FS-objections-southwestern-regional-office
Resolution Copper Project - Objection to FEIS
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Reviewing Official, Regional Forester, 333 Broadway Boulevard SE, Albuquerque, New Mexico 87102

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This is my objection to the Final Environmental Impact Statement (EIS) for the Resolution Copper Project, responsible official Tom Torres, Acting Forest Supervisor, proposed for implementation in the Tonto National Forest.

My comments on the Draft EIS were submitted October 27, 2019, and my submission identification number is 1097.

This objection pertains to the following two issues:

- A) Prohibition of Mining Without the Land Exchange
- B) Alternatives Considered but Dismissed Filtered Tailings Backfill

Each of these issues are discussed separately in the following which describes the connection between the issue and prior specific written comments, inadequacies of the Final EIS, and my recommended remedy. Italics are used to indicate direct quotes from referenced documents.

A) Prohibition of Mining Without the Land Exchange

The connection between my comment on the Draft EIS and this objection is in the Final EIS, Volume 6, Appendix R, section 3, Response-to-Comment NEPA10 "Ramifications of the withdrawal area on Oak Flat, if the land exchange does not occur", in response to my comment 1097-1.

NEPA10 includes this statement:

"As specified in the DEIS, there are two scenarios regarding the Withdrawal Area: 1. The land exchange occurs in which the Withdrawal Area becomes the private holding of Resolution Copper Mining. In that case, the area is no longer Federal property and the withdrawal is no longer applicable. The Withdrawal Area would be available for mining activity under the laws and regulations that govern mining on private property.

2. The land exchange for the Withdrawal Area is not completed and the parcel remains Federal property. In that situation, the withdrawal remains in place and mining cannot occur within the Withdrawal Area."

Thus, NEPA10 correctly implies that these are the only two allowable conditions regarding the land exchange, but it appears to conflict with other parts of the Final EIS. My prior comments pointed out two instances where the Draft EIS incorrectly implies that mining at Oak Flat could be allowed even if the land exchange does not take place. Despite my comments this error has been carried forward into the Final EIS.

The Final EIS Section 2.2.3.1, pg. 88, second paragraph of "Need for Inclusion of Land Exchange in Document" states:

"It is possible that mining under the proposed action or action alternatives could also take place without the land exchange occurring."

The Final EIS Section 2.4, page 139, second paragraph "Effects of the Land Exchange", states:

"If a land exchange does not occur, Resolution Copper would mine and reclaim the mined land under Federal, State, and local permits and an approved GPO under 36 CFR 228 Subpart A."

Both statements are incorrect and in conflict with the two correct Scenarios of NEPA10 mentioned above and need to be revised accordingly. I recommend that the two Scenarios from Appendix R be incorporated into sections 2.2.3.1 and 2.4 of the Final EIS.

B) Alternatives Considered but Dismissed – Filtered Tailings Backfill

The connection between my comment on the Draft EIS and this objection is in the Final EIS, Volume 6, Appendix R, section 3, Response-to-Comment AMT7 "Use of filtered tailings to backfill subsidence crater ", in response to my comment 1097-13.

AMT7 states

"---- The rationale for dismissal of this alternative is clearly stated in appendix F of the DEIS: "The feasibility of placement of tailings in the subsidence area, either as slurry or filtered tailings, was considered during alternatives development. --- Overall, it was determined that this option represented unreasonable safety hazards and did not conform to industry norms. (DEIS, appendix F, p. F6). --- The documentation in the project record that specifically speaks to the issue of brownfields tailings disposal is listed in the November 2017 Alternatives Evaluation

Although the 2017 Alternatives Evaluation Report does discuss some of the tailings alternatives in considerable detail, it makes only the following brief statement concerning backfill of the subsidence crater in its section 3.4.1.11: "In addition to reviewing existing brownfields, scoping commenters recommended that the tailings be stored in the proposed Resolution Copper Project East Plant Site subsidence crater area. The project team reviewed the feasibility of placement of tailings in the subsidence area, either as slurry or dry stack tailings, at the April 2017 meeting. In this scenario, the tailings would be placed initially on undisturbed land above the mining panels, in the area that would gradually become a subsidence pit. The subsidence pit would then be filled with tailings as it expands over time. This option was dismissed for safety concerns, both aboveground and belowground. In use of panel caving, it is paramount to control the rate of panel caving and prevent air gaps from developing above the caved zone, which can lead to potentially catastrophic air blasts. Loading of tailings above the panel cave operation could change the rock dynamics in unexpected and unknown ways. If slurry tailings were placed in the subsidence crater, the added aspect of tailings drainage into the mine from above further complicates mining operations. Safety hazards exist for personnel placing tailings aboveground as well, given the active subsidence and earth movement. Overall, the project team determined that this option represented unreasonable safety hazards and did not conform to industry norms. "

This is almost identical to the wording in the August 2019 Draft EIS, Appendix F page F-6 and again in the January 2021 Final EIS, Appendix F page F-7. Essentially the same statement is then used in AMT7 as a response to comment. Variants of this one paragraph are the sole source of information provided in the entire Final EIS on the use of dry filtered tailings as backfill in the subsidence area. It is more of a summary of the conclusions rather than substantive details supporting the conclusions.

My comment on the Draft EIS recommended developing additional information, including the effects of dry stack tailings deposition on the behavior of the subsidence process, to properly support the selection of an alternative. The comment suggested that a study be conducted to develop more detailed information on the feasibility of implementing a schedule and pattern of dry filtered tailings deposition that would keep the deposition activity separated by a safe distance and time from the surface movement associated with caving. This could include some deposition outside the predicted limits of the subsidence crater, since the crater is not expected to occupy the entire area of the Oak Flat Parcel. Evaluation of the caving effects due to the additional loading from tailings deposition could possibly be an extension of the BGC Engineering (2018a) report discussed in 3.2.2.2 "Surface Subsidence Review" of the Final EIS. Of course, it is possible that such an investigation might show that backfilling the subsidence area with dry filtered tailings is not feasible, but such results would then back up the dismissal of this alternative with publicly available data showing why it presents unreasonable safety hazards.

The Final EIS, neither in AMT7 nor elsewhere, does not even mention this recommendation, much less state why such a study was not performed.

Therefore, the Final EIS inadequately considers the use of filtered tailings as backfill in the vicinity of the subsidence crater. Mitigation of this objection would require additional investigation as recommended in my comments on the Draft EIS and subsequent revision of the Final EIS.

End of Message.