste disposal, or other ancillary facilities.

C. IMPACTS ON CULTURAL AND ARCHAEOLOGICAL RESOURCES. –
The environmental impact statement prepared under subparagraph (b) shall –

- i. assess the effects of the mining and related activities on the Federal land conveyed to Resolution Copper under this section on the cultural and archeological resources that may be located on the Federal land; and
- ii. identify measures that may be taken, to the extent practicable, to minimize potential adverse impacts on those resources, if any.

D. EFFECT. – Nothing in this paragraph precludes the Secretary from using separate environmental review documents prepared in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or other applicable laws for exploration or other activities not involving –

- i. the land exchange; or
- ii. the extraction of minerals in commercial quantities by Resolution Copper on or under the Federal land.

(10) TITLE TRANSFER. – Not later than 60 days after the date of publication of the final environmental impact statement, the Secretary shall convey all right, title, and interest of the United States in and to the Federal land to Resolution Copper.

(d) CONVEYANCE AND MANAGEMENT OF NON-FEDERAL LAND. –

(1) CONVEYANCE. – On receipt of title to the Federal land, Resolution Copper shall simultaneously convey-

A. to the Secretary, all right, title, and interest that the Secretary determines to be acceptable in and to –

- i. the approximately 147 acres of land located in Gila County, Arizona, depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011-Non-Federal Parcel-Turkey Creek” and dated March 2011;
- ii. the approximately 148 acres of land located in Yavapai County, Arizona, depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011-Non-Federal Parcel-Tangle Creek” and dated March 2011;
- iii. the approximately 149 acres of land located in Maricopa County, Arizona, depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011-Non-Federal Parcel-Cave Creek” and dated March 2011;
- iv. the approximately 640 acres of land located in Coconino County, Arizona, depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011-Non-Federal Parcel-East Clear Creek” and dated March 2011; and

- v. the approximately 110 acres of land located in Pinal County, Arizona, depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011-Non-Federal Parcel-Apache Leap South End” and dated March 2011; and
 - B. to the Secretary of Interior, all rights, title, and interest that the Secretary of Interior determines to be acceptable in and to –
 - i. the approximately 3,050 acres of land located in Pinal County, Arizona, identified as “Lands to DOI” as generally depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011- Non-Federal Parcel-Lower San Pedro River” and dated July 6, 2011;
 - ii. the approximately 160 acres of land located in Gila and Pinal Counties, Arizona, identified as “Lands to DOI” as generally depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011- Non-Federal Parcel-Dripping Springs” and dated July 6, 2011; and
 - iii. the approximately 940 acres of land located in Santa Cruz County Arizona identified as “Lands to DOI” as generally ‘depicted’ on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011-Non-Federal Parcel-Appleton Ranch” and dated July 6, 2011.
- (2) MANAGEMENT OF ACQUIRED LAND. –
- A. LAND ACQUIRED BY THE SECRETARY. –
 - i. IN GENERAL. – Land acquired by the Secretary under this section shall –
 - I. become part of the national forest in which the land is located; and
 - II. be administered in accordance with laws applicable to the National Forest System.
 - ii. BOUNDARY REVISION. – On the acquisition of land by the Secretary under this section, the boundaries of the national forest shall be modified to reflect the inclusion of the acquired land.
 - iii. LAND AND WATER CONSERVATION FUND.–For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), 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.
 - B. LAND ACQUIRED BY THE SECRETARY OF INTERIOR. –
 - i. SAN PEDRO NATIONAL CONSERVATION AREA. –
 - I. IN GENERAL. – The land acquired by the Secretary of the Interior under paragraph (1)(B)(i) shall be added to, and administered as part of, the San Pedro National Conservation Area in accordance with the laws (including regulations) applicable to the Conservation Area.

