

**ARIZONA**

# Did feds fast-track Resolution Copper mine project in Trump's last days? Foes say 'yes'

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The U.S. Forest Service has moved the date to complete its review of the Resolution Copper mine east of Superior to the end of 2020, pushing the fiercely debated project into the fast lane before President Donald Trump leaves office.

Tonto National Forest, where the mine would be located, issued a draft environmental impact statement in August 2019. A final document was expected in 2021 or 2022, but the Forest Service has moved the date to Dec. 31.

A completed impact statement would start a 60-day clock on a land exchange that would allow the mine to move forward.

Opponents of the project suspect the mine's owners have pressured the federal agency to issue a speedy approval while Trump is still president.

“This is something we’ve seen a lot over the years,” said Randy Serraglio, conservation advocate at the Center for Biological Diversity. “These giant mining companies apply political pressure to get what they want.”

Serraglio said the same type of pressure and influence have been applied at the highest levels of the Trump administration for other such projects.

“It seems clear they want to get it out while Trump is still president,” he said. “It’s not clear whether they’ll be able to do that or not or whether they can do it legally.”

A Forest Service spokesperson said in an emailed statement that the new release date doesn't reflect "an acceleration of the National Environmental Policy Act process or the Schedule of Proposed Actions."

Resolution also said via email that the mine is not being "fast-tracked" and that they had not sought to apply for programs that are available to expedite projects in the permitting review.

## **Midnight rider approves a land swap**

The mine project was made possible by a late-night maneuver in December 2014, when Sen. John McCain, R-Ariz., attached a rider to a defense appropriations bill known as the National Defense Authorization Act. The rider authorized the U.S. to trade 5,376 acres of private land for 2,200 acres of forest land to Resolution Copper, an exchange environmental groups and tribes had long fought.

Although copper has been mined under Oak Flat Campground in the past, Resolution Copper, owned by British-Australian mining firms Rio Tinto and Billiton BHP, plans to use the block cave process to extract the remaining ore, much of which lies in veins as deep as 7,000 feet below ground level.

This method involves selectively excavating the ground underneath an ore body, which will collapse under its own weight in a controlled manner. The resulting rubble is moved through another shaft and processed to retrieve copper and some gold. Some mining experts say a block cave mine is the underground version of an open pit mine.

Through a spokesperson, Resolution said via email, "Block caving is safe, environmentally sound, and cost-effective for mining a large, deep orebody."

But environmentalists and groups like the Arizona Mining Reform Coalition, along with several tribes, have argued that the process will turn Oak Flat, which many tribes consider a sacred or culturally important site, into a sinkhole, or subsidence zone, estimated at 700 to 1,000 feet deep according to Resolution's website.

Recreational users like campers, hikers and rock climbers say they will lose out as well. Others fear that, along with Oak Flat, the nearby escarpment known as Apache Leap would also be destabilized and potentially collapse, perhaps onto the nearby town of Superior.

Some hydrologists also say that groundwater will be severely affected by the mine, both by contamination and by disturbing underwater storage and flows. Resolution disputed those assertions during public hearings and in documents on its website.

Resolution touts the economic benefits of the mine. The company said the mine could produce up to \$61 billion over the project's expected 60-year span and employ 1,500 people.

The San Carlos Apache Tribe commissioned its own study and submitted it to the Forest Service in response to the draft environmental impact statement. The tribe's study found that the loss in revenues to Pinal County's bustling tourism industry alone would be substantial. The study also said Resolution's direct employment numbers would be only 10% of the total mining jobs in the four counties the Forest Service surveyed, and 0.5% of the total number of jobs in those counties.

In addition to the land itself, Oak Flat is home to culturally important plant life, including a stand of Emory oaks. Apache people still harvest acorns from the oaks for subsistence and as a cultural resource.

The Forest Service replied to an inquiry from The Arizona Republic via email that Resolution is footing the bill for a plant salvage operation at the site, including attempts to transplant the oak trees as well as Emory oak restoration in several other groves. The hardy trees have been impacted by fragmentation of their habitats, cattle grazing and fire suppression.

## **Environmentalists suspect the timing**

Serraglio said many factors make the Dec. 31 release premature. One glaring omission not addressed in the environmental impact statement is the site where the tailings will be

stored and where the company would locate the pipeline and the power lines to make that work.

The location wasn't identified in the draft EIS, so the public hasn't had a chance to comment yet. And, Serraglio said, the appraisals mandated by the federal legislation aren't yet complete.

A final review document sets the clock ticking for the land swap. The Forest Service has said the exchange will be finalized not more than 60 days after the release of the final environmental impact statement.

A spokesperson for Tonto National Forest emailed a statement that seemed to substantiate Serraglio's assertion that it's possible not all the requirements for the final statement issuance will be met by Dec. 31.

The agency acknowledged that some pieces of the project have yet to be completed, or even started. The spokesperson also wrote that the final environmental impact statement and draft record of decision are scheduled to be published "sometime in winter 2020."

To meet their anticipated deadline, the statement said, several things must happen. In addition to the appraisals:

The U.S. Fish and Wildlife Service must issue a biological opinion under the Endangered Species Act.

