

Problems with Senator McCain's Substitute to S. 409

Although we have not been given a lot of time to examine the substitute in detail, from what we know, this is what the new version of the bill would do:

- Immediately allow Rio Tinto to do exploration under the Oak Flat Campground withdrawn area. It would allow directional drill from outside the withdrawn area to anywhere drills could reach. It would allow one drilling pad within the withdrawn area.
 - Oak Flat was withdrawn from mining for a reason – to protect a recreation jewel in the middle of a mining district from further impacts of mining forever. This bill would not only undo those protections, but would set a dangerous precedent making all areas withdrawn from mining nationwide vulnerable to mining.
- The bill allows the appraisal for the value of the exchange to take place before a mining plan or impact statement is written.
- The income capitalization approach specified in the bill “can be highly speculative,” according to the Uniform Appraisal Standards for Federal Land Acquisitions, and the 8th Circuit Court found that “many of these factors [needed to make an accurate appraisal] are impossible to predict with reasonable accuracy.”
 - The best an appraiser could do in these circumstances is to make an educated guess. Are we taxpayers willing to risk losing Billions of dollars by asking an appraiser to make a wild guess? This is surely a taxpayer rip-off.
- The bill allows Rio Tinto to conduct any mining activities except for commercial production of minerals under Apache Leap.
- While the new language provides some protection for Apache Leap, it ignores the religious significance of Oak Flat Campground, which would become private property and the damage to Gaan Canyon and Queen Creek which would occur if mining begins.
- The bill removes any deals formerly made with the climbing community from consideration
- The bill removes the mandate for a replacement campground for Oak Flat.
- The bill leaves tremendous wiggle room for the appraisal process to cheat the US taxpayer out of full payment for the tremendous natural and mineral resources we would lose.
- The bill leaves unchanged the provision that allow the Town of Superior the chance to buy (at full market value) land that, without the interference of Rio Tinto, the Town would have received free of charge from the US Forest Service.
- The bill talks about requiring a mining plan of operation and full compliance with NEPA and other environmental laws. It also talks about consultation with Native American Tribes before a decision on the land exchange is made. It seemingly allows the Secretary of Agriculture a chance to turn down the land exchange if it is not in the public interest. All of this is currently the status quo with Administrative land exchanges. However, the fact that the bill strongly directs the Secretary to consider and accept the exchange, does not change the basic fact that the Senate wants the predetermined outcome of the bill to benefit a foreign mining company and not their constituents – the US taxpayers who own the land.