- II. MANAGEMENT PLAN. – Not later than 2 years after the date on which the land is acquired, the Secretary of the Interior shall update the management plan for the San Pedro National Conservation Area to reflect the management requirements of the acquired land.
 - ii. DRIPPING SPRINGS. – Land acquired by the Secretary of the Interior under paragraph (1)(B)(ii) shall be managed in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and applicable land use plans.
 - iii. LAS CIENEGAS NATIONAL CONSERVATION AREA. – Land acquired by the Secretary of the Interior under paragraph (1)(B)(iii) shall be added to, and administered as part of, the Las Cienegas National Conservation Area in accordance with the laws (including regulations) applicable to the Conservation Area.
- (e) VALUE ADJUSTMENT PAYMENT TO UNITED STATES. –
- (1) ANNUAL PRODUCTION REPORTING. –
 - A. REPORT REQUIRED. – As a condition of the land exchange under this section, Resolution Copper shall submit to the Secretary of the Interior an annual report indicating the quantity of locatable minerals produced during the preceding calendar year in commercial quantities from the Federal land conveyed to Resolution Copper under subsection (c). The first report is required to be submitted not later than February 15 of the first calendar year beginning after the date of commencement of production of valuable locatable minerals in commercial quantities from such Federal land. The reports shall be submitted February 15 of each calendar year thereafter.
 - B. SHARING REPORTS WITH STATE. – The Secretary shall make each report received under subparagraph (A) available to the State.
 - C. REPORT CONTENTS. – The reports under subparagraph (A) shall comply with any recordkeeping and reporting requirements prescribed by the Secretary or required by applicable Federal laws in effect at the time of production.
 - (2) PAYMENT OF PRODUCTION. – If the cumulative production of valuable locatable minerals produced in commercial quantities from the Federal land conveyed to Resolution Copper under subsection (c) exceeds the quantity of production of locatable minerals from the Federal land used in the income capitalization approach analysis prepared under subsection (c)(4)(C), 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 the same rate assumed for the income capitalization approach analysis prepared under subsection (c)(4)(C).
 - (3) STATE LAW UNAFFECTED. – Nothing in this subsection modifies, expands, diminishes, amends, or otherwise affects any State law relating to the imposition, application, timing, or collection of a State excise or severance tax.
 - (4) USE OF FUNDS. –

- A. SEPARATE FUNDS. – All funds paid to the United States under this subsection shall be deposited in a special fund established in the 'treasury and shall be available, in such amounts as are provided in advance in appropriation Acts, to the Secretary and the Secretary of the Interior only for the purposes authorized by subparagraph (B).
 - B. AUTHORIZED USES. – Amounts in the special fund established pursuant to subparagraph (A) shall be used for maintenance, repair, and rehabilitation projects for Forest Service and Bureau of Land Management assets.
- (f) WITHDRAWAL. – Subject to valid existing rights, Apache Leap and any land acquired by the United States under this section are withdrawn from all forms of –
- (1) entry, appropriation, or disposal under the public land laws;
 - (2) location, entry, and patent under the mining laws;
 - (3) disposition under the mineral leasing, mineral materials, and geothermal leasing laws.
- (g) APACHE LEAP SPECIAL MANAGEMENT AREA. –
- (1) DESIGNATION. – To further the purpose of this section, the Secretary shall establish a special management area consisting of Apache Leap, which shall be known as the “Apache Leap Special Management Area” (referred to in this subsection as the “special management area”).
 - (2) PURPOSE. – The purposes of the special management area are-
 - A. to preserve the natural character of Apache Leap;
 - B. to allow for traditional uses of the area by Native American people; and
 - C. to protect and conserve the cultural and archeological resources of the area.
 - (3) SURRENDER OF MINING AND EXTRACTION RIGHTS. – As a condition of the land exchange under subsection (c), Resolution Copper shall surrender to the United States, without compensation, all rights held under the mining laws and any other law to commercially extract minerals under Apache Leap.
 - (4) MANAGEMENT. –
 - A. IN GENERAL. – The Secretary shall manage the special management area in a manner that furthers the purposes described in paragraph (2).
 - B. AUTHORIZED ACTIVITIES. – The activities that are authorized in the special management area are –
 - i. installation of seismic monitoring equipment on the surface and subsurface to protect the resources located within the special management area;
 - ii. installation of fences, signs, or other measures necessary to protect the health and safety of the public; and
 - iii. operation of an underground tunnel and associated workings, as described in the Resolution mine plan of operations, subject to any terms and conditions the Secretary may reasonably require.