An agreement addressing historic properties and resolution of adverse effects to comply with the National Historic Preservation Act must be signed by the Forest Service, the Advisory Council on Historic Preservation, Arizona's state historic preservation office and Resolution. (The spokesperson said that as of Dec. 2, this agreement had not been signed, adding that it is a "legally binding document to ensure cultural and historical resources are protected and managed in a predetermined manner with those involved.")

An updated analysis required by Section 404 of the Clean Water Act must be performed to determine if discharges of dredged or fill material into water sources or wetlands will pose any environmental hazard to aquatic systems. Resolution is

required to provide a detailed plan to avoid or mitigate any such effects if the analysis finds that adverse effects will occur. The U.S. Army Corps of Engineers is coordinating with the Environmental Protection Agency and the Forest Service to review the project.

The Forest Service statement also said that consultation with tribes is still ongoing. Tribal consultation must also be completed at the time the final environmental impact statement is published.

Serraglio said with all the items not yet in compliance with the land swap act, “Are the Forest Service career agency professionals willing to fall on their swords for a president on his way out the door?”

## **May incident results in outcry**

Despite Resolution’s assertion that it would protect cultural assets, an incident in May by its parent firm caused an international outcry, when Rio Tinto blew up 46,000-year-old rock shelters at Juukan Gorge in Western Australia’s Pilbara region to access iron ore.

After intense investor pressure on the mining firm's board, Rio Tinto’s chief executive, Jean-Sébastien Jacques, and two other senior executives are leaving the global mining company. The Australian Parliament is conducting an inquiry to determine what went wrong and what legislative changes could prevent further destruction.

A spokesperson for Resolution Copper referred The Republic to a statement by Rio Tinto Chairman Simon Thompson, expressing regret over the destruction and a promise to “strengthen cultural heritage governance and controls.”

Thompson also pledged that Rio Tinto would start what he called the “longer-term process” of rebuilding the trust of the Australian First Nations whose cultural sites had been destroyed.

The Forest Service said the incident doesn't affect its process, since the agency is following the land swap law's legal requirements.

"The Forest Service is preparing the Final Environmental Impact Statement and draft Record of Decision to comply with the National Environmental Policy Act and the National Defense Authorization Act's requirements," the agency said.

The British-Australian firm has also encountered problems with the same method its subsidiary, Resolution Copper, wants to use to extract copper ore.

The Oyu Tolgoi mine in Mongolia, which Rio Tinto operates and controls through a majority stake in a Toronto firm, is experiencing cost overruns of up to \$1.8 billion due to unanticipated ground conditions that could result in the ground collapsing prematurely, according to the industry news site Mining.com.

That resulted in the Mongolian government calling for an independent study of the cost overruns and delays, since it owns 34% of the mine. A former Rio Tinto employee who said he was forced out of the Mongolian mine for blowing the whistle on the firm's failure to report the delays recently settled with the firm.

## **Nosie says he'll continue fighting**

While environmental groups and politicians tangle over the legality and timing of the Forest Service's environmental impact statement, the San Carlos Apache man who leads a grass-roots opposition movement to the mine continues to live in the Tonto National Forest's campground, where he's camped for more than a year.

Wendsler Nosie, Sr., a former chairman of the 10,000-member tribe, is a longtime Native American rights advocate and leader of Apache Stronghold, which, along with other tribes, environmentalists and religious leaders, has been fighting the land swap for years.

Nosie said that to him, the religious rights of Native peoples is his top priority. Oak Flat, known to Apaches as Chi'chil Bildagoteel, the nearby Apache Leap and other sites in the area are held culturally and religiously important by many tribes, including many Apache people.

“They never want to talk about religion on the record,” said Nosie, who’s spent the past 30 years of fighting for Indigenous rights. “Religion solidifies the past of Indian people.” But, Nosie said, “People can do what they want if they say we have no religion.”

The law that purports to protect Native American religious rights, the American Indian Religious Freedom Act, is only a joint Congressional resolution and lacks any means to enforce it, according to Michigan State University law professor Matthew L. M. Fletcher.

Instead of trying to rely on a law with no teeth, Nosie and other Native religious rights advocates are partnering with other religious leaders like the Rev. Dr. William Barber II, president of Repairers of the Breach and co-chair of the Poor People’s Campaign to raise awareness of the impending destruction of Oak Flat.

“Religious people across the country that didn’t pay attention to Native issues on religion are now paying attention,” Nosie said. “They realize that freedom of religion for Native people is left out of the Constitution, and that the government is not there to protect those rights.”

Although his small trailer was broken into twice and valuables like generators and solar panels stolen, Nosie will continue residing in the campground to stand his ground. He and other Apaches and their allies will continue holding ceremonies and Sunrise Dances to commemorate a girl's change to womanhood. They'll continue harvesting acorns and medicinal plants from the spring-fed wetland.

And, Nosie said, they will continue praying for the future of Oak Flat, its seeps and springs, and for Apache Leap.

Nosie also pointed out an economic factor that few realize: Processed acorn meal goes for \$60 a pound, while the current price for copper is about \$3.58 a pound.

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