

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

April 5, 2023

The Honorable Tom Vilsack  
Secretary of Agriculture  
U.S. Department of Agriculture  
1400 Independence Avenue, SW  
Washington, DC 20250

Dear Secretary Vilsack,

In the 113<sup>th</sup> Congress, section 3003 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (NDAA) authorized the release of 2,422 acres of U.S. Forest Service land in the Tonto National Forest for a land exchange to allow foreign mining companies Rio Tinto and BPH to develop the Resolution Copper mine. However, this land exchange is subject to conditions specified in section 3003 of the NDAA, including certain *discretionary* federal actions by the U.S. Forest Service like the publication of a Final Environmental Impact Statement (FEIS). I respectfully urge the U.S. Forest Service to exercise the considerable discretion afforded under Section 3003 before taking ill-considered discretionary actions such as the publication of an FEIS, which will trigger the desecration of tribal cultural and religious heritage sites and greatly tarnish the Biden administration’s strong record of supporting federal trust responsibilities and the protection of sacred Indigenous sites.

As you know, the land chosen for the land exchange is a sacred site to the San Carlos Apache Tribe and other tribal communities in Arizona, often referred to as Oak Flat or Chí’chil Bį́dagoteel. If allowed to proceed, Resolution Copper would desecrate Oak Flat’s tribal cultural and religious heritage sites, deplete already scarce water resources in Arizona, adversely impact imperiled species, and create a crater up to 1,115 feet deep and roughly 1.8 miles across.<sup>1</sup>

In February 2021, I sent a letter to Acting Secretary Shea regarding the Trump administration’s fast-tracked FEIS, published in the final days of the previous administration. This FEIS violated several federal laws and lacked a thorough analysis of cumulative impacts, among other issues. Fortunately, under your leadership, in March of 2021, the U.S. Forest Service took a meaningful step toward upholding the federal government’s trust responsibilities by withdrawing the previous administration’s FEIS for Resolution Copper. I applaud the Biden administration’s continued work supporting our trust responsibilities by implementing the Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships.<sup>2</sup> To continue this work, I respectfully request that the U.S. Forest Service take a serious

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<sup>1</sup> USDA, *Final Environmental Impact Statement Resolution Copper Project and Land Exchange Volume 1* (Jan. 2021) (online at <https://www.resolutionmineeis.us/sites/default/files/feis/resolution-final-eis-vol-1.pdf>).

<sup>2</sup> White House, *Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships* (Jan. 2021) (online at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/>).

pause before re-publishing the FEIS, the issuance of which would trigger the land transfer and allow foreign mining companies Rio Tinto and BHP to destroy this sacred land.

We must not forget the shameful history of cultural and physical violence that the federal government has enacted against Indigenous populations in this country, specifically as it relates to mining. Together, we can prioritize Indigenous issues and structure policy goals to preserve and protect Indigenous cultures and history. This administration has already made significant strides in protecting Indigenous rights in the mining process by issuing the “Biden-Harris Administration Fundamental Principles for Domestic Mining Reform,” which highlights the need for regular, robust consultation with Tribal Nations and prioritizes recycling, reuse, and efficient use of critical minerals to reduce the need for new mining.

While I support responsible domestic mineral development to meet our clean energy goals, we cannot sacrifice tribal sacred sites, wilderness, national forests, or public health. Nothing is stopping Rio Tinto and BHP from exporting copper mined on U.S. soil to be processed and sold on the global market, largely to the benefit of foreign nations, including the Chinese Communist Party (CCP), which is Rio Tinto’s largest shareholder. Resolution Copper provides no guaranteed benefit to the American people or our clean energy industry.

