

# Apache Leap Special Management Area Management Plan - Proposed



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## ACRONYMS AND ABBREVIATIONS

Apache Leap SMA	Apache Leap Special Management Area
CFR	Code of Federal Regulations
EA	Environmental Assessment
forest plan	Tonto National Forest Land and Resource Management Plan
Forest Service	U.S. Forest Service
NDAA	the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015
NEPA	National Environmental Policy Act
PL	Public Law
Resolution Copper	Resolution Copper Mining, LLC

## Chapter 1

# INTRODUCTION

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## 1.1 PURPOSE OF THE MANAGEMENT PLAN

This document is a management plan for the Apache Leap Special Management Area (Apache Leap SMA), which was designated a special management area through the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (NDAA) (Public Law [PL] 113–291) (113th Congress 2014). The management direction in this plan is designed to protect the values for which the area was designated, and to guide limited uses compatible with the area’s primary purpose.

This management plan establishes a comprehensive framework for managing the natural character of the Apache Leap SMA and its values, as specified in the NDAA (NDAA, Section 3003(g)(5)(A)). The plan also provides the management direction and monitoring strategy necessary to protect the area’s values. This plan has been developed by the U.S. Forest Service (Forest Service) in consultation with affected Indian tribes,<sup>1</sup> the Town of Superior, Resolution Copper Mining, LLC (Resolution Copper), and interested members of the public.

## 1.2 OVERVIEW OF THE APACHE LEAP SMA

The area covered by this plan lies within the administrative boundaries of the Globe Ranger District of the Tonto National Forest in Pinal County, Arizona. The Apache Leap SMA is located on the eastern edge of the Town of Superior (Figure 1). The Apache Leap SMA includes approximately 807 acres of land currently under federal and private ownership. Upon completion of the Southeast Arizona Land Exchange (directed as part of the NDAA), the Apache Leap SMA will include only federal lands.

The Apache Leap SMA is named after its signature feature, an escarpment of sheer cliff faces, hoodoos, and buttresses known as “Apache Leap.” The escarpment is the dominant feature of the western area of the Apache Leap SMA, while the eastern portion gradually slopes down from the top of the escarpment toward Oak Flat (see cover photo).

The Apache Leap SMA is extremely rugged. Present uses of the Apache Leap SMA include Native American traditional and ceremonial use, public recreation (hiking, rock climbing, mountain biking), livestock grazing, hunting, and energy distribution (power transmission corridor). There is currently no legal motorized access within the Apache Leap SMA boundary. However, there are existing routes (both Forest Service roads and remnants of old, mining-related roads) that occur around and within the Apache Leap SMA that are currently used for non-motorized access into the area. This includes Forest Service road 315, used to access the east side of the Apache Leap SMA, and Forest Service roads 2440 and 282, each used to access the west side of the Apache Leap SMA (Figure 2).

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<sup>1</sup> Yavapai-Apache Nation, Gila River Indian Community, Hopi Tribe, Fort McDowell Yavapai Nation, Mescalero Apache Tribe, Pueblo of Zuni, Salt River Pima-Maricopa Indian Community, San Carlos Apache Tribe, Tonto Apache Tribe, White Mountain Apache Tribe, and Yavapai Prescott Indian Tribe.

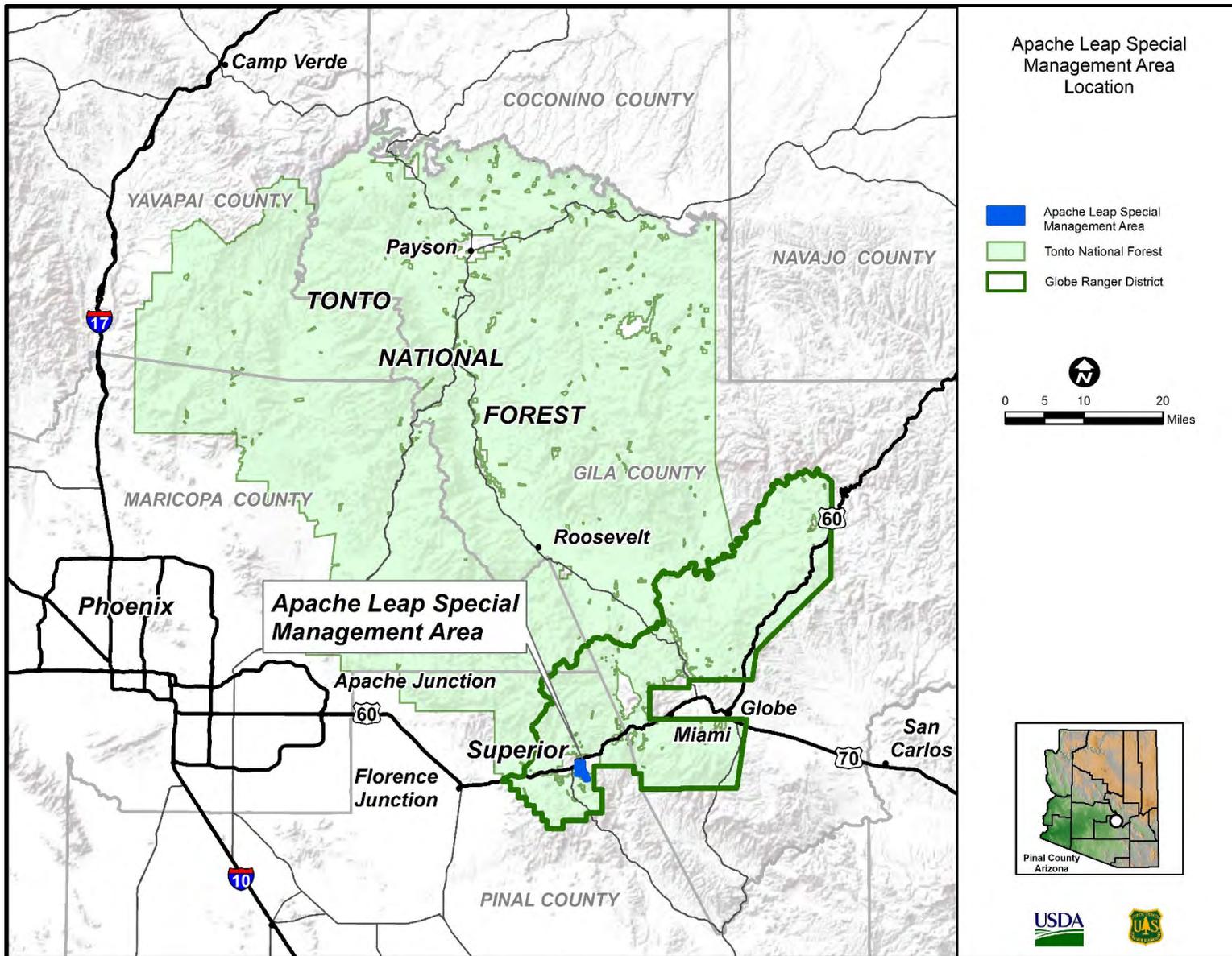


Figure 1. Apache Leap SMA location.

