

SOUTHEAST ARIZONA LAND EXCHANGE AND
CONSERVATION ACT OF 2011

—————
OCTOBER 14, 2011.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed
—————

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1904]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1904) 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

(b) **TABLE OF CONTENTS.**—The table of contents for 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.

SEC. 2. FINDINGS AND PURPOSE.

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

(1) the land exchange furthers public objectives referenced in section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) including—

(A) promoting significant job and other economic opportunities in a part of the State of Arizona that has a long history of mining, but is currently experiencing high unemployment rates and economic difficulties;

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

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

(D) securing Federal ownership and protection of land with significant fish and wildlife, recreational, scenic, water, riparian, cultural, and other public values;

(E) assisting more efficient Federal land management via Federal acquisition of land for addition to the Las Cienegas and San Pedro National Conservation Areas, and to the Tonto and Coconino National Forests;

(F) providing opportunity for community expansion and economic diversification adjacent to the towns of Superior, Miami, and Globe, Arizona; and

(G) protecting the cultural resources and other values of the Apache Leap escarpment located near Superior, Arizona; and

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

(b) PURPOSE.—It is the purpose of this Act to authorize, direct, facilitate, and expedite the exchange of land between Resolution Copper and the United States.

SEC. 3. DEFINITIONS.

In this Act:

(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 section 5(a) and, if necessary to equalize the land exchange under section 4, section 4(e)(2)(A)(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 the 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.

SEC. 4. LAND EXCHANGE.

(a) IN GENERAL.—Subject to the provisions of this Act, 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.

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

(1) 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

- (2) conforms to the title approval standards of the Attorney General of the United States applicable to land acquisitions by the Federal Government.
- (c) CONSULTATION WITH INDIAN TRIBES.—If not undertaken prior to enactment of this Act, within 30 days of the date of enactment of this Act, the Secretary shall engage in government-to-government consultation with affected Indian tribes concerning issues related to the land exchange, in accordance with applicable laws (including regulations).
- (d) APPRAISALS.—
- (1) 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.
- (2) REQUIREMENTS.—
- (A) IN GENERAL.—Except as provided in subparagraph (B), an appraisal prepared under this subsection shall be conducted in accordance with nationally recognized appraisal standards, including—
- (i) the Uniform Appraisal Standards for Federal Land Acquisitions; and
- (ii) the Uniform Standards of Professional Appraisal Practice.
- (B) FINAL APPRAISED VALUE.—After the final appraised values of the Federal land and non-Federal land are determined and approved by the Secretary, the 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.
- (C) IMPROVEMENTS.—Any improvements made by Resolution Copper prior to entering into an exchange agreement shall not be included in the appraised value of the Federal land.
- (D) PUBLIC REVIEW.—Before consummating the land exchange under this Act, the Secretary shall make the appraisals of the land to be exchanged (or a summary thereof) available for public review.
- (3) APPRAISAL INFORMATION.—The appraisal prepared under this subsection 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 section 6.
- (e) EQUAL VALUE LAND EXCHANGE.—
- (1) IN GENERAL.—The value of the Federal land and non-Federal land to be exchanged under this Act shall be equal or shall be equalized in accordance with this subsection.
- (2) 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, 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 Act 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 clauses (i) and (ii), as agreed to by Resolution Copper, the Secretary, and the Secretary of the Interior.
- (B) 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)).
- (C) 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 for addition to the National Forest System.
- (3) SURPLUS OF NON-FEDERAL LAND.—If the final appraised value of the non-Federal land exceeds the value of the Federal land—
- (A) the United States shall not make a payment to Resolution Copper to equalize the value; and
- (B) except as provided in section 9(b)(2)(B), the surplus value of the non-Federal land shall be considered to be a donation by Resolution Copper to the United States.

(f) OAK FLAT WITHDRAWAL AREA.—

(1) PERMITS.—Subject to the provisions of this subsection 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—

(A) 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

(B) 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 Campground), if the activities are conducted from a single exploratory drill pad which is located to reasonably minimize visual and noise impacts on the Campground.

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

(3) TERMINATION.—The authorization for Resolution Copper to undertake mineral exploration activities under this subsection shall remain in effect until the Oak Flat Withdrawal Area land is conveyed to Resolution Copper in accordance with this Act.

(g) COSTS.—As a condition of the land exchange under this Act, Resolution Copper shall agree to pay, without compensation, all costs that are—

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

(2) agreed to by the Secretary.

