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To: [FS-objections-southwestern-regional-office](#)
Subject: Objections to the Resolution Copper and Land Exchange
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On January 15, 2021, with only five days left in the Trump Administration, the USFS, Tonto National Forest, issued its Final Environmental Impact Statement governing its review of the “Resolution Copper and Land Exchange” and related FS proposed approvals of pipelines, roads, electrical transmission lines, infrastructure and other uses of federal public land associated with the proposed Resolution Copper Mine. The Exchange will give to multinational mining conglomerate, Rio Tinto Corp., over 2400 acres of federally protected land within the Tonto Forest. The faulty FEIS and Project review, rushed to completion in the waning days of the Trump administration, is deficient in numerous critical areas and violates multiple federal laws. For example, in its rush to complete, the Forest Service completely changed its regulatory structure for reviewing the Project in late 2020 but never provided any public review of the regulatory switch, despite the critical public land issues the reversal raises.

Another limiting factor for this Exchange is Congress’ express requirement that the Forest Service cannot approve the Exchange until the land obtained by Resolution and the land obtained by the federal government are subject to complete appraisals. The FEIS failed to include any information or opportunity to comment on the appraisals that Congress required to be completed (including the additional Non-Federal lands that may be conveyed to the US based on the appraisals), as required by NEPA and the congressional rider that authorized the Exchange. Although Congress directed the Forest Service to exchange the federal parcels at or around Oak Flat, it also required all federal agencies to otherwise comply with all applicable laws, for both the review and approval of the Exchange, as well as for Resolution’s plans for facilities related to the mine. The NDAA placed significant restrictions on the Forest Service’s approval of the Exchange and Resolution’s mining infrastructure plans, mandating an FEIS that is fully compliant with all federal laws, including NEPA, be the basis for all decisions under federal law related to the Exchange and the mine.

According to the NDAA, prior to conveying federal land under this section, the Secretary shall prepare a **single** environmental impact statement under the National Environmental Policy Act (NEPA) 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. Under the NDAA, the agency cannot defer or postpone the review of any aspect of the Exchange or the Resolution mine to a future public or agency process, as Congress directed that all aspects be analyzed in “a **single** environmental impact statement.” Yet this is what the Forest Service has done, deferring, and postponing full consideration of the lands to be exchanged, baseline

conditions, direct, indirect, and cumulative impacts, mitigation measures and analysis, and other aspects of the Exchange and the Resolution Mine.

Under NEPA, the Forest Service must consider (1) “the environmental impact of the proposed action,” (2) “any adverse environmental impacts that cannot be avoided,” (3) “alternatives to the proposed action,” (4) “the relationship between local short-term uses. . . and the maintenance and enhancement of long-term productivity,” and (5) “any irreversible and irretrievable commitments of resources.” Yet, the Forest Service failed to properly examine baseline water conditions under the National Environmental Policy Act (NEPA), and then failed to (1) adequately analyze the immense impacts from the massive groundwater pumping and water depletions by the Mine; and (2) examine or provide any meaningful mitigation for the impacts of this water use, including for the environment and for water users in Arizona. The FEIS also ignored significant other water use and development in the same pumping area, severely low-balling the mine’s impacts, in violation of the NEPA. These omissions have been strongly criticized by the State of Arizona, among others.

Wildlife cameras have documented a wide variety of wildlife at Oak Flat, including mountain lion, bear, and coatimundi. Lands to be exchanged-away provide important wildlife habitat for federally listed endangered and threatened species such as the southwestern willow flycatcher, yellow billed-cuckoo, Gila chub, Arizona hedgehog cactus, and ocelot. Over 170 bird species have been documented at Oak Flat. The exchange and mine would irreversibly impact and adversely affect wildlife habitat at Oak Flat and surrounding areas. The initial construction of the mine will impact all wildlife groups within the analysis area (including amphibians, birds, fish, invertebrates, mammals, and reptiles) through the loss, degradation, and fragmentation of breeding, rearing, foraging, and dispersal habitats; collisions with and crushing by construction vehicles; the loss of burrowing animals where grading occurs; increased invasive and noxious vegetation species; and impacts from increased noise and vibration levels.

The operation of the mine will cause additional long-term impacts to wildlife including impacts associated with massive subsidence; the reduction in surface water flows and groundwater availability to support rare riparian habitats; habitat changes from noxious and invasive weed establishment and spread; and the disruptive influence of workers and equipment.

Since 1955, Oak Flat has been completely protected from mining and mineral exploration due to Public Land Order 1229 of the Eisenhower Administration, which established the “Oak Flat Withdrawal Area.” These 65 years of protection will come to an end on the day of the Exchange. Additionally, the moment these lands are privatized, the following protections will no longer apply: (1) the environmental review and PUBLIC participation requirements of NEPA; (2) the Tribal consultation requirements of the National Historic Preservation Act and Executive Order 13007; (3) the substantive and PUBLIC participation requirements of the

National Forest Management Act, including the standards and guidelines of the Land and Resource Management Plan for the Tonto National Forest; and (4) the procedural and substantive requirements of Section 7 of the Endangered Species Act. The privatization of PUBLIC LANDS via the Resolution Copper and Land Exchange will result in immediate and irreparable harm to all who use (humans/wildlife) and depend on (wildlife/humans) the resources of these irreplaceable PUBLIC LANDS.

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