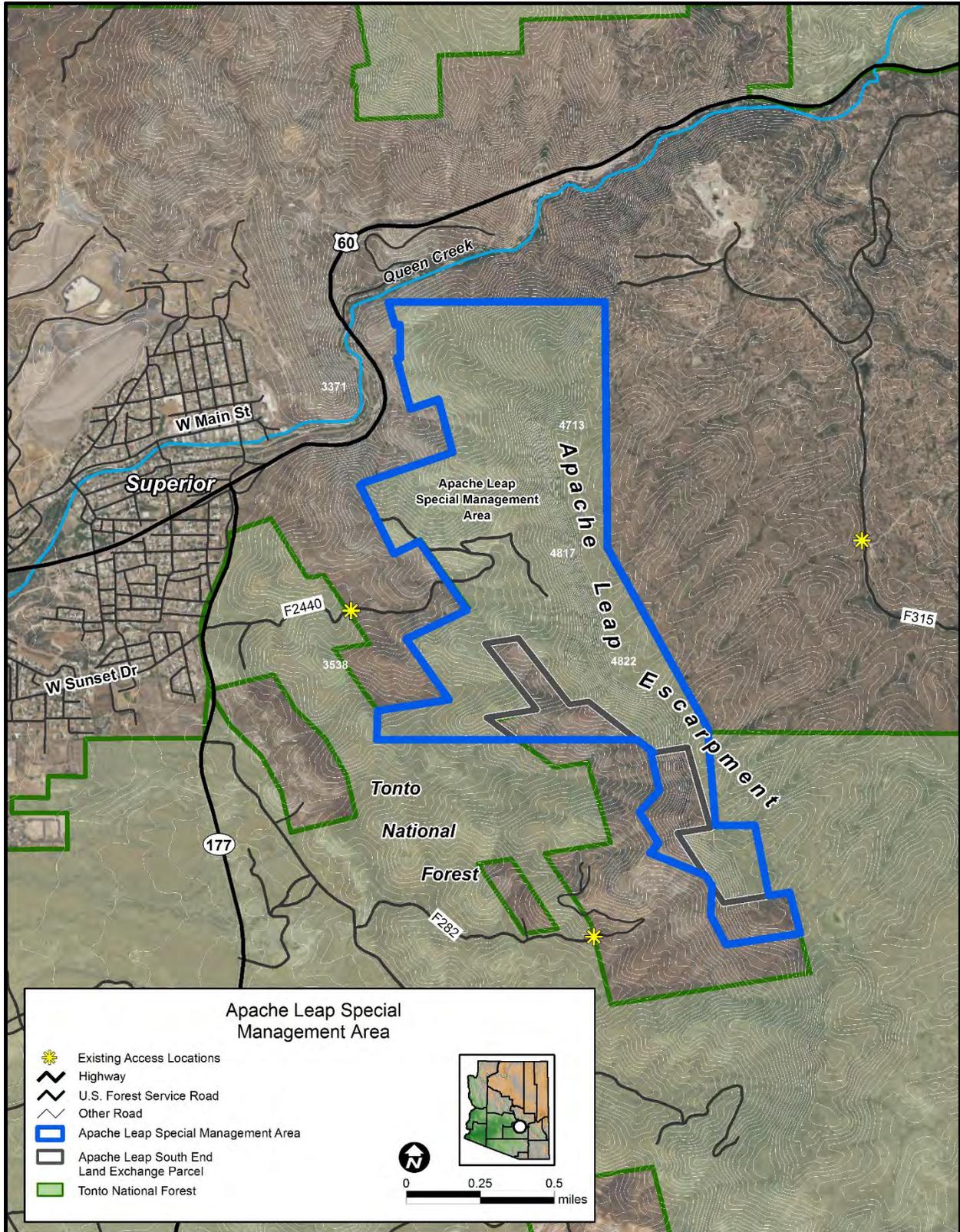


Figure 2. Apache Leap SMA.

## 1.3 WHAT IS A SPECIAL MANAGEMENT AREA?

Applied to federal public lands, a special management area is “an area or feature identified and managed to maintain its unique special character or purpose” (36 Code of Federal Regulations [CFR] 219.19). As described above, Congress designated Apache Leap as a special management area for the purpose of preserving the natural character of Apache Leap, allowing traditional uses by Native American people, and protecting and conserving the cultural and archaeological resources of the area.

## 1.4 LEGISLATIVE DIRECTION

The Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (NDAA) (PL 113–291) (113th Congress, 2014), directs the Forest Service to prepare a management plan for the Apache Leap SMA in consultation with affected Indian tribes, the Town of Superior, Resolution Copper, and interested members of the public (NDAA, Section 3003(g)(5)(A)). See Appendix A for the full text of the NDAA.

The NDAA outlines the primary purposes, authorized activities, and additional considerations for the management of the Apache Leap SMA (NDAA, Section 3003(g)(2)). The purposes of the Apache Leap SMA are to:

- preserve the natural character of Apache Leap;
- allow for traditional uses of the area by Native American people; and
- protect and conserve the cultural and archaeological resources of the area.

Activities specifically authorized by Section 3003 of the NDAA ((g)(4)(B)) relate to the proposed adjacent mining operation and include:

- installation of seismic monitoring equipment on the surface and subsurface to protect the resources located within the special management area;
- installation of fences, signs, or other measures necessary to protect the health and safety of the public; and
- operation of an underground tunnel and associated workings, as described in the Resolution Copper Mine “General Plan of Operations,” subject to any terms and conditions the Secretary may reasonably require.

The NDAA further directs the Forest Service to consider whether additional measures are necessary to protect the cultural, archaeological, or historical resources of the Apache Leap SMA, including permanent or seasonal closures of all or a portion of the Apache Leap SMA; and provide access for recreation (NDAA, Section 3003(g)(5)(B)).

Section 3003 also includes direction for the exchange of the approximately 110-acre Apache Leap South End Parcel, presently owned by Resolution Copper, to the Forest Service (NDAA, Section 3003(c)). This parcel will be added to an existing area of the Tonto National Forest (about 697 acres) to form the approximately 807-acre Apache Leap SMA (see Figure 2).

As a condition of the land exchange, the Apache Leap SMA is withdrawn from future mining. NDAA Section 3033, subsection (f) states, “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; and
3. disposition under the mineral leasing, mineral materials, and geothermal leasing laws.”

## **1.5 PLANNING PROCESS**

The Forest Service began the planning process for the Apache Leap SMA in summer 2016 by consulting affected Indian tribes, the Town of Superior, interested members of the public, and Resolution Copper for input on the plan development. These consultation processes ended on January 31, 2017, with the exception of tribal consultations, which will continue as needed through the objection period. Appendix B provides a detailed list of the planning consultation meetings and presentations. Following the consultation process, the Forest Service prepared a proposed management plan for the Apache Leap SMA in March 2017.

As part of the Forest Service’s mandate to comply with the National Environmental Policy Act (NEPA), an Environmental Assessment will be conducted to determine whether the implementation of the management plan would result in significant impacts to the human environment. As part of the Environmental Assessment (EA) process, public comments concerning the proposed management plan will be collected from March 17, 2017, to May 1, 2017 (45 calendar-day scoping period). After the EA is finalized in June 2017, an objection period will run from July 2017 through November 2017. If the EA finds that the proposed management plan has no significant impacts to the human environment and any objections are resolved, the planning process will culminate with a Decision Notice by the Tonto National Forest Supervisor to accept the EA and approve the Apache Leap SMA management plan in December 2017.