- (5) PLAN. –
 - A. IN GENERAL. – Not later than 3 years after the date of enactment of this Act, the Secretary, in consultation with affected Indian tribes, the Town, Resolution Copper, and other interested members of the public, shall prepare a management plan for the Apache Leap Special Management Area.
 - B. CONSIDERATIONS. – In preparing the plan under subparagraph (A), the Secretary shall consider whether additional measures are necessary to –
 - i. protect the cultural, archaeological, or historical resources of Apache Leap, including permanent or seasonal closures of all or a portion of Apache Leap; and
 - ii. provide access for recreation.
- (6) MINING ACTIVITIES. – The provisions of this subsection shall not impose additional restrictions on mining activities carried out by Resolution Copper adjacent to, or outside of, the Apache Leap area beyond those otherwise applicable to mining activities on privately owned land under Federal, State, and local laws, rules and regulations.
- (h) CONVEYANCES TO TOWN OF SUPERIOR, ARIZONA. –
 - (1) CONVEYANCES. – On request from the Town and subject to the provisions of this subsection, the Secretary shall convey to the Town the following:
 - A. Approximately 30 acres of land as depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011-Federal Parcel-Fairview Cemetery” and dated March 2011.
 - B. The reversionary interest and any reserved mineral interest of the United States in the approximately 265 acres of land located in Pinal County, Arizona, as depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011-Federal Reversionary Interest-Superior Airport” and dated March 2011.
 - C. The approximately 250 acres of land located in Pinal County, Arizona, as depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011-Federal Parcel-Superior Airport Contiguous Parcels” and dated March 2011.
 - (2) PAYMENT. – The Town shall pay to the Secretary the market value for each parcel of land or interest in land acquired under this subsection, as determined by appraisals conducted in accordance with subsection (c)(4).
 - (3) SISK ACT. – Any payment received by the Secretary from the Town under this subsection shall be deposited in the fund established under Public Law 90-171 (commonly known as the “Sisk Act”) (16 U.S.C. 484a) and shall be made available to the Secretary for the acquisition of land or interests in land in Region 3 of the Forest Service.
 - (4) TERMS AND CONDITIONS. – The conveyances under this subsection shall be subject to such terms and conditions as the Secretary may require.
- (i) MISCELLANEOUS PROVISIONS. –
 - (1) REVOCATION OF ORDERS; WITHDRAWAL. –

- A. REVOCATION OF ORDERS. – Any public land order that withdraws the Federal land from appropriation or disposal under a public land law shall be revoked to the extent necessary to permit disposal of the land.
 - B. 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 subsection (c) 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 1970 (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. The withdrawal shall be terminated-
 - i. on the date of consummation of the land exchange; or
 - ii. if Resolution Copper notifies the Secretary in writing that it has elected to withdraw from the land exchange pursuant to section 206(d) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1716(d)).
 - C. RIGHTS OF RESOLUTION COPPER. – Nothing in this section shall interfere with, limit, or otherwise impair, the unpatented mining claims or rights currently held by Resolution Copper on the Federal land, nor in any way change, diminish, qualify, or otherwise impact Resolution Copper’s right- and ability to conduct activities on the Federal land under such unpatented mining claims and the general mining laws of the United States, including the permitting or authorization of such activities.
- (2) MAPS, ESTIMATES, AND DESCRIPTIONS. –
- A. 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 section.
 - B. CONFLICT. – If there is a conflict between a map, an acreage estimate, or a description of land in this section, the map shall control unless the Secretary concerned and Resolution Copper mutually agree otherwise.
 - C. 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 section.
- (3) PUBLIC ACCESS IN AND AROUND OAK FLAT CAMPGROUND. – As a condition of conveyance of the Federal land, Resolution Copper shall agree to provide access to the surface of the Oak Flat Campground to members of the public, including Indian tribes, to the maximum extent practicable, consistent with health and safety requirements, until such time as the operation of the mine precludes continued public access for safety reasons, as determined by Resolution Copper.