



[3411-15-P]

DEPARTMENT OF AGRICULTURE

Forest Service

Tonto National Forest; Pinal County, AZ; Resolution Copper Project and Land Exchange Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement for approval of a plan of operations for the Resolution Copper Project and associated land exchange; Request for Comments; and Notice of Public Scoping.

SUMMARY:

The Tonto National Forest (TNF) is preparing an environmental impact statement (EIS) to evaluate and disclose the potential environmental effects from: (1) approval of the “General Plan of Operations” (GPO) submitted by Resolution Copper Mining, LLC (Resolution Copper), for operations on National Forest System (NFS) land associated with a proposed large-scale mine; (2) the exchange of land between Resolution Copper and the United States; and (3) amendments to the Tonto National Forest Land and Resource Management Plan (forest plan) (1985, as amended).

DATES: Comments concerning the scope of the analysis must be received by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Send written comments to: Resolution EIS Comments, P.O. Box 34468,

Phoenix, AZ 85067-4468. Comments may also be sent via email to:

Comments@resolutionmineeis.us, submitted via website at www.resolutionmineeis.us, or submitted by leaving a verbal message at 1-866-546-5718. Additional information regarding submittal of comments is provided below in the Scoping section.

Written and oral comments may also be submitted during open houses that will be held by the U.S. Forest Service (Forest Service), as follows:

1. March 31, 2016, 5:00 – 8:00 p.m. Queen Valley Recreation Hall, 1478 East Queen Valley Drive, Queen Valley, Arizona.
2. April 4, 2016, 5:00 – 8:00 p.m. Superior High School, Multi-purpose room, 100 Mary Drive, Superior, Arizona.
2. April 5, 2016, 5:00 – 8:00 p.m. Elks Lodge, 1775 East Maple Street, Globe, Arizona.
4. April 6, 2016, 5:00 – 8:00 p.m. Southwest Regional Library, 775 North Greenfield Road, Gilbert, Arizona.

FOR FURTHER INFORMATION CONTACT: Mark Nelson, Project Manager, at 602-225-5222 or mrnelson@fs.fed.us during normal business hours.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The project is located in the Globe and Mesa Ranger Districts, Tonto National Forest, Arizona. The TNF is evaluating the proposed action at this time to comply with its statutory and regulatory obligations to respond to a proposed plan of operations submitted by

Resolution Copper and to comply with Section 3003 of the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015 (NDAA).

The purpose and need for this project is twofold:

1. To consider approval of the proposed GPO submitted by Resolution Copper, which would govern surface disturbance on NFS lands from mining operations that are reasonably incident to extraction, transportation, and processing of copper and molybdenum.
2. To exchange lands between Resolution Copper and the United States as directed by Section 3003 the NDAA.

Resolution Copper submitted the proposed GPO for approval by the Forest Service in November 2013. The proposed GPO was submitted in accordance with Forest Service regulations for locatable minerals set forth at 36 Code of Federal Regulations (CFR) 228 Subpart A. The Forest Service must: (1) evaluate the proposed GPO; (2) consider requirements set forth at 36 CFR 228.8, including those to minimize adverse effects to the extent feasible, comply with applicable laws, regulations, and standards for environmental protection, and provide for reclamation; and (3) respond to the proposal as set forth at 36 CFR 228.5(a). Approval of the proposed GPO would be a major federal action subject to the National Environmental Policy Act of 1969 (NEPA). Accordingly, the Forest Service must also prepare an EIS to consider and publicly disclose the potential environmental effects of the proposed action.

The NDAA was enacted in December 2014. Section 3003 of this law directs the Secretary of Agriculture (Secretary) to exchange certain NFS land in the area of the proposed mine with Resolution Copper in exchange for private land parcels located

throughout eastern Arizona. Section 3003 of the NDAA also requires the Secretary to prepare an EIS prior to conveying the federal land, which shall be used as the basis for all decisions under federal law related to the proposed mine, the GPO, and any related major federal actions. The Forest Service, an agency within the U.S. Department of Agriculture, is the lead agency tasked with completion of the EIS, because the Forest Service has management responsibility for the federal land that will be conveyed to Resolution Copper and for the federal land that would be affected by the proposed GPO.