Though the Forest Service has the jurisdictional authority for writing and implementing the Apache Leap SMA management plan, there are key partnerships and roles that include agencies beyond the Forest Service that are identified both in the NDAA and in other relevant laws. These entities are described below.

## **1.6 MANAGEMENT ROLES**

The Forest Service developed this management plan in consultation with affected Indian tribes, the Town of Superior, Resolution Copper, and interested members of the public, as directed by the NDAA. In addition, state agencies, including the Arizona State Historic Preservation Office and the Arizona Game and Fish Department, have jurisdiction over certain resources of the Apache Leap SMA. Efforts to engage these partners are ongoing, and are critical to the successful implementation of the management plan.

## **U.S. Forest Service**

The Forest Service is the federal agency charged with managing the Apache Leap SMA. The management direction in this plan amends portions of the 1985 Tonto National Forest Land and Resource Management Plan (forest plan) (Forest Service, 1985).

The management direction identified by this plan will supersede comparable management direction in the forest plan should conflicts exist.

Two levels of planning exist within the Forest Service. The first level of planning is programmatic and is represented by the forest plans and their amending documents, such as this document, the Apache Leap SMA management plan. The second level of planning is the project level. Individual projects proposed for the Apache Leap SMA would be analyzed for potential site-specific environmental impacts and for compliance with desired conditions and management standards established in this plan. The Forest Service is the agency charged with ensuring that future projects comply with applicable laws and regulations.

## **Town of Superior**

The Town of Superior is located just to the west of the Apache Leap SMA. Incorporated in 1976, the Town is surrounded by the Tonto National Forest and geographically proximate to the Apache Leap SMA. Superior is also specifically mentioned in the NDAA as a consulting party for the development of the Apache Leap SMA management plan. As part of the Town's involvement in the consultations that took place from October 2016 through January 2017, a vision statement for the Town's preferences on the management of the Apache Leap SMA was provided to the Forest Service, and considered as part of public input in the development of this management plan (Appendix C). Apache Leap provides a visual backdrop to the community, as well as an area that allows for recreational and other uses.

## **Affected Indian Tribes**

The NDAA, Section 3003(g)(5)(A), specifies that affected Indian tribes must be consulted regarding the preparation of the Apache Leap SMA management plan. In addition, the preparation and approval of the Apache Leap SMA management plan is a federal undertaking subject to compliance with Section 106 of the National Historic Preservation Act, which requires federal agencies to take into account the effects of a proposed undertaking on historic properties eligible for the National Register of Historic Places in consultation with the Arizona State Historic Preservation Office, affected tribes, and interested parties. Consultation with Indian tribes must be government-to-government. The Tonto National Forest conducts ongoing consultation with Indian tribes, in accordance with Forest Service Handbook Section 1509.13, Chapter 10, "Consultation with Indian Tribes and Alaska Native Corporations" (Forest Service, 2016).

## **Resolution Copper Mining, LLC**

Resolution Copper is a joint venture owned by Resolution Copper Company, a Rio Tinto PLC subsidiary, and BHP Copper, Inc., a BHP-Billiton PLC subsidiary. Resolution Copper submitted a "General Plan of Operations" to the Forest Service in November 2013 to initiate the permitting process for an underground copper mine near the Apache Leap SMA. The company is currently operating in the area east of the Apache Leap SMA, with plans to expand its operations in the Oak Flat area. As authorized in the Southeast Arizona Land Exchange and Conservation Act set forth in Section 3003 of PL 113-291, Resolution Copper, in cooperation with the Forest Service, will incorporate the following into its activities in the Apache Leap SMA: (1) install seismic monitoring equipment on the surface and subsurface to protect the resources located within the Apache Leap SMA; and (2) operate an underground tunnel and associated workings just beyond the northern boundary of the Apache Leap SMA, as described in the Resolution Copper Mine "General Plan of Operations," subject to reasonable terms and conditions.

## **Arizona State Historic Preservation Office**

The Arizona State Historic Preservation Office is a state office with a federal mandate. Under Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations at 36 CFR 800, federal agencies are required to consult with the State Historic Preservation Office regarding the eligibility of cultural resources (known by the general term “historic properties”) for nomination to the National Register of Historic Places, and on determinations of effect from federal undertakings and management decisions.

## **Arizona Game and Fish Department**

The Arizona Game and Fish Department is the agency responsible for managing and protecting Arizona’s fish and wildlife resources. The Apache Leap SMA lies within Arizona Game and Fish Department Game Management Unit 24A. The agency sets game animal harvest levels, hunting seasons, and similar wildlife population regulatory actions for each game management unit throughout the state.

The Arizona Game and Fish Department identifies species with population viability issues through research and surveys, including some known to occur in the Apache Leap SMA. The agency actively participates with the Forest Service in protection of these species. Surveys for sensitive wildlife species are conducted to monitor populations, such as raptor surveys.

## Chapter 2

# IMPORTANCE OF APACHE LEAP

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## 2.1 WHAT MAKES APACHE LEAP UNIQUE?

The Apache Leap Special Management Area (Apache Leap SMA) is a geographically, culturally, and historically unique area. The area was occupied by Native Americans during prehistoric and historic times, and is still accessed for ceremonial use.

The legend of Apache Leap holds that an Apache campsite located within what is now the Apache Leap SMA was attacked by U.S. Cavalry troops in the late 1800s. A number of Apaches, driven to the edge, leaped over the cliff to death rather than surrender. When the women and children discovered their beloved husbands, fathers, and sons dead at the bottom of the cliff, they began to weep. And as their tears fell, black stones were formed on the white, sandy earth for every tear that hit the ground. These are Apache Tears (obsidian). There are numerous accounts of this event, although it is important to note that the reported details of this event often conflict with oral history accounts by the Apache people.

The geographic feature referred to as Apache Leap is scenically unique within the surrounding landscape. This dramatic escarpment visually dominates the eastern skyline from the basin below. The area provides a scenic backdrop for the Town of Superior, and provides many recreational opportunities for local residents and visitors.

Over the course of the twentieth century, many copper mines were developed in the region surrounding Superior, Arizona, and the area came to be known as the Copper Triangle. The Copper Triangle has a long history of mining, and most of the towns in the area originated as mining communities, including Miami, Globe, Superior, Kearny, Hayden, and Winkelman (Anthropological Research, 2014).

The Apache Leap SMA is a relatively undisturbed area within this disturbed landscape. As the area is managed for rangeland resources, there are existing pasture fences (e.g., four-string barbed wire) and gates. An existing utility line crosses the northern portion of the Apache Leap SMA. The very nature of the topography of the Apache Leap SMA, extremely rugged and largely impassible by most humans, has preserved the area as mostly undisturbed. Several old, small-scale mining/prospecting remnants remain (e.g., adits, roads, frames and other workings), but the landscape within the Apache Leap SMA boundary is otherwise largely undeveloped.

