

July 16, 2016

Mr. Neil Bosworth
Supervisor
Resolution EIS Comments
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RE: Resolution EIS Scoping Comments

Dear Supervisor Bosworth:

Please accept the following comments on behalf of the organizations and individuals who have signed below. Many of these entities will also be submitting additional comments, but we believe it is essential that the United States Forest Service see and understand the breadth and depth of strong opposition to the proposed land exchange and mine involving the invaluable and sacred Oak Flat.

The significant and negative impacts of this project, the massive size of the mine, the method of the mining and associated land subsidence, the impacts on water quality and quantity, the impacts on plants and wildlife, and the enormous tailings pile, all warrant a hard look by the Forest Service and the public under United States constitutional, statutory and regulatory law. In the Draft Environmental Impact Statement (“EIS”), for example, the Forest Service must consider the full range of reasonable alternatives and analyze and evaluate the impacts of the proposed land exchange and mine to cultural values, wildlife, water, and air quality. It must also look at impacts to and loss of opportunities for hiking, climbing, birdwatching, camping, picnicking, and more. Real threats posed by the mine include land subsidence, the land physically dropping by as much as 1,000 feet in a mile-wide area; dewatering of nearby perennial waters such as in Devil’s (Ga’an) Canyon; and a massive pile of heavy-metal-laden tailings on other parts of our national forest. The lands offered in this swap do not meet the standards of Oak Flat and cannot replace this culturally significant and biologically rich area.

Concerns About NEPA Process

The Forest Service has initiated the scoping period for the Resolution mine project without explaining to the public how Section 3003 of the 2015 National Defense Authorization Act (“NDAA”) – the Resolution land exchange legislation – alters or modifies the normal National Environmental Policy Act (“NEPA”) process for the draft environmental impact statement. Without this, it is difficult for the public to understand the process as it will actually function, which makes full participation in the NEPA process impossible.

At the outset, it must be noted that the Forest Service is under no obligation to approve the proposed mine plan based on the NDAA. All public land and environmental laws still apply to the agency's review and regulatory oversight of the mine. Based on the massive impacts to environmental and cultural/religious/historical resources from the mine, the Forest Service cannot approve the mine under the 1897 Organic Act, the National Forest Management Act, the Clean Water and Clean Air Acts, the Federal Land Policy and Management Act, various laws and Executive Orders requiring the protection of Native American cultural/religious/historical resources, as well as the federal regulations and policies implementing these laws and Executive Orders.

Cultural Impacts

The Oak Flat area is sacred ground to the San Carlos Apache and other tribes. Great care should be taken to thoroughly survey the area prior to any decision on the mine and ensure that its priceless cultural resources are not destroyed forever. A full evaluation of the site's historic and archeological etchings and other items must be conducted pursuant to the National Historic Preservation Act.

Now that Chi'chil Bildagoteel (Oak Flat) is listed as a Traditional Cultural Property on the National Register of Historic Places, the Forest Service has a special responsibility to consider the impacts to it and must give these important issues heightened scrutiny. It must have more in depth discussions, consultation, and collaboration with the San Carlos and other tribes for whom this area is significant.

In addition, as an internationally and nationally recognized Sacred Site, the agency cannot authorize the destruction or adverse impact to the physical integrity of the site. For example, under Executive Order 13007, protecting "Indian Sacred Sites." 61 Fed. Reg. 26771-2 (May 29, 1996), the agency must "(1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the physical integrity of such sacred sites." The extreme damage to the Oak Flat Sacred Site caused by the mine would violate these mandates.

Equal Value

Every effort must be made to independently assess and appraise the balance between the value of lands offered by the company for exchange and the many cultural, environmental, and economic values of the Oak Flat area. The exchange lands currently being offered pale in comparison to the tangible and intangible value of Oak Flat, which is a priceless and irreplaceable resource for many reasons. The Forest Service must evaluate this thoroughly and transparently before any final agency action is proposed. Current law mandates equal value for this land exchange, a central principle that will necessitate strict compliance by the Forest Service and, indeed, the U.S. Government itself. At a minimum, the land exchange must calculate and include the mineral values of the federal lands to be exchanged away to the company. In other words, the "equal value" required by Congress is not limited to the value of the currently-federal surface estate, but also the value of the currently-federal minerals at the site as well.