(h) USE OF FEDERAL LAND.—The Federal land to be conveyed to Resolution Copper under this Act 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.

(i) INTENT OF CONGRESS.—It is the intent of Congress that the land exchange directed by this Act shall be consummated not later than one year after the date of enactment of this Act.

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

(1) Prior to commencing production in commercial quantities of any valuable mineral from the Federal land conveyed to Resolution Copper under this Act (except for any production from 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 tailing deposition areas), Resolution Copper shall submit to the Secretary a proposed mine plan of operations.

(2) The Secretary shall, within 3 years of such submission, complete preparation of an environmental review document in accordance with section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4322(2)) which shall be used as the basis for all decisions under applicable Federal laws, rules and regulations regarding any Federal actions or authorizations related to the proposed mine and mine plan of operations of Resolution Copper, including the construction of associated power, water, transportation, processing, tailings, waste dump, and other ancillary facilities.

SEC. 5. CONVEYANCE AND MANAGEMENT OF NON-FEDERAL LAND.

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

(1) to the Secretary, 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 2011–Non-Federal Parcel–Turkey Creek” and dated March 2011;

(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 2011–Non-Federal Parcel–Tangle Creek” and dated March 2011;

(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 2011–Non-Federal Parcel–Cave Creek” and dated March 2011;

(D) 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

(E) 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

(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 3,050 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;

(B) 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

(C) 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.

(b) MANAGEMENT OF ACQUIRED LAND.—

(1) LAND ACQUIRED BY THE SECRETARY.—

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

- (i) become part of the national forest in which the land is located; and
- (ii) be administered in accordance with the laws applicable to the National Forest System.

(B) BOUNDARY REVISION.—On the acquisition of land by the Secretary under this Act, the boundaries of the national forest shall be modified to reflect the inclusion of the acquired land.

(C) 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.

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

(A) SAN PEDRO NATIONAL CONSERVATION AREA.—

(i) IN GENERAL.—The land acquired by the Secretary of the Interior under subsection (a)(2)(A) 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.

(B) DRIPPING SPRINGS.—Land acquired by the Secretary of the Interior under subsection (a)(2)(B) 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.

(C) LAS CIENEGAS NATIONAL CONSERVATION AREA.—Land acquired by the Secretary of the Interior under subsection (a)(2)(C) 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.

(c) SURRENDER OF RIGHTS.—In addition to the conveyance of the non-Federal land to the United States under this Act, and as a condition of the land exchange, Resolution Copper shall surrender to the United States, without compensation, the rights held by Resolution Copper under the mining laws and other laws of the United States to commercially extract minerals under Apache Leap.

SEC. 6. VALUE ADJUSTMENT PAYMENT TO UNITED STATES.

(a) ANNUAL PRODUCTION REPORTING.—

(1) REPORT REQUIRED.—As a condition of the land exchange under this Act, 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 section 4. 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.

(2) SHARING REPORTS WITH STATE.—The Secretary shall make each report received under paragraph (1) available to the State.

(3) REPORT CONTENTS.—The reports under paragraph (1) 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.

(b) PAYMENT ON PRODUCTION.—If the cumulative production of valuable locatable minerals produced in commercial quantities from the Federal land conveyed to Resolution Copper under section 4 exceeds the quantity of production of locatable minerals from the Federal land used in the income capitalization approach analysis prepared under section 4(d)(3), 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 section 4(d)(3).

(c) STATE LAW UNAFFECTED.—Nothing in this section 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.

(d) USE OF FUNDS.—

(1) SEPARATE FUND.—All funds paid to the United States under this section shall be deposited in a special fund established in the Treasury and shall be available to the Secretary and the Secretary of the Interior only for the purposes authorized by paragraph (2).

(2) AUTHORIZED USE.—Amounts in the special fund established pursuant to paragraph (1) shall be used for maintenance, repair, and rehabilitation projects for Forest Service and Bureau of Land Management assets.

SEC. 7. WITHDRAWAL.

Subject to valid existing rights, Apache Leap and any land acquired by the United States under this Act 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; and
- (3) disposition under the mineral leasing, mineral materials, and geothermal leasing laws.

SEC. 8. APACHE LEAP.

(a) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage Apache Leap to preserve the natural character of Apache Leap and to protect archeological and cultural resources located on Apache Leap.