The Apache Leap SMA's combination of ecological values, scenic resources, and recreation use make it unique in southeastern Arizona.

## 2.2 TRIBAL IMPORTANCE

Apache Leap is sacred to 11 southwestern tribes: the San Carlos Apache Tribe, White Mountain Apache Tribe, Yavapai-Apache Nation, Tonto Apache Tribe, Mescalero Apache Tribe, Fort McDowell Yavapai Nation, Yavapai Prescott Indian Tribe, Hopi Tribe, Gila River Indian Community, Salt River Pima-Maricopa Community, and Pueblo of Zuni. Evidence of Native American use of the area dates to the Hohokam culture, predominantly to the Middle Formative period (A.D. 700–1100), to the Late Formative period Salado culture (A.D. 1100–1450), and to Apache and Yavapai occupations in the protohistoric and historic periods (AD 1100–1880s). Very little is known about the region before the Hohokam. The Apache/Yavapai presence in the western Pinal Mountains during the protohistoric and historical eras has

been confirmed through archaeological surveys, ethnographic studies, and Native American traditions. However, this presence on the landscape is often hard to detect archaeologically due to the ephemeral nature of the Apache and Yavapai imprint on the land and their tendency to reoccupy prehistoric sites. The higher-elevation areas in the Pinal Mountains were used to gather wild plant foods and hunt large animals during the warm months, and the western and southern flanks were occupied during the winter months.

The Apache Leap SMA falls within the boundaries of the *Chi'chil Bildagoteel* Historic District, which is listed in the National Register of Historic Places (January 4, 2016) as an Apache Traditional Cultural Property. *Chi'chil Bildagoteel* is eligible for the National Register of Historic Places under Criterion A, “associated with events that have made a significant contribution to the broad patterns of our history,” because it is associated with traditional Apache oral history, is a venue for ongoing Apache participation in traditional social activities, and is associated with traditions rooted in the history of the Western Apache Tribes. *Chi'chil Bildagoteel* is also eligible under Criterion B as a place “associated with the lives of persons significant in our past,” because it serves as a dwelling place of Western Apache holy beings, upon whom traditional Apaches depend for their well-being. In addition, *Chi'chil Bildagoteel* is eligible under Criterion C as a place “representative of a significant and distinguishable entity whose components may lack individual distinction,” because of the oak groves that figure prominently in traditional Apache subsistence patterns and other important natural resources. Finally, *Chi'chil Bildagoteel* is eligible under Criterion D as a place “that has yielded, or may be likely to yield, information important in prehistory or history,” because of opportunities available to record the oral histories of the Western Apache people and the information contained in the Apache archaeological sites.

## 2.3 GEOGRAPHIC LOCATION

The location and layout of the Apache Leap SMA are shown in Figures 1 and 2, on pages 2 and 3. Apache Leap is a prominent geological buttress with elevations that range from 3,680 to 4,720 feet (1,122 to 1,439 m) above mean sea level.

The highest point of the area is on a portion of the escarpment that overlooks Superior. The Apache Leap SMA boundary is established primarily along existing mining claim boundaries, staked as early as 1917. Surrounding lands include additional Tonto National Forest lands, state lands, and privately held land near the Town of Superior.

## 2.4 PHYSICAL AND BIOLOGICAL CHARACTERISTICS

The western portion of the special management area includes the west-facing Apache Leap escarpment, which is composed of sheer cliff faces, hoodoos, and buttresses. Apache Leap itself is formed from horizontal, stratified volcanic rocks (tuff), and overlies sedimentary rocks that have similarly eroded into ridges and canyons to form the foothills below (to the west of) the Apache Leap escarpment. Within the special management area, these foothills include ephemeral drainages that primarily flow westward to Queen Creek. Surface water features are absent within the special management area, and soils are shallow and not well developed. Exposed bedrock consists of Apache Leap Tuff and Precambrian sedimentary rocks. The eastern portion of the special management area gradually slopes from the top of Apache Leap down to the Oak Flat area, and primarily consists of exposed Apache Leap Tuff eroded into numerous canyons, plateaus, and scarps.

The biotic communities and vegetation within the special management area include the Arizona Upland subdivision of the Sonoran Desertscrub biotic community in lower elevations, with the Interior Chaparral

community along the top of the Apache Leap escarpment (Brown, 1994). Interior Chaparral species also occur on north-facing slopes in lower elevations west of the Apache Leap escarpment. Fire history studies show that human-caused and naturally ignited fire in the area is infrequent; however, fire does play an important role in ecosystem function.

Vegetation found in the Arizona Upland subdivision typically consists of shrubs, cacti, and leguminous trees such as foothills paloverde (*Parkinsonia microphylla*) and mesquite (*Prosopis velutina*). Within the special management area, this subdivision is best represented by the saguaro (*Carnegiea gigantea*) and foothills paloverde association. Additional species common to this area include golden flower century plant (*Agave chrysantha*), Mormon tea (*Ephedra* sp.), fairyduster (*Calliandra eriophylla*), barrel cactus species (*Ferocactus* sp.), catclaw mimosa (*Mimosa aculeaticarpa*), jojoba (*Simmondsia chinensis*), cat claw acacia (*Acacia greggi*), wolfberry (*Lycium* spp.), brittle bush (*Encelia farinosa*), teddybear cholla (*Opuntia bigelovii*), buckhorn cholla (*Opuntia acanthocarpa*), prickly pear (*Opuntia engelmannii*), hedgehog (*Echinocereus engelmannii*), shrubby buckwheat (*Eriogonum wrightii*), flattop buckwheat (*Eriogonum fasciculatum*), Louisiana sagewort (*Artemisia ludoviciana*), desert marigold (*Baileya multiradiata*), desert senna (*Senna covesii*), globemallow (*Sphaeralcea ambigua*), and purple three-awn (*Aristida purpureae*). Non-native species are also present in the Apache Leap SMA, including red brome (*Bromus rubens*), an annual grass that presents a fire hazard. Additional non-native species include Mediterranean grass (*Schismus* sp.), buffelgrass (*Pennisetum ciliare*), fountain grass (*Pennisetum setaceum*), filaree (*Erodium cicutarium*), Malta starthistle (*Centaurea solstitialis*), silver-leaf nightshade (*Solanum elaeagnifolium*), and wild oats (*Avena fatua*).

Drainages within the Apache Leap SMA do not contain permanent surface water features and do not support riparian vegetation. Instead, the drainages generally contain greater densities of the same species that are present in the adjacent uplands.

The Interior Chaparral vegetation type is characterized by dense stands of woody evergreen and shrubs. A common (diagnostic) species of Interior Chaparral in central Arizona is scrub live oak. In the Apache Leap SMA, this community is best represented by scrub live oak (*Quercus turbinella*), manzanita (*Arctostaphylos pungens*), barberry (*Berberis haematocarpa*), mountain mahogany (*Cercocarpus montanus*), deer brush (*Ceanothus integerrimus*), and sugar sumac (*Rhus trilobata*). Other common species include crucifixion thorn (*Castela emoryi*), hopbush (*Dodonaea viscosa*), silktassels (*Garrya wrightii*), and broom snakeweed (*Gutierrezia sarothrae*).

