

S. 409 comparison with Senate Amendment

At the urging of Senator John McCain, on December 16 the Senate Committee on Energy and Natural Resources amended S. 409 and passed it for consideration by the full Senate. The legislation authorizes the exchange of approximately 5,000 acres of ecologically important land for approximately 2,400 acres of land near Superior, Arizona.

Passage of the legislation by Congress will facilitate the protection of land with significant natural, scenic, recreational, water, riparian, and cultural resources. In addition, it will provide a path forward for Resolution Copper Company to develop an underground copper mine providing a huge economic stimulus in an economically depressed area of Arizona.

The following summarizes the changes to S. 409.

Issue: NEPA, FLPMA

1. S. 409 directed the Secretary of Agriculture to publish an environmental impact statement prior to commencing production in commercial quantities of any valuable mineral.
2. The Senate Amendment directs the Secretary of Agriculture to carry out the land exchange in accordance with the Federal Land Policy and Management Act of 1976 and other applicable laws, including the National Environmental Policy Act of 1969.
Suggested by Obama Administration.
3. The Senate Amendment also directs the Secretary of Agriculture to prepare a single environmental review document which shall be used as the basis for all decisions related to the land exchange and connected agency decisions related to the proposed mine.
Suggested by Resolution Copper.

Issue: Land Management

1. S. 409 authorized the Secretary of the Interior to use cash equalization funds for the management and protection of endangered species and other sensitive environmental values and land within the San Pedro Riparian National Conservation Area.
2. The Senate Amendment strikes this provision. *Suggested by Obama Administration.*

Issue: Exploration activities and access to Campground and the Oak Flat Withdrawal Area.

1. S. 409 authorized the Secretary of Agriculture to issue a permit to Resolution Copper to conduct mineral exploration activities including directional drilling or other non-surface-disturbing exploration activities in the Oak Flat Withdrawal Area as soon as practicable after the date of enactment.
2. The Senate Amendment, in addition to the above, also authorizes the Secretary to issue a permit to Resolution Copper to conduct mineral exploration activities from a single exploratory drill pad on the Oak Flat Withdrawal Area. *Suggested by Resolution Copper.*

Issue: Oak Flat Campground

1. S. 409 directed the Secretary of Agriculture to design and construct in the Globe Ranger District or the Tonto National Forest one or more replacement campgrounds for the Oak Flat Campground. In addition, S. 409 directed Resolution Copper to pay the actual cost of designing, constructing, and providing access to the replacement campground(s), not to exceed \$1,000,000.
2. The Senate Amendment strikes this provision. *Suggested by Obama Administration.*

Issue: JI Ranch

1. S. 409 directed Resolution Copper to convey approximately 88 acres of the JI Ranch to the Secretary of Agriculture.
2. The Senate Amendment strikes this provision. *Suggested by Obama Administration.*

Issue: Tribal Consultation

1. S. 409 directed the Secretary of Agriculture to consult with the Yavapai and Apache Indian tribes regarding a management plan for Apache Leap. In addition, the Secretary was required to conduct tribal consultation during preparation of the environmental impact statement referenced above.
2. The Senate Amendment includes the above provisions. In addition, it requires the Secretary to engage in government-to-government consultation with affected Indian tribes concerning issues related to the exchange, in accordance with applicable laws. *Suggested by Obama Administration.*

Issue: Rock Climbing

1. S. 409 required Resolution to pay \$1,250,000 to the Secretary of Agriculture for recreational opportunities including rock climbing, bouldering, and such other outdoor recreational opportunities as the Secretary determines to be appropriate. The Pond, Inconceivable, and Chill Hill areas are explicitly referenced.
2. The Senate Amendment keeps the \$1,250,000 Resolution Copper payment but provides additional flexibility to the Secretary of Agriculture to improve access for dispersed recreation and other outdoor recreational activities. *Suggested by Obama Administration.*

Issue: Equalization of Land Values

1. S. 409 provided for an equal value exchange. If the value of the Federal land exceeded the value of the non-Federal land Resolution Copper would make a cash payment to the United States. The Secretary could use the proceeds to acquire land along the San Pedro River or to manage and protect lands along the San Pedro.
2. The Senate Amendment also provides for an equal value land exchange, but grants additional flexibility to Resolution Copper for making such payments in the event that the value of the Federal land exceeds the value of the non-Federal land. The Senate Amendment authorizes Resolution Copper to convey additional non-Federal land subject to the approval of the Secretary of Agriculture or the Secretary of the Interior as

applicable. In addition, Resolution Copper is authorized to make a cash payment, or to use a combination of methods to equalize land values. *Suggested by Resolution Copper.*