(2) SPECIAL USE PERMITS.—The Secretary may issue to Resolution Copper special use permits allowing Resolution Copper to carry out underground activities (other than the commercial extraction of minerals) under the surface of Apache Leap that the Secretary determines would not disturb the surface of the land, subject to any terms and conditions that the Secretary may require.

(3) FENCES; SIGNAGE.—The Secretary may allow use of the surface of Apache Leap for installation of fences, signs, monitoring devices, or other measures necessary to protect the health and safety of the public, protect resources located on Apache Leap, or to ensure that activities conducted under paragraph (2) do not affect the surface of Apache Leap.

(b) PLAN.—

(1) 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 Apache Leap.

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

(A) protect the cultural, archaeological, or historical resources of Apache Leap, including permanent or seasonal closures of all or a portion of Apache Leap; and

(B) provide access for recreation.

(c) MINING ACTIVITIES.—The provisions of this section 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.

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

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

(1) 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.

(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, as depicted on the map entitled “Southeast Arizona Land Exchange and Conservation Act of 2011—Federal Reversionary Interest—Superior Airport” and dated March 2011.

(3) 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.

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

(c) SISK ACT.—Any payment received by the Secretary from the Town under this section 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 for addition to the National Forest System.

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

SEC. 10. MISCELLANEOUS PROVISIONS.

(a) REVOCATION OF ORDERS; WITHDRAWAL.—

(1) 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.

(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 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—

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

(B) 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)).

(3) RIGHTS OF RESOLUTION COPPER.—Nothing in this Act 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 rights 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.

(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 in this Act, the map shall control unless the Secretary 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.

PURPOSE OF THE BILL

The purpose of H.R. 1904, as ordered reported, is to facilitate the efficient extraction of mineral resources in southeast Arizona by authorizing and directing an exchange of Federal and non-Federal land.

BACKGROUND AND NEED FOR LEGISLATION

Resolution Copper Mining LLC (Resolution Copper) is a subsidiary of Rio Tinto and BHP-Billiton. The company owns land and holds mining claims near the Town of Superior, in southeastern Arizona. In the late 1990s, Resolution Copper's exploratory activities revealed the existence of a very large copper deposit on its claims, located between 4,500 to 7,000 feet below the surface. Resolution Copper is interested in developing a large underground mine where the ore would be extracted and removed.

The Oak Flat Campground, part of the Tonto National Forest, is located in the center of Resolution Copper's land holdings and mining claims. Approximately 760 acres of National Forest lands in and around the Oak Flat Campground were withdrawn from the mining laws in 1955. *See* Public Land Order 1229 (Sept. 27, 1955); 20 Fed. Reg. 7336–37 (Oct. 1, 1955). Resolution Copper has proposed a land exchange to allow it to acquire the campground and adjacent withdrawn National Forest lands so that it can proceed with development of the mine. The Secretary of Agriculture would convey to Resolution Copper certain lands and interests in the Tonto National Forest, Arizona, in exchange for private lands of environmental and archeological significance in the State of Arizona for management by the U.S. Forest Service and the Bureau of Land Management (BLM). The Town of Superior, Arizona, will also acquire lands.

The four-part land exchange would occur under H.R. 1904, as follows:

U.S. Forest Service acquisition of land from Resolution Copper. The Forest Service would acquire a total of 1,194 acres from five different locations. These include Resolution Copper lands located within Coconino (640 acres), Gila (147 acres), Maricopa (149 acres), Pinal (110 acres) and Yavapai (148 acres) Counties. These lands contain riparian habitats and sensitive cultural areas within the Tonto National Forest. Several hundred acres contain habitat for endangered species and archeological sites.

BLM acquisition of land from Resolution Copper. BLM would acquire a total of 4,150 acres from three separate locations. Three thousand fifty acres would be acquired from the lower San Pedro River area, which includes one of the largest mesquite bosque (dense forest) left in Arizona, critical habitat for several endangered species, and critical bird habitat. This would fully complete the San Pedro Conservation area. BLM would also acquire 160 acres in Gila County and 940 acres in Santa Cruz County.

Resolution Copper acquisition of land from Forest Service. Resolution Copper will acquire the 2,422 acre "Oak Flat" parcel, which is checker-boarded within Resolution Copper's lands. Resolution Copper already has unpatented mining claims that cover about 75% of the parcel, including the culturally sensitive Apache Leap area. This exchange will provide more protection for Apache Leap since the conveyance will prohibit any type of extraction activity and transfer this land to the federal government indefinitely.