Wildlife in the special management area is typical of that encountered in Arizona Upland and Interior Chaparral communities.

Mammal species in the special management area include cottontail rabbit (*Sylvilagus audubonii*), black-tailed jackrabbit (*Lepus californicus*), gray fox (*Urocyon cinereoargenteus*), coyote (*Canis latrans*), cliff chipmunk (*Tamias dorsalis*), white-throated woodrat (*Neotoma albigula*), pocket mouse (*Chaetodipus intermedius*), white-tailed deer (*Odocoileus virginianus*), mule deer (*Odocoileus hemionus*), and javelina (*Pecari tajacu*).

Reptiles include Madrean alligator lizard (*Elgaria kingii*), eastern fence lizard (*Sceloporus undulates*), Sonoran whipsnake (*Coluber bilineatus*), western patch-nosed snake (*Salvadora hexalepis*), side-blotched lizard (*Uta stansburiana*), western diamondback rattlesnake (*Crotalus atrox*), glossy snake (*Arizona elegans*), and Gila monster (*Heloderma suspectum*).

Bird species common to the Apache Leap SMA include turkey vulture (*Cathartes aura*), Gambel's quail (*Callipepla gambelii*), elf owl (*Micrathene whitneyi*), red-tailed hawk (*Buteo jamaicensis*), mourning dove (*Zenaidura macroura*), pyrrhuloxia (*Cardinalis sinuatus*), Gila woodpecker (*Melanerpes uropygialis*), gilded flicker (*Colaptes chrysoides*), ladder-backed woodpecker (*Dryobates scalaris*), curve-billed

thrasher (*Toxostoma curvirostre*), cactus wren (*Campylorhynchus brunneicapillus*), and the more scrub-adapted species western scrub jay (*Aphelocoma californica*), canyon wren (*Catherpes mexicanus*), Crissal thrasher (*Toxostoma crissale*), black-chinned sparrow (*Spizella atrogularis*), bushtit (*Psaltriparus minimus*), and rufous-sided towhee (*Pipilo erythrophthalmus*).

One federally listed endangered species, the Arizona hedgehog cactus (*Echinocereus triglochidiatus* var. *arizonicus*), has the potential to occur within the special management area. Individual plants are known to occur north and east of the special management area. This species is more abundant in the area north of U.S. Route 60, adjacent to the special management area. One other federally listed endangered species, the lesser long-nosed bat (*Leptonycteris yerbabuena*), currently has no records of occurrence within the Tonto National Forest, including the Apache Leap SMA.

## 2.5 SOCIAL AND CULTURAL CHARACTERISTICS

The Apache Leap landform provides the scenic background for the community of Superior. Land use within the Apache Leap SMA boundary historically and currently includes cultural and spiritual use by tribal members, mining, dispersed recreational activities, and cattle grazing. Cattle grazing on the special management area is related to two active grazing permits on National Forest System lands: the Devil's Canyon permit, held by Resolution Copper; and the Superior permit, held by the Herron Ranch. Grazing also occurs on the private lands owned by Resolution Copper that will become part of the Apache Leap SMA.

The Historic period in and around Superior is defined by hardrock mining. Hardrock mining in the area is marked by two distinct periods: an early period dominated by silver mining from 1875 to 1893, and a later copper mining era from 1902 to present (WestLand Resources, 2004). Mineral Survey plats and Arizona Bureau of Mines data indicate that lands within the special management area were federally patented in the 1910s and early 1920s (WestLand Resources, 2004). No major operations were ever erected within the special management area. Nevertheless, portions of the Apache Leap SMA are located entirely or partially within a number of patented lode claims. Historically, these lode claims were explored for the presence of economic minerals using surface methods (open cuts) and underground methods (shafts and tunnels), and in a few cases exploration appears to have led to actual development (WestLand Resources, 2004). Many of these past mining features remain on the landscape today. All patented and unpatented mineral claims currently existing in the special management area are owned by Resolution Copper.

## Chapter 3

# MANAGEMENT DIRECTION FOR THE APACHE LEAP SPECIAL MANAGEMENT AREA

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The management direction contained in this chapter guides the U.S. Forest Service (Forest Service) in carrying out its stewardship responsibilities for the lands and resources found within the Apache Leap Special Management Area (Apache Leap SMA).

This management direction provides a framework for sustaining and protecting the values for which the area was designated and for informing future decisions to ensure that activities and uses are compatible with the primary purposes for which the area is now managed.

It is important to note that this management plan is strategic in nature and does not authorize site-specific prohibitions or activities; rather, it establishes broad direction, similar to zoning in a community. Future project or activity decisions will occur only after specific proposals are identified and analyzed and there is the opportunity for public involvement in compliance with the National Environmental Policy Act.

Guidance for plan content and development is provided in the Code of Federal Regulations (CFR) and in Forest Service Handbook 1909.12, Chapter 20 (Forest Service, 2015). Management plans for congressionally designated areas such as the Apache Leap SMA must include the following plan components: desired conditions, objectives, guidelines, standards, and suitability of lands. Each of these plan components has a specific definition (see below) as well as a purpose in the plan and must be clearly identified.

Management plans may include information other than the required plan components, such as explanatory narrative, management approaches, and referenced material. This plan uses “management approaches” to describe management intent and possible management strategies, and to identify potential partnership opportunities and coordination activities, including area or resource monitoring.

Management direction provided in this plan is specific to the Apache Leap SMA. Additional laws, regulations, and agency policy may also apply and should be consulted, including forest-wide management direction found in the Tonto National Forest Land and Resource Management Plan (as amended).

## Plan Components

Definitions for plan components addressed in this management plan follow:

- *Desired conditions.* A desired condition is a description of specific social, economic, and/or ecological characteristics of the plan area, or a portion of the plan area, toward which management of the land and resources should be directed. Desired conditions must be described in terms that are specific enough to allow progress toward their achievement to be determined, but do not include completion dates (36 CFR 219.7(e)(1)(i)).
- *Objectives.* An objective is a concise, measurable, and time-specific statement of a desired rate of progress toward a desired condition or conditions. Objectives should be based on reasonably foreseeable budgets (36 CFR 219.9(e)(1)(ii)).

- *Standards.* A standard is a mandatory constraint on project and activity decision-making, established to help achieve or maintain the desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements (36 CFR 219.7(e)(1)(iii)).
- *Guidelines.* A guideline is a constraint on project and activity decision-making that allows for departure from its terms, so long as the purpose of the guideline is met (36 CFR 219.15(d)(3)). Guidelines are established to help achieve or maintain a desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements (36 CFR 219.7(e)(1)(iv)).
- *Suitability of lands.* Specific lands within a plan area will be identified as suitable for various multiple uses or activities based on the desired conditions applicable to those lands. The plan will also identify lands within the plan area as not suitable for uses that are not compatible with desired conditions for those lands. The suitability of lands need not be identified for every use or activity. Suitability identifications may be made after consideration of historic uses and of issues that have arisen in the planning process. Every plan must identify those lands that are not suitable for timber production (36 CFR 219.11 and 219.7(e)(1)(v)).