Land Subsidence Impacts

The currently proposed mine plan, with its reliance on the technology of block cave mining, is not suitable for the area. This technique will cause massive subsidence that will leave a crater a mile wide and at least 1,000 feet deep, rendering the land unstable, and therefore inaccessible, in perpetuity. This technique threatens to destabilize a wide area, including the culturally and historically sensitive Apache Leap as well as nearby Highway 60. The EIS should carefully analyze the wide-ranging impacts of subsidence, as well as alternatives to the block cave technique that do not cause subsidence and would instead leave the Oak Flat area intact for future generations.

The Forest Service needs to perform a detailed economic mining study that evaluates other mining methods to block caving that would cause no surface subsidence and minimal surface disturbance—so that any future mining at Oak flat would be compatible with continued recreational and cultural uses of Oak Flat. It is insufficient to simply accept Resolution’s claim that block caving is the only economically viable mining method for this project.

Recreation Impacts

The Resolution Copper mine project will result in a huge loss of recreational opportunities. There is no replacement campground area in the region. It will also result in a loss of wildlife watching and birding opportunities that must be considered in the draft EIS. The proposed mine will result in the loss of a key recreational rock climbing area as well. This will be due to surface subsidence caused by a block cave mining style that Resolution claims they must use for this project.

Oak Flat offers one of the best climbing areas in Arizona. There is no replacement available that is in the general vicinity of this area. Oak Flat is valuable for wildlife viewing, camping, picnicking, hiking, and more. These activities will be irreparably harmed as well. When asked to identify a replacement campground in the general area, the Forest Service was unable to do so. The Forest Service must fully evaluate the impacts to recreation and the irreparable harm to it.

Socioeconomic Impacts

The Draft EIS should analyze a wide range of potential impacts to surrounding communities, including public-health impacts from air and water pollution, negative economic impacts from the inevitable boom-and-bust cycle of the mining industry and its potential disruption and displacement of existing economic activity, and stresses on public services and infrastructure including transportation, schools and health-care facilities.

When evaluating the socioeconomic impacts of the Resolution mine project, please consider that outdoor recreation contributes more than twice as many dollars to Arizona as mining does—more than \$10 billion annually compared to less than \$5 billion for the entire mining industry. These figures come from the Outdoor Industry Association and the Arizona Mining Association, respectively. Please also consider that recreation is sustainable and can contribute to Arizona’s bottom line in perpetuity. The Draft EIS needs to include an extended

socioeconomic analysis for this mine project that goes far beyond the mine's relatively short operating lifetime of roughly 40 years to include the mine closure and post-closure, when any financial contribution of the mine to the state will go to zero dollars.

Tailings Site Alternatives and Impacts

The Forest Service should not separate the tailings site hydrological and geotechnical study as a separate Environmental Assessment. It should be included in the analysis in the Draft EIS for the Resolution Copper mining plan of operation. These are connected actions and should be considered together in the same environmental impact statement. There can be no mine without a tailings site and there would be no tailings site absent the Resolution mine project itself.

The Tonto National Forest has stated that there are tailings site alternatives that will be considered for the Resolution Copper Mine project. The Draft EIS must identify these alternative sites, include a detailed alternative analysis for each of them, and give the public an opportunity to comment on the appropriateness of each of these potential sites and their impacts.

The currently preferred (by RCM) proposed site for tailings disposal lies directly upstream of the community of Queen Valley, placing it in grave danger in the event of a dam failure, spill or contamination leaking from the tailings. This site is simply not a suitable location for a massive tailings impoundment.

Consideration and adherence to the Resource Conservation and Recovery Act should also be considered relative to the tailings site and its impacts to ensure that known hazards are not harming people or wildlife.

The Draft EIS should include evaluations of all feasible tailings construction and disposal methods, including, but not limited to, dry stack tailings, paste tailings, and underground storage of tailings. It is significant that the proposed Twin Metals mine project in Minnesota is envisioning backfilling with tailings to reduce the amount of above ground tailings storage.

Threatened and Endangered Species Impacts

Several species that are listed as threatened or endangered under the federal Endangered Species Act may be affected by the land exchange and related mine activities. An endangered ocelot, confirmed by DNA analysis to be a wild individual and not an escaped captive, was killed on Highway 60 several years ago just a few miles from Oak Flat campground. The area in and around the land exchange provides good habitat for ocelot with ample prey and thick, brushy cover and should be surveyed thoroughly to determine if other individuals are present. The endangered Arizona hedgehog cactus has been documented in the immediate vicinity of the Oak Flat land exchange parcel and may be present within its boundaries.

