

**SUMMARY OF DIFFERENCES BETWEEN S. 409 AS REPORTED IN THE SENATE (111TH CONGRESS)
AND H.R. 1904 AS INTRODUCED IN THE HOUSE (112TH CONGRESS)**

SUMMARY: Unlike S. 409 as reported, H.R. 1904 is a mandatory land transfer that removes all Administrative discretion and decision-making authority, renders useless tribal consultation, and provides absolutely no protections to the lands, water, or integrity of the sacred sites at issue prior to the land exchange.

While S. 409 as reported was vehemently opposed by Native Americans, environmentalists, and others, for its failure to offer meaningful protections to the Oak Flat region, to include the full hard look required by NEPA, and to provide true consultation with Tribes, H.R. 1904 represents an even a greater step backwards than S. 409.

The only true solution to protect Oak Flat, Gaan Canyon, Queen Creek, and Apache Leap is to avoid both bills and to go through the normal administrative process for approving large mines on public lands.

SPECIFIC DIFFERENCES

S. 409 as reported	H.R. 1904 as introduced
Land exchange is subject to Secretary’s determination that “the public interest would be well served by making the exchange”	No public interest determination. Secretary is “authorized and directed to convey RC all right title and interest” to the land
Secretary is to carry out land exchange with at least some guidance from FLPMA and other applicable laws including NEPA	No similar provision in HR 1904
Secretary shall prepare single environmental document pursuant to NEPA and CEQ regulations (separate environmental reviews permitted for exploration and other activities not involving the land exchange or mineral extraction)	Exchange is not subject to NEPA or CEQ regs. “Environmental compliance” consists of RC submitting a proposed mine plan of operations prior to mineral extraction. Secretary has 3 years to complete environmental review pursuant to Section “4322(2)” of NEPA, which shall be used as the basis for all decisions under applicable federal laws, rules, and regulations related to the mine plan of operations, including construction of power, water, transport, processing, tailings, waste dump, etc
Conveyance is subject to terms and conditions as the Secretary may require	Conveyance <i>not</i> subject to any USDA or DOI requirements
Consultation with tribes to be weighed into the public interest determination	Secretary shall engage in consultation, but it holds no meaning or effect
Reappraisals are permitted prior to entering into exchange agreement with RC	“Secretary shall not be required to reappraise ... for a period of 3 years” or “at all, in accord with” 36 CFR Part 254.14
Additional appraisal information	Appraisal information

S. 409 as reported	H.R. 1904 as introduced
Oak Flat Withdrawal Area – Secretary may authorize RC to carry out mineral exploration under Oak Flat if surface is not disturbed	Secretary discretion removed. Mineral exploration subject to request of Resolution Copper.
Exploration at Oak Flat subject to Secretary’s terms and conditions	Exploration at Oak Flat subject to Secretary’s “reasonable” terms and conditions
Authorization to explore at Oak Flat shall terminate at a certain date	Authorization to explore at Oak Flat “shall remain in effect” until land is conveyed
Intent of Congress – Secretary shall complete all environmental reviews within 3 years of receiving RC mining plan. Exchange is subject to determination that “the public interest would be well served by making the land exchange.”	“It is the intent of Congress that the land exchange ... shall be consummated not later than one year after the date of enactment of this Act.”
As condition of exchange, RC shall pay Secretary \$1.25 million to improve access and facilities for recreation and outdoor activities	No similar requirement in HR 1904