If the land received by Resolution Copper exceeds the value of the lands received by the federal government, Resolution Copper may provide additional lands to equal the exchange or provide a monetary payment. Any cash payment will be deposited in a fund

established under the Sisk Act and the proceeds used to buy additional forest land for the National Forest System nationally and maintain existing federal facilities.

Town of Superior, Arizona, acquisition of land from Forest Service. The Town of Superior would acquire a 30 acre parcel of land currently being used as a cemetery, a reversionary interest and reserved mineral rights in a 265 acre parcel, and 250 acres near the Superior Airport.

Enactment of this land exchange would allow for development of the mine while adding other important lands to Federal management. The mine could provide up to one-quarter of the nation's estimated annual copper needs. Resolution Copper estimates that the total economic impact of the mine will exceed \$60 billion and support 3,700 jobs annually.

COMMITTEE ACTION

H.R. 1904 was introduced on May 13, 2011, by Congressman Paul Gosar (R-AZ). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests and Public Lands. On June 14, 2011, the Subcommittee on National Parks, Forests and Public Lands held a hearing on the bill. On July 13, 2011, the Full Resources Committee met to consider the bill. The Subcommittee on National Parks, Forests and Public Lands was discharged by unanimous consent. Congressman Rob Bishop (R-UT) offered amendment designated .033; the amendment was adopted by voice vote. Congressman Peter DeFazio (D-OR) offered amendment designated .046; the amendment was not adopted by a roll call vote of 18-26, as follows:

Committee on Natural Resources

U.S. House of Representatives

112th Congress

Date: July 13, 2011

Recorded Vote #: 15

Meeting on / Amendment: **HR 1904** – An amendment offered by Mr. DeFazio.046 was NOT AGREED TO by a roll call vote of 18 yeas and 26 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		Mr. Heinrich, NM	X		
Mr. Markey, MA Ranking	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		Mr. Lujan, NM	X		
Mr. Kildee, MI	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		Mr. Sarbanes, MD	X		
Mr. Defazio, OR	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX				Ms. Sutton, OH	X		
Mr. Faleomavaega, AS				Mr. Tipton, CO		X	
Mr. Bishop, UT		X		Ms. Tsongas	X		
Mr. Pallone, NJ	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		Mr. Pierluisi, PR	X		
Mrs. Napolitano, CA	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		Mr. Garamendi, CA	X		
Mr. Holt, NJ	X			Ms. Noem		X	
Mr. Broun, GA		X		Ms. Hanabusa, HI	X		
Mr. Grijalva, AZ	X			Mr. Southerland		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
Ms. Bordallo, GU	X			Mr. Harris, TX		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
Mr. Costa, CA	X			Mr. Fleischmann, TX		X	
Mr. McClintock, CA				Mr. Runyan, NJ		X	
Mr. Boren, OK		X		Mr. Johnson, OH		X	
Mr. Thompson, PA		X					
Mr. Sablan, CNMI	X						
Mr. Denham, CA		X					
				TOTALS	18	26	

Congressman Raúl Grijalva (D-AZ) offered amendment designated .020; the amendment was not adopted by a roll call vote of 17-27, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: July 13, 2011

Recorded Vote #: 16

Meeting on / Amendment: **HR 1904** – An amendment offered by Mr. Grijalva.020 was **NOT AGREED TO** by a roll call vote of 17 yeas and 27 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>	X		
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX				<i>Ms. Sutton, OH</i>	X		
<i>Mr. Faleomavaega, AS</i>				Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas</i>	X		
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Pierluisi, PR</i>	X		
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</i>	X		
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>	X			Mr. Harris, TX		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>		X		Mr. Fleischmann, TX		X	
Mr. McClintock, CA				Mr. Runyan, NJ		X	
<i>Mr. Boren, OK</i>		X		Mr. Johnson, OH		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA		X					
				TOTALS	17	27	

Congressman Raúl Grijalva (D-AZ) offered amendment designated .003; the amendment was not adopted by a roll call vote of 19–26, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: July 13, 2011

Recorded Vote #: 17

Meeting on / Amendment: **HR 1904** – An amendment offered by Mr. Grijalva.003 was **NOT AGREED TO** by a roll call vote of 19 yeas and 26 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>	X		
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX				<i>Ms. Sutton, OH</i>	X		
<i>Mr. Faleomavaega, AS</i>				Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas</i>	X		
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Pierluisi, PR</i>	X		
<i>Mr. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</i>	X		
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>	X			Mr. Harris, TX		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>	X			Mr. Fleischmann, TX		X	
Mr. McClintock, CA		X		Mr. Runyan, NJ		X	
<i>Mr. Boren, OK</i>	X			Mr. Johnson, OH		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA		X					
				TOTALS	19	26	