The following sections, 3.1 through 3.10, detail the plan components for the Apache Leap SMA management plan.

## **3.1 CULTURAL/HISTORIC**

### **3.1.1 *Desired Conditions***

Visitors to the Apache Leap SMA are aware of the cultural and historic values present, the role of human activity in shaping the landscape of the area, and the importance of protecting these resources.

Heritage resources are preserved in place wherever feasible. Archaeological sites are protected from vandalism, looting, and other forms of unnatural deterioration. Excessive forms of natural deterioration such as gully erosion and animal burrowing that threaten the integrity of features or cultural deposits are rare or not evident on the landscape. Adverse effects from management activities, visitor impacts, and damaging levels of natural deterioration are mitigated.

The significance of the historic and cultural resources of the Apache Leap SMA is recognized in nomination(s) for the National Register of Historic Places.

### **3.1.2 *Objectives***

1. As additional cultural resources not currently included in the existing Historic District are determined eligible for listing in the National Register of Historic Places, nomination(s) are prepared and submitted to the Keeper of the National Register for consideration in the National Register of Historic Places within 5 years of initial determination of eligibility.

### **3.1.3 *Standards***

1. Include tribal input on standards for maintaining the archaeological sites, traditional use areas, and natural resources (e.g., monitoring strategies).

### **3.1.4 Guidelines**

1. If historic properties or traditional use areas are found to be impacted by recreation or other allowable uses, temporary closures to protect the affected sites or use areas should be employed until restorative measures can be identified and implemented.
2. When access to traditional use areas by tribal members is hampered by land exchanges, road decommissioning, or other actions outside and adjacent to the Apache Leap SMA, the responsible line officer will work with tribes, landowners, and other pertinent agencies to allow reasonable access while protecting the natural character and values of the Apache Leap SMA.

### **3.1.5 Management Approaches**

Develop a framework to inventory archaeological and cultural sites, traditional tribal use areas, and places of traditional or religious significance as opportunities are presented.

Develop a monitoring strategy and timeline to ensure that historic properties and traditional resources are protected from vandalism, looting, and other forms of unnatural deterioration. Consider implementing actions to secure and stabilize sites, including temporary closures pending assessment and determination of appropriate actions to protect the sites or traditional use areas.

Provide a mitigation strategy specific to the management area that limits significant impacts to historic and cultural properties, should additional mitigation measures be necessary.

## **3.2 NATURAL CHARACTER AND SCENERY**

### **3.2.1 Desired Conditions**

The landscape appears natural within the context of native vegetation and landforms and remains generally unaltered by human activity. Deviations from the natural landscape are limited and may include valued cultural landscape features and essential management elements that blend with the natural landscape. Natural character and scenery is consistent with 'High' scenic integrity according to the scenery management system, or the 'Retention' visual quality objective according to the visual management system (Forest Service, 1995), throughout the Apache Leap SMA.

The Apache Leap SMA is maintained in a substantially natural condition for use and enjoyment by the public while protecting those special characteristics for which it was designated.

### **3.2.2 Standards**

1. Natural character and associated values, including natural quiet, dark skies, and limited encounters with other visitors, shall take precedence over recreation uses where conflicts occur.

### **3.2.3 Guidelines**

1. All proposed developments (including vegetation manipulation and ground-disturbing activities/construction) should be designed to blend with the natural setting by remaining consistent with the form, line, color, texture, and pattern common to the landscape character.
2. Construction of new communications sites, utility lines, or transmission lines should not occur within the Apache Leap SMA.

3. Regular maintenance activities, such as access and line clearing, should be performed in a manner consistent with protection of the natural character and values of Apache Leap SMA.
4. If monitoring indicates that the natural character or values of the Apache Leap SMA are being negatively impacted, rehabilitation and closures may be used to mitigate impacts.
5. Apache Leap SMA should be managed for the visual quality objective of ‘Retention’ under the visual management system and a scenic integrity objective of ‘High’ under the scenery management system.

### **3.2.4 Management Approaches**

Develop a monitoring strategy in consultation with Resolution Copper mining engineers and geologists to address the question: Do seismic conditions pose a risk to public safety or disturb the natural character, cultural, and historic resources of the Apache Leap SMA? The monitoring strategy should locate seismic monitoring equipment on the surface and subsurface as needed to continually monitor seismic activity. The strategy should identify and explore solutions to remediate excess seismic conditions as allowed by pertinent laws and regulations, with the objective of mitigating all impacts to public safety and the natural character and scenery of the Apache Leap SMA.

Implementation of the monitoring strategy should occur within 2 to 3 years of approval of the Resolution Copper Project decision. Further detail should be provided in the Monitoring and Evaluation Plan for the Resolution Copper Project and Land Exchange Final Environmental Impact Statement.

As opportunities arise, consider ways to integrate infrastructure and associated vegetation into the natural landscape. Power line corridors in existence prior to the designation of Apache Leap as a special management area may be considered nonconforming inconsistencies in relation to scenery goals.

## **3.3 RECREATION**

### **3.3.1 Desired Conditions**

The Apache Leap SMA offers dispersed recreation opportunities that emphasize non-motorized recreation. Recreation activities occur at appropriate locations and intensities such that cultural and natural values are protected. Recreation opportunities and activities are primarily nature based and offer opportunities for experiencing scenic beauty, and the intrinsic cultural and natural resources associated with the Apache Leap SMA.

Recreation-related project-level decisions and implementation activities are consistent with mapped classes and setting descriptions. Recreation opportunities associated with the Apache Leap SMA enhance the quality of life for local residents (e.g., social interaction, physical activity, connection with nature), provide tourist destinations, and contribute monetarily to local economies.

Facilities for dispersed recreation activities are appropriate for the recreation opportunity spectrum class and scenic integrity objective of the location and are designed to the minimum necessary to protect natural and cultural resources. Day use recreation opportunities are offered within a predominantly undeveloped setting. Overnight camping does not occur. Recreation user conflicts are minimal.

### **3.3.2 Objectives**

1. Within 3 years of plan approval, establish a closure order for motorized recreation activities and overnight camping under Title 36, CFR, Part 261, “Prohibitions.”

### **3.3.3 Standards**

1. Overnight camping is prohibited.

### **3.3.4 Guidelines**

1. Where agency or applicant objectives can be met outside of the designated area, special use permits should not be issued for the Apache Leap SMA.
2. Trail construction and maintenance work and structures should blend with the natural setting to the greatest extent possible without compromising their function or resource benefit.
3. The Apache Leap SMA should be managed for recreational settings consistent with the recreation opportunity spectrum classification of semi-primitive non-motorized.

## **3.4 MINERAL RESOURCES**

### **3.4.1 Desired Conditions**

Exploration for and development of mineral resources does not occur within the Apache Leap SMA. Evidence of historic mining may exist but it does not dominate the scenic landscape. Lands where past mineral development or exploration has occurred are returned to stable conditions and vegetated with native species.

Abandoned mine lands do not endanger people or the environment.

Archaeological, geological, and biological features of caves and abandoned mines are not adversely affected by visitors.

### **3.4.2 Objectives**

1. Public safety hazards associated with adits and other remnants of historic mining operations are mitigated within 5 years of detection.