The threatened yellow-billed cuckoo has been reported in Ga'an Canyon just downstream from the Oak Flat area and above the confluence with Mineral Creek. Endangered Gila chub have

been documented in Mineral Creek just below the dam at the confluence with Ga'an Canyon, and may be present upstream closer to the land exchange site.

There should be thorough surveys for all of these species and potential impacts to these species should be thoroughly analyzed in the Draft EIS, including in conjunction with a hydrological analysis of potential impacts to Ga'an Canyon and its high quality aquatic and riparian habitats. Also, threats to some or all of these species will require consultation with the U.S. Fish and Wildlife Service.

Water Impacts

The proposed mine will use between 20,000 and 40,000 acre-feet of water annually. Please fully evaluate and analyze the impacts of that water usage on the region and the state of Arizona. The study should include a detailed water balance and quantify the effects of intake water from all sources (surface and groundwater), water loss through evaporation and retention in underground and tailings facilities, and discharge of water. Such study must include water quantity analysis for the development, operations, closure and post-closure phases of the project.

Continuous groundwater pumping over the life of the mine threatens to dry up numerous springs in the area, as well as the perennial surface waters of Ga'an Canyon, which would destroy habitat for many species. A thorough and independent hydrological analysis of the area's aquifer and the groundwater/surface water relationship should be conducted before any decision is made on the mine, in order to determine precisely the impacts of the inevitable dramatic drawdown of the aquifer and its effects on riparian and aquatic habitat.

Please conduct an analysis of the hydrology at Oak Flat and what impacts the mine operation could have on ground water sources at and near Oak Flat and the town of Superior. The Draft EIS should include analysis of the direct, indirect, and cumulative impacts on all wells on private lands, state trust lands, and public lands. While sinking its #10 shaft, Resolution Copper reported large amounts of unexpected water inflow that delayed operations significantly, conclusively demonstrating that the current Resolution hydrological study of the Oak Flat area is inaccurate and inadequate.

The Draft EIS should also provide a detailed study on water quality during all phases of the proposed mine (development, operations, closure, and post closure) and include potential impacts of the tailings pile on water quality as well.

Resolution Copper Mine (RCM) Water Supply

The first sentence of Section 3.5.3.2.1 of RCM's revised General Plan of Operations (GPO) states: "The primary water source for the Project (supply water) will be CAP water."

In 1968, under the law authorizing the Central Arizona Project (CAP), Arizona agreed to the junior priority claim on Colorado River water. As a result, all Arizona CAP water will be lost before California suffers any cutbacks on Colorado River water. In December 2007, the Bureau

of Reclamation through the Secretary of the Interior adopted “Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead” whereby all of the Lower Basin States (California, Arizona, and Nevada) agreed to cuts in Colorado River water entitlements upon reaching certain water shortage benchmarks.

Since 2007, the drought has worsened and the Secretary of the Interior has called for more drastic cuts than the cuts called for under the Interim Guidelines. Negotiations are currently underway among the Lower Basin States calling for further cuts to Colorado River entitlements. It has been reported that Arizona would face cuts of up to 2.8 million acre-feet of CAP water and could lose as much as 40 percent of its current CAP allotment.

The Tonto National Forest should require that RCM’s GPO provide for alternative source(s) of supply water to include a full explanation of the source(s) for such water and the full range of impacts that such alternative source(s) would have on the local and regional environment and human population.

Consideration of Other Facilities and Impacts

Salt River Project (SRP) and Resolution Copper are planning for major new 230kV and 69kV transmission lines and power substations for this mine project. In the Federal Register dated March 18, 2016, under “Nature of Decisions to be Made,” the Forest Service contemplates issuing special use permits for these activities. The agency must follow all of the requirements of the FLPMA special use mandates and implementing regulations. Under these requirements, any proposed special use that is not in the public interest must be denied. This is true even if the agency believes (incorrectly) that it does not have the authority to deny other activities conducted on valid mining/mill site claims under the 1872 Mining Law.