Congressman Raúl Grijalva (D-AZ) offered amendment designated .005; the amendment was not adopted by a roll call vote of 19–26, as follows:

Committee on Natural Resources

U.S. House of Representatives

112th Congress

Date: July 13, 2011

Recorded Vote #: 18

Meeting on / Amendment: **HR 1904** – An amendment offered by Mr. Grijalva.005 was **NOT AGREED TO** by a roll call vote of 19 yeas and 26 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		Mr. Heinrich, NM	X		
Mr. Markey, MA Ranking	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		Mr. Lujan, NM	X		
Mr. Kildee, MI	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		Mr. Sarbanes, MD	X		
Mr. Defazio, OR	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX				Ms. Sutton, OH	X		
Mr. Faleomavaega, AS				Mr. Tipton, CO		X	
Mr. Bishop, UT		X		Ms. Tsongas	X		
Mr. Pallone, NJ	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		Mr. Pierluisi, PR	X		
Mrs. Napolitano, CA	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		Mr. Garamendi, CA	X		
Mr. Holt, NJ	X			Ms. Noem		X	
Mr. Broun, GA		X		Ms. Hanabusa, HI	X		
Mr. Grijalva, AZ	X			Mr. Southerland		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
Ms. Bordallo, GU	X			Mr. Harris, TX		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
Mr. Costa, CA	X			Mr. Fleischmann, TX		X	
Mr. McClintock, CA		X		Mr. Runyan, NJ		X	
Mr. Boren, OK	X			Mr. Johnson, OH		X	
Mr. Thompson, PA		X					
Mr. Sablan, CNMI	X						
Mr. Denham, CA		X					
				TOTALS	19	26	

Congressman Raúl Grijalva (D-AZ) offered amendment designated .007; the amendment was not adopted by a roll call vote of 17-28, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: July 13, 2011

Recorded Vote #: 19

Meeting on / Amendment: **HR 1904** – An amendment offered by Mr. Grijalva.007 was **NOT AGREED TO** by a roll call vote of 17 yeas and 28 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		Mr. Heinrich, NM	X		
Mr. Markey, MA Ranking	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		Mr. Lujan, NM	X		
Mr. Kildee, MI	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		Mr. Sarbanes, MD	X		
Mr. Defazio, OR	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX				Ms. Sutton, OH	X		
Mr. Faleomavaega, AS				Mr. Tipton, CO		X	
Mr. Bishop, UT		X		Ms. Tsongas	X		
Mr. Pallone, NJ	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		Mr. Pierluisi, PR	X		
Mrs. Napolitano, CA	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		Mr. Garamendi, CA	X		
Mr. Holt, NJ	X			Ms. Noem		X	
Mr. Broun, GA		X		Ms. Hanabusa, HI	X		
Mr. Grijalva, AZ	X			Mr. Southerland		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
Ms. Bordallo, GU	X			Mr. Harris, TX		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
Mr. Costa, CA		X		Mr. Fleischmann, TX		X	
Mr. McClintock, CA		X		Mr. Runyan, NJ		X	
Mr. Boren, OK		X		Mr. Johnson, OH		X	
Mr. Thompson, PA		X					
Mr. Sablan, CNMI	X						
Mr. Denham, CA		X					
				TOTALS	17	28	

The bill, as amended, was then ordered favorably reported to the House of Representatives by a roll call vote of 26–19, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: July 13, 2011