### **3.4.3 Standards**

1. The Apache Leap SMA is withdrawn from all forms of disposition under the mineral leasing, mineral materials, and geothermal leasing laws pursuant to Section 3003 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (NDAA) (Public Law [PL] 113–291) (113th Congress, 2014).
2. Filing of mineral claims, mineral exploration, mineral development, and removal of mineral material is not allowed within the Apache Leap SMA.

### **3.4.4 Guidelines**

1. Adits and other remnants of historic mining that do not pose a public safety hazard may be left intact.

## **3.5 WILDLIFE**

### **3.5.1 Desired Conditions**

The Apache Leap SMA provides food, water, and shelter over a relatively undisturbed landscape to help meet the needs of various animal species.

Connectivity and current habitat characteristics maintain requirements that enable continued animal movement, provide cover (protective/breeding), and forage across the landscape. Healthy, diverse vegetation and functioning ecosystem processes occur to ensure ongoing diversity of habitats and wildlife, while maintaining sustainability for both. Wildlife are largely free from harassment and disturbance that could affect their persistence.

### **3.5.2 Guidelines**

1. Adits and other remnants of historic mining that do not pose a public safety hazard may be left intact for continued wildlife use (bats, owls, javelina, etc.).
2. Modifications, mitigations, or other measures consistent with project or activity objectives should be considered to reduce negative impacts toward wildlife species and associated habitats.

### **3.5.3 Management Approaches**

Manage to provide diverse habitats with ecological conditions that support native species over the long term. Support wildlife through establishing recovery efforts, biological evaluations/assessments, conservation strategies and assessments, management plans, memoranda of understanding, and Forest Service direction. Assessments, agreements, or strategies may be reviewed and updated as necessary.

## **3.6 VEGETATION**

### **3.6.1 Desired Conditions**

Natural ecological processes (e.g., plant growth and die-off, nutrient cycling, soil formation) and disturbances (e.g., fire, insects, drought, and disease) are the primary forces affecting the composition, structure, and growth of vegetation.

Plant communities within the Apache Leap SMA are dominated by native species. Woody, herbaceous, and emergent native vegetation is present and consistent with potential composition, density, and structural diversity.

Undesirable nonnative species are absent or present only to the extent that they do not adversely affect ecosystem composition, structure, or function, including native species populations or the natural fire regime. Introduction of additional invasive species rarely occurs and is detected at an early stage.

### **3.6.2 Guidelines**

1. Management tools include but are not limited to timing restrictions, signage, visitor outreach, or physical barriers as means to reduce impact toward the vegetative community.

### **3.6.3 Management Approaches**

Develop an integrated management approach with the goal of preventing, controlling, or eradicating invasive species. This should involve prioritizing both species and areas for treatment, depending on risk, and identifying the most appropriate methods for control and eradication. Treatment efforts should focus on areas of high or concentrated use such as travel routes and trailheads.

Establish an inventory which identifies areas of invasive species' occurrence through locating and identifying invasive species' occurrences. Because of the often aggressive and tenacious nature of invasive species, the Forest Service should apply timely initial treatments with follow-up treatments for appropriate intervals to meet eradication or control objectives.

## **3.7 PUBLIC ACCESS**

### **3.7.1 Desired Conditions**

Public access within the Apache Leap SMA is consistent with protection of scenic and cultural/historic values. Roads and motorized trails are not evident within the Apache Leap SMA. The transportation system supports resource management activities and dispersed recreation opportunities.

### **3.7.2 Standards**

1. Only designated roads, motorized trails, and motorized use areas as depicted and described on the motor vehicle use map are open to public motorized vehicle use.

### **3.7.3 Guidelines**

1. Road and trail signs and barriers should be installed where needed to inform the public about travel management regulations and to prevent unauthorized motorized use. These improvements should be consistent with the recreation opportunity spectrum and scenery management system guidelines.
2. Roads on private lands within the Apache Leap SMA acquired by the Tonto National Forest should be decommissioned and evaluated to determine whether to convert them to trails.
3. Roads that are decommissioned and converted to trails should be narrowed and restored to meet a semi-primitive trail character, consistent with soil and watershed protection.

## **3.8 LIVESTOCK GRAZING**

### **3.8.1 Desired Conditions**

Livestock grazing does not occur on the Superior Allotment within the Apache Leap SMA boundary. Grazing on the Devil's Canyon Allotment within the Apache Leap SMA boundary occurs but is minimal.

Existing impacts to native vegetation communities or soil disturbance associated with past livestock grazing recovers over time, sustaining the natural character of the landscape.

### **3.8.2 Objectives**

1. Exclusion of livestock from the Superior Allotment is implemented no later than 1 year following approval of the management plan.

### **3.8.3 Standards**

1. Livestock grazing shall be excluded from the portion of the Superior Allotment located within the Apache Leap SMA boundary.
2. Fences to exclude livestock shall be located and constructed with materials that minimize their visibility to the extent practicable.

### **3.8.4 Guidelines**

1. Necessary improvements for livestock grazing should occur outside the Apache Leap SMA. As opportunities arise, existing improvements within the Apache Leap SMA should be decommissioned.

## **3.9 WILDLAND FIRE**

### **3.9.1 Desired Conditions**

Human life, property, and natural and cultural resources are protected within and adjacent to the Apache Leap SMA. Wildland fires when they occur burn within the range of frequency and intensity of the natural fire regimes. Uncharacteristic high severity fires rarely occur and do not burn at the landscape scale. Wildland fire sustains resources and functions in its natural ecological role.

### **3.9.2 Guidelines**

1. Determinations of responses to wildfire should be based on risk assessments that include pre-season analysis and review as well as on-scene and immediate risk assessments by those initially responding to the wildfire incident. Such assessments should be on an appropriate scale and timeline relative to the time of the assessment and the time available during the incident. Such risk assessments should include, but not be limited to, the following:
  - Evaluation of the threats to firefighter and public safety
  - Evaluation of the threats to both natural and human-made resource values
  - Evaluation of seasonal and/or climatic conditions
  - Evaluations of cost-effective strategies that contribute to the success of the appropriate wildfire objective(s)
2. Firelines, helispots, and fire camps should be located outside of the Apache Leap SMA when feasible to avoid disturbance to critical species and impacts to cultural resources.

### 3.9.3 Management Approaches

Wildfires may be concurrently managed for one or more objectives (e.g., protection, resource enhancement) that can change as the fire spreads across the landscape. Strategies chosen for wildfires include interdisciplinary input to assess site-specific values to be protected. These strategies are used to develop incident objectives and courses of action to enhance or protect those values. Managers use a decision support process to guide and document wildfire management decisions that provide for firefighter and public safety, minimize costs and resource damage, and are consistent with values to be protected.

## 3.10 SUITABILITY OF LANDS

In the context of managing National Forest System lands, suitability of lands refers to the appropriateness of applying certain resource management practices to a particular area of land, in consideration of the relevant social, economic, and ecological factors. Suitability determinations are one of the decisions made as part of creating a management plan.