Additionally, while Rio Tinto claims it is committed to “understanding and mitigating the risks and impacts” of its operations while working with Indigenous communities<sup>3</sup>, both Rio Tinto and BPH have grievous track records of bad faith and destructive mining practices and human rights violations across at least a half dozen countries. For example, in 2020, in Papua New Guinea, the Human Rights Law Centre filed a complaint against Rio Tinto on behalf of Indigenous peoples following pollution from a copper and gold mine that left the community with mass environmental damage, including polluted water resources, flooded lands and sacred sites, and significant public health risks.<sup>4</sup> Also in 2020, Rio Tinto was condemned for their mining practices that employed explosives to blow up a 46,000-year-old sacred site in Western Australia, including the Juukan Gorge Rock Dwellings, resulting in cultural and spiritual loss for local Indigenous communities.<sup>5</sup> In addition to its lack of regard for sacred sites, Rio Tinto saw the failure of four tailings dams at their QMM mine in Madagascar between 2010 and 2022, leaving the community with water contamination and fishing bans due to water quality impacts.<sup>6</sup> In 2015, a BPH mine was responsible for the collapse of a tailings dam in Brazil. Five million cubic meters of iron ore waste and mud rushed downstream, tragically leaving 19 dead and causing significant environmental destruction.<sup>7</sup>

Along with the track record of human rights and environmental violations outlined above, the Bureau of Land Management’s (BLM’s) own analysis in 2022 found that the Trump-era FEIS failed to adequately

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<sup>3</sup> Rio Tinto, *Environment* (Apr. 2023) ([online at https://www.riotinto.com/en/sustainability/environment](https://www.riotinto.com/en/sustainability/environment)).

<sup>4</sup> OECD Watch, *Human Rights Law Centre vs. Rio Tinto* (Sept. 202) (online at <https://www.oecdwatch.org/complaint/human-rights-law-centre-vs-rio-tinto/>).

<sup>5</sup> The Guardian, *Rio Tinto blasts 46,000-year-old Aboriginal site to expand iron ore mine* (May 2020) (online at <https://www.theguardian.com/australia-news/2020/may/26/rio-tinto-blasts-46000-year-old-aboriginal-site-to-expand-iron-ore-mine>).

<sup>6</sup> Earthworks, *Mining Industry Still Falls Short on Tailings Safety* (Jan. 2023) (online at <https://earthworks.org/blog/mining-industry-still-falls-short-on-tailings-safety/#:~:text=There%20have%20been%20four%20reported,but%20was%20denied%20by%20QMM>).

<sup>7</sup> USDA, *Resolution Copper Project and Land Exchange Environmental Impact Statement - Samarco, BHP and Vale Agree to Pay \$5B in Damages for Brazil Mining Disaster* (Mar. 2016) (online at <https://www.resolutionmineeis.us/documents/boadle-eisenhammer-2016>).

analyze climate change, impacts to surface and groundwater resources, groundwater mitigation, risks of waste dump, and did not conduct breach analysis for potential dam failure.<sup>8</sup>

The destruction this mine would cause far outweighs its benefits. Resolution Copper would significantly deplete already scarce water supplies, put wildlife at risk, devastate the Tonto National Forest, and destroy sacred Indigenous sites—all while there is no guarantee the copper produced at this mine would benefit the American people. I look forward to working with you and the administration on building a strong, clean energy supply chain that upholds our values and reforming our mining law to include meaningful consultation, and again urge you to withhold the FEIS from publication to save Oak Flat.

Sincerely,



Raúl M. Grijalva  
Ranking Member  
Committee on Natural Resources

Cc: The Honorable Brenda Mallory, Chair, White House Council on Environmental Quality  
John Podesta, Senior Advisor to the President for Clean Energy Innovation and Implementation  
Ali Zaidi, Assistant to the President & National Climate Advisor

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<sup>8</sup> Bureau of Land Management, *Bureau of Land Management Review of Hydrology Aspects of the Resolution Copper Project* (Jun. 2022) (online at <http://azminingreform.org/wp-content/uploads/2022/09/BLM-Hydrology-Review-of-USFS-Resolution-Copper-Project-FEIS.pdf>).