Recorded Vote #: 20

Meeting on / Amendment: **HR 1904**, Favorably reported to the House of Representatives, as amended, by a roll call vote of 26 yeas and 19 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman	X			<i>Mr. Heinrich, NM</i>		X	
<i>Mr. Markey, MA Ranking</i>		X		Mr. Benishek, MI	X		
Mr. Young, AK	X			<i>Mr. Lujan, NM</i>		X	
<i>Mr. Kildee, MI</i>		X		Mr. Rivera, FL	X		
Mr. Duncan of TN	X			<i>Mr. Sarbanes, MD</i>		X	
<i>Mr. Defazio, OR</i>		X		Mr. Duncan of SC	X		
Mr. Gohmert, TX				<i>Ms. Sutton, OH</i>		X	
<i>Mr. Faleomavaega, AS</i>				Mr. Tipton, CO	X		
Mr. Bishop, UT	X			<i>Ms. Tsongas</i>		X	
<i>Mr. Pallone, NJ</i>		X		Mr. Gosar, AZ	X		
Mr. Lamborn, CO	X			<i>Mr. Pierluisi, PR</i>		X	
<i>Mrs. Napolitano, CA</i>		X		Mr. Labrador, ID	X		
Mr. Wittman, VA	X			<i>Mr. Garamendi, CA</i>		X	
<i>Mr. Holt, NJ</i>		X		Ms. Noem	X		
Mr. Broun, GA	X			<i>Ms. Hanabusa, HI</i>		X	
<i>Mr. Grijalva, AZ</i>		X		Mr. Southerland	X		
Mr. Fleming, LA	X			Mr. Flores, TX	X		
<i>Ms. Bordallo, GU</i>		X		Mr. Harris, TX	X		
Mr. Coffman, CO	X			Mr. Landry, LA	X		
<i>Mr. Costa, CA</i>		X		Mr. Fleischmann, TX	X		
Mr. McClintock, CA	X			Mr. Runyan, NJ	X		
<i>Mr. Boren, OK</i>		X		Mr. Johnson, OH	X		
Mr. Thompson, PA	X						
<i>Mr. Sablan, CNMI</i>		X					
Mr. Denham, CA	X						
				TOTALS	26	19	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 1904—Southeast Arizona Land Exchange and Conservation Act of 2011

H.R. 1904 would authorize a land exchange in Arizona between the federal government and a mining company and direct the Forest Service to sell several parcels of land to Superior, Arizona. Based on information provided by the affected agencies, CBO estimates that discretionary costs to implement the bill would total less than \$500,000 annually. Those costs would include preparing management plans to facilitate the exchange and administering new lands received in exchange for federal land. Enacting the bill would have no significant net effect on direct spending and no effect on revenues.

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that enacting H.R. 1904 would affect direct spending, but the net effects would be negligible for each year.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Federal land exchange with Resolution Copper LLC

Under H.R. 1904, the Forest Service would convey about 2,400 acres of land in Southeast Arizona to Resolution Copper Mining LLC in exchange for company-owned land of an equivalent value. Of the company land, about 1,200 acres would become part of the National Forest System, while about 4,200 acres would be administered as conservation areas by the Bureau of Land Management (BLM).

If the property sought by Resolution Copper is appraised at more than the value of the property that the company offers for exchange, the company could donate additional land or make a cash payment to the United States to make the final exchange of equal value. If the company's property is appraised for more than the fed-

eral acreage, the difference in the value would be considered to be a donation to the federal government. Any cash payment received by the Forest Service would be available to the agency to acquire other lands in the state. In addition, after completion of the exchange, Resolution Copper would have to pay the federal government a portion of any future income earned on the former federal property if the company determines that the actual cumulative production of minerals located on that property exceeds the value of the estimated production used in the original appraisal process.

The bill's effect on annual offsetting receipts and associated direct spending would depend on the outcome of formal appraisals of the federal property that would be conducted after enactment. That appraisal would determine the relative value of the properties affected by the exchange, including the value of mineral deposits that underlie the federal land. If the value of the federal land were to exceed the value of the company land, Resolution Copper could pay the government a lump sum equal to the difference in property values in the year or two following enactment. In addition, if the company extracts more mineral resources than assumed in the original appraisal, Resolution Copper would make annual payments to the federal government, beginning after several years when Resolution Copper begins to develop the new mineral resources. Any such payments might be significant, but would be spent by the Forest Service and BLM without further appropriation to purchase other lands within Arizona and to maintain existing facilities.

Sale of Federal property to Superior, Arizona

Section 9 of the bill would direct the Forest Service to sell about 550 acres of land to the town of Superior, Arizona. Proceeds from the sale would be available without further appropriation for the purchase of land in the state. CBO estimates that proceeds from the sale of land to Superior, Arizona, would total roughly \$1 million and would be spent to acquire other lands. Thus, implementing this section would have no net effect on the federal budget.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information provided by the affected agencies, CBO estimates that discretionary costs to implement the bill would total less than \$500,000 annually. Those costs would include preparing management plans to facilitate the exchange and administering new lands received in exchange for federal land. Enacting the bill would affect direct spending, but the net effects would be negligible for each year.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS

H.R. 1904 will rob Native People of their heritage, local people of their water and the American people of valuable natural resources, all to benefit two large, foreign-owned mining corporations. This legislation is an abdication of our responsibilities as stewards of the public lands and the public trust and it should be rejected by the House.