Suitability is determined based on compatibility of a given use with the desired conditions applicable to those lands. Lands within the plan area are not identified as suitable for a certain use if the use is prohibited by law, regulation, or policy; if the use would result in substantial and permanent impairment of the productivity of the land or resources; or if the use is incompatible with the desired conditions for the relevant portion of the area. The identification of an area as suitable for a particular use does not mean that the use will occur over the entire area.

The suitability of lands for this plan are summarized in Table 1 below. Suitability of lands for the Apache Leap SMA is determined for two different areas within the Apache Leap SMA: 1) West Apache Leap: the Apache Leap escarpment and the area west of the escarpment; and 2) East Apache Leap: the area east of the Apache Leap escarpment. West Apache Leap, characterized by sheer cliff faces, hoodoos, buttresses, and steep slopes, is significantly more rugged and less accessible than East Apache Leap. East Apache Leap includes the area on top of the escarpment, which gradually slopes down toward Oak Flat.

**Table 1. Land Suitability Determinations**

	LAND USE CATEGORIES				
	<b>Livestock Grazing</b> See Section 3.8 for detailed plan components related to livestock grazing	<b>Motorized Vehicle Use</b> See Section 3.7 for detailed plan components related to public access	<b>Timber Production</b> The National Forest Management Act requires that lands be classified as suitable/not suitable for timber production	<b>Utility Corridors</b> See Section 3.2 for further detail on how utility corridors relate to natural character and scenery	<b>Mining</b> See Section 3.10.1 below for an overview of the NDAA legislation that withdraws the area from future mining
<b>East Apache Leap</b>	<b>Suitable*</b> Devil's Canyon allotment is suitable for grazing	<b>Not Suitable**</b>	<b>Not Suitable**</b>	<b>Suitable*</b> A utility corridor currently exists in east Apache Leap SMA	<b>Not Suitable**</b>
<b>West Apache Leap</b>	<b>Not Suitable**</b> Superior allotment is not suitable for grazing.	<b>Not Suitable**</b>	<b>Not Suitable**</b>	<b>Not Suitable**</b> A utility corridor does not exist in east Apache Leap SMA, and additional utility corridors would not be suitable	<b>Not Suitable**</b>

Notes:

\* **Suitable** – The area or site is appropriate for the activity, whether the opportunity is available or not.

\*\* **Not Suitable** – The area or site is not appropriate for the activity or the activity is not allowed by law or regulation within the area.

### **3.10.1 Suitable Uses Designated by Legislation**

In the legislation creating the Apache Leap SMA (Section 3003 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (NDAA) (Public Law [PL] 113–291) (113th Congress, 2014), several uses are allowed by Congress. The Apache Leap SMA was withdrawn from future mining activity, pursuant to PL 113–291, NDAA Section 3003, subsection (f), and therefore the area is currently not suitable for mining by law. However, the NDAA authorized uses related to public safety and monitoring concerns associated with the proposed adjacent mine, which means they are suitable by law. More specifically, in NDAA 3003(g)(4)(B), Congress authorized the installation of seismic monitoring equipment, necessary measures for public safety (e.g., fences, signs, etc.), and the operation of an underground tunnel beneath the Apache Leap SMA. For the complete language of the NDAA, please refer to Appendix A.

## Chapter 4

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# APPENDIX A

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## 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 reasonable 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 environmental 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.

## APPENDIX B

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### List of Forest Service and Consulting Parties Activities

The Forest Service has engaged with the Town of Superior and interested members of the public through the following efforts:

- Public input period from October 6, 2016, through January 31, 2017;
- Public workshop held in Superior on October 20, 2016;
- Development of the Apache Leap Special Management Area website ([www.ApacheLeapSMA.us](http://www.ApacheLeapSMA.us)), which went live on October 7, 2016;
- A presentation to the Community Working Group on November 9, 2017;
- A presentation to the Recreation User Group, a subcommittee of the Community Working Group, on December 7, 2016;
- A presentation to the Superior Town Council on January 12, 2017; and
- Public meeting on proposed management plan and scoping for EA on April 4, 2017.

Consultation with Indian tribes was initiated regarding the Apache Leap SMA Management Plan via letter on September 26, 2016, with the following tribes:

- Yavapai-Apache Nation
- Gila River Indian Community
- Hopi Tribe
- Fort McDowell Yavapai Nation
- Mescalero Apache Tribe
- Pueblo of Zuni
- Salt River Pima-Maricopa Indian Community
- San Carlos Apache Tribe
- Tonto Apache Tribe
- White Mountain Apache Tribe
- Yavapai Prescott Indian Tribe

The Forest Service held a first round of consultation meetings to discuss the Apache Leap SMA Management Plan on the following dates:

- November 29, 2016, with the Fort McDowell Yavapai Nation and Yavapai Prescott Indian Tribe
- December 9, 2016, with the Mescalero Apache Tribe, San Carlos Apache Tribe, and Tonto Apache Tribe
- December 13, 2016, with the Pueblo of Zuni
- December 20, 2016, with the Fort McDowell Yavapai

- December 30, 2016, with the Salt River Pima-Maricopa Indian Community and Gila River Indian Community
- January 10, 2017, with the Salt River Pima-Maricopa Indian Community and Gila River Indian Community
- February 16, 2017, with the Yavapai-Apache Nation
- March 7, 2017, with the Mescalero Apache Nation
- March 29, 2017, with the Hopi Tribe

Meetings with the White Mountain Apache have not yet occurred due to scheduling changes. Meetings were conducted at the Tonto National Forest Supervisor's Office and in Payson, Superior, and Camp Verde, Arizona, and Mescalero and Zuni, New Mexico. A second round of meetings is expected to occur with tribes that are interested in continuing participation.

# APPENDIX C

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## Town of Superior Vision Statement



## Town of Superior

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### Vision Statement

The Town of Superior's vision is to work with the Tonto National Forest and incorporate the Town's recreational objectives along with future considerations in the Forest Service's management plan for the area. The Apache Leap Special Management Area is an important component in the Town's plans to develop an ecotourism program and to stimulate economic diversity in the area, as well as a site important to the cultural identity of the residents of the Town of Superior. Protecting this resource is important for the future of our community, and the town values the following items for inclusion in the plan:

1. Preservation of iconic footprint of the escarpment, to include measures for monitoring neighborhood mining activities to ensure that they do not adversely affect Apache Leap.
2. Preserves the free access by the citizens for current and future uses.
  - a. Climbing
  - b. Hunting
  - c. Hiking
  - d. Ziplines
  - e. Grazing
3. Existing motorized routes should be maintained. The plan should include motorized access to a trailhead for hiking, mountain biking and horseback riding.
4. Want to maintain opportunities for development of future recreation trails, and suggests the plan consider allowing new non-motorized trails if they can be developed in an ecologically reasonable manner.
5. Fire protection access: the fuel mixture and slopes of this area make it a high-risk fire area. The access plan needs to be designed so that firefighters can get to fires safely.
6. The Town prefers allowing reasonable use without closures. Closures are a significant management challenge unless there is onsite management. If closures are deemed necessary, they should be implemented in the most economical way possible and influence the lowest number of users possible.
7. The Town of Superior would like to be a part of current and future management decisions for Apache Leap, and to be consulted and included in discussions of development and implementation of the plan.