The Forest Service must include analysis of the impacts of the power lines and substations in the Draft EIS, as well as the impacts from all past, present, and reasonably foreseeable future activities in the area during, at a minimum, the full life of the mine including post-operational reclamation and closure periods. Under NEPA, the Draft EIS must contain the required quantitative analysis of all these impacts, both alone and in combination with the mine. Construction of these transmission lines and substations constitutes a major connected action directly related to the mine project. This is clearly evidenced by the Resolution mining plan of operation dedicating an entire section to the provision of power for the project (section 3.5.1., in the version of the mining plan currently appearing on the Forest Service website) and also evidenced in Section 3003 of the 2015 National Defense Authorization Act, specifically stating that “approvals for the construction of associated power” must be included in the Draft EIS.

Please also calculate and consider the carbon emissions associated with this mine over time.

Baseline Conditions for All Potentially Affected Resources

In addition to fully reviewing all direct, indirect, and cumulative impacts from the mine and all related activities, the Draft EIS must include a full analysis of the current environment at the site. At a minimum, the Draft EIS must fully analyze the current baseline conditions for **all**

potentially affected resources. These include, but are not limited to: (1) surface and groundwater quantity, quality, flow, and hydrological conditions; (2) wildlife; (3) recreation and public uses; (4) air quality; (5) vegetation/plants; and (6) cultural/religious/historical values. This analysis should include the impacts on private, state trust lands, and all public lands in the region. Such detailed and quantified baseline analysis is required under NEPA.

Summary and Conclusion

Please further clarify the implications of Section 3003 of the 2015 National Defense Authorization Act prior to moving forward with the NEPA process, so the public can adequately review and comment and fully participate in the process. The Forest Service must provide a thorough analysis of all reasonable alternatives, including a cumulative impacts analysis, and must include all connected actions. This project will create significant negative impacts to water, wildlife, cultural resources, recreational resources, and more. That must be looked at carefully in the Draft EIS. Finally, the Forest Service has a responsibility to act in the public's interest. As proposed, this land exchange and mine are clearly not in the public's interest. The public will lose something of great value in exchange for the lands offered. Many of the values associated with Oak Flat are priceless.

Thank you for considering our comments.

Sincerely,

Access Fund
Allegheny Defense Project
Animal Defense League of Arizona
Arizona Faith Network Earth Care Commission
Arizona Mining Reform Coalition
BARK
Blue Mountains Biodiversity Project
Center for Alternative Mining Development Policy
Center for Biological Diversity
Chispa Arizona
Concerned Citizens and Retired Miners Coalition
Conservation Congress
Deer Tail Press
Defenders of Wildlife - Southwest Program
Don't Waste Arizona
Earthworks
Endangered Species Coalition
Environment Arizona
Epic-Environmental Protection Information Center
Forest Web of Cottage Grove
Friends of the Bitterroot
Friends of the Clearwater

Friends of Ironwood Forest National Monument
Friends of the Wild Swan
Great Old Broads for Wilderness
Great Old Broads For Wilderness/Phoenix Broadband
Green Sanctuary, Valley Unitarian Universalist Congregation
Greenpeace, Inc.
Heartwood
Institute for Dismantling Racism
Kids Climate Action Network
Klamath Forest Alliance
Maricopa Audubon Society
Mount Graham Coalition
Patagonia Area Resource Alliance
Save the Scenic Santa Ritas
San Juan Citizens Alliance
Save Our Sky Blue Waters
Save the Tonto National Forest
Sierra Club – Grand Canyon (Arizona) Chapter
Sierra Club Allegheny Group
Sierra Club Allegheny Group, Public Lands Committee
Sky Island Alliance
Southern Illinoisans Against Fracturing Our Environment
The Idaho Sporting Congress, Inc.
The Minister's Conference of Winston-Salem (NC) & Vicinity
Tucson Audubon Society
Turtle Island Restoration Network
WCL Environmental Law Society
Western Lands Project
Western Watershed Project
White Mountain Conservation League
Wild Earth Guardians
Wilderness Watch
WildWest Institute
WyomingUntrapped
Yellowstone to Uintas Connection
Yuma Audubon Society

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American University Washington College of Law
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Please send questions, responses, or comments regarding these comments to Sandy Bahr, Sierra Club – Grand Canyon Chapter, 514 W Roosevelt St., Phoenix, AZ 85003.