Resolution Copper Mining, LLC (Resolution Copper) is a subsidiary of Rio Tinto and BHP-Billiton. Resolution Copper owns land and holds mining claims on the Tonto National Forest in Southeastern Arizona. The company believes the area is home to a significant copper deposit and is seeking to develop a lucrative copper mining operation. However, approximately 760 acres of national forest land in the area was withdrawn from mining by President Eisenhower in 1955. Resolution Copper is seeking H.R. 1904 to require the federal government to exchange the withdrawn forest land for land owned by the Company so that the mining operation can proceed.

Evaluating the merits of land exchanges is difficult under the best of circumstances; H.R. 1904 would require this land exchange to proceed under the worst of circumstances. By waiving timely Tribal consultation, standard appraisal requirements and meaningful compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.), H.R. 1904 would require that the exchange go forward without mitigation or even analysis of its potentially devastating impacts.

Testimony received by the Committee indicates that the mining operation planned by Resolution Copper would require 40,000 acre-feet of water per year; roughly the amount used by the city of Tempe (population 160,000). The company has been less than transparent regarding where they would find this massive quantity of water in Southeastern Arizona. Past practice for mining companies has been to simply sink deeper wells and take the water they need, leaving their neighbors literally high and dry. Mr. Grijalva offered an amendment to require the U.S. Geological Survey to assess the potential water impacts before consummation of the exchange, but Republicans rejected this commonsense proposal.

Securing a fair return to taxpayers on this exchange is difficult given that the most valuable aspect of the exchange by far is the copper, the value of which is speculative but estimated to be worth billions of dollars. Rather than clarifying the valuation issue, H.R. 1904 further muddies the waters by requiring highly unusual appraisal procedures which fail to guarantee that Resolution Copper will pay a fair price for the copper it stands to receive from the American people.

A simple amendment offered by Mr. DeFazio, which would have obviated the need for this questionable appraisal approach by re-

quiring a straightforward royalty payment, was rejected by the Majority. Even Mr. Grijalva's amendment to require Resolution Copper to provide appraisers with basic information regarding the size or location of the ore body, was too much transparency for the Majority.

The principle justification for this land exchange is the creation of jobs in Southeastern Arizona. These claims are highly suspect, however, given that Rio Tinto and BHP-Billiton are pioneers in the automation and remote control of mining operations. The Majority voted against Mr. Grijalva's amendment to require that H.R. 1904 actually produce local jobs.

Finally, H.R. 1904 trades away several sites that are sacred to Native People. The hearing record includes desperate pleas from the San Carlos Apache Tribe, White Mountain Apache Tribe, Yavapai-Apache Nation, Tonto Apache Tribe, Fort McDowell Yavapai Nation, Hualapai Tribe, Jicarilla Apache Nation, Mescalero Apache Tribe, the Pueblo of Zuni and other Native Nations to respect their religious and cultural traditions.

Instead, the bill waives compliance with NEPA, the Native American Graves Protection Act, and all other statutes that might give Tribes a voice. The final insult comes when the bill requires consultation with Native People—*after* the land exchange has occurred. Mr. Grijalva sought to remedy this failure with an amendment requiring meaningful Tribal consultation; the amendment was rejected by Republicans.

In one fell swoop, H.R. 1904 would gather up hundreds of acres of sacred land, thousands of acre-feet of precious water, and millions of tons of valuable copper, and hand it all over to Resolution Copper, and its owners, Rio Tinto and BHP-Billiton. Such a move would be a disservice to local residents, Tribes and taxpayers. The House should reject this irresponsible and unwise proposal.

EDWARD J. MARKEY.
 GREGORIO KILILI CAMACHO
 SABLÁN.
 COLLEEN W. HANABUSA.
 RUSH HOLT.
 GRACE F. NAPOLITANO.
 NIKI TSONGAS.
 FRANK PALLONE, JR.
 MADELEINE Z. BORDALLO.
 BETTY SUTTON.
 BEN R. LUJÁN.
 RAÚL M. GRIJALVA.
 JOHN GARAMENDI.