Proposed Action

The proposed action is to approve the proposed GPO as submitted by Resolution Copper and to complete the land exchange as directed by Congress under Section 3003 of the NDAA. As proposed in the GPO, the Resolution Copper mine would affect federal, state, and private lands. The proposed action by the Forest Service would only approve mining operations on NFS lands, because the Forest Service does not have jurisdiction to regulate mining operations that occur on private or state land. However, the EIS will consider and disclose environmental effects that would occur on federal, private, and state lands associated with the proposed mine and the land exchange. Connected actions related to the GPO and amendment of the forest plan will also be analyzed. Impacts of reasonably foreseeable actions in the project area will be considered in combination with the impacts of the project to estimate the potential cumulative impacts of project implementation.

Substantial mining activities described in the GPO would affect a 2,422-acre parcel of land known generally as the “Oak Flat” parcel. Section 3003 of the NDAA directs the conveyance of the Oak Flat parcel to Resolution Copper. In exchange for the

Oak Flat parcel, Resolution Copper would transfer eight parcels located throughout Arizona, totaling 5,344 acres, to the United States. The Forest Service will not regulate mining activities on the Oak Flat parcel, which is to be conveyed to Resolution Copper, because it will be private land. The Forest Service will need to approve a plan of operations only for related operations that are proposed on NFS land outside of the Oak Flat parcel. The following sections provide additional information regarding the proposed mining operations and the land exchange.

Proposed Mining Operations

Resolution Copper proposes to conduct underground mining of a copper-molybdenum deposit located 5,000 to 7,000 feet below the ground surface. Resolution Copper estimates that the mine would take approximately 10 years to construct, would have an operational life of approximately 40 years, and would be followed by 5 to 10 years of reclamation activities.

The mining operation would include, but is not limited to, the following facilities and activities, which would be conducted on a mixture of NFS, private, and state lands:

- The mining itself would take place under the Oak Flat parcel.
- An area known as the East Plant Site would be developed adjacent to the Oak Flat parcel. This area would include mine shafts and a variety of surface facilities to support mining operations. This area currently contains two operating mine shafts, a mine administration building, and other mining infrastructure. Portions of the East Plant site would be located on NFS lands, and would be subject to Forest Service regulatory jurisdiction.
- Mined ore would be crushed underground and then transported underground

approximately 2.5 miles west to an area known as the West Plant Site, where ore would be processed to produce copper and molybdenum concentrates.

Portions of the West Plant site would be located on NFS lands, and would be subject to Forest Service regulatory jurisdiction.

- The copper concentrate would be pumped as a slurry through a 22-mile pipeline to a filter plant and loadout facility located near Florence Junction, Arizona, where copper concentrate would be filtered and then sent to off-site smelters via rail cars or trucks. The molybdenum concentrate would be filtered, dried, and sent to market via truck directly from the West Plant Site.
- The copper concentrate slurry pipeline would be located along an existing, previously disturbed right-of-way known as the Magma Arizona Railroad Company (MARRCO) corridor. The MARRCO corridor would also host other mine infrastructure, including, but not limited to, water pipelines, power lines, pump stations, and groundwater wells for recovery of banked Central Arizona Project water. A portion of the MARRCO corridor is located on NFS lands and would be subject to Forest Service regulatory jurisdiction.
- Tailings produced at the West Plant Site would be pumped as a slurry through several pipelines for 4.7 miles to a tailings storage facility. The tailings storage facility would gradually expand over time, eventually reaching about 4,400 acres in size. The proposed tailings storage facility is located on NFS lands and would be subject to Forest Service regulatory jurisdiction.
- All power to the mine would be supplied by the Salt River Project. Portions of the proposed electrical infrastructure would be located on NFS land and

would be subject to Forest Service regulatory jurisdiction. A Forest Service special use permit would be required to approve construction and operation of new power lines on NFS lands by the Salt River Project.

- Reclamation would be conducted to achieve postclosure land use objectives, including closing and sealing the mine shafts, removing surface facilities and infrastructure, and establishing self-sustaining vegetative communities using local species. The proposed tailings storage facility would be reclaimed in place, providing for permanent storage of mine tailings.

An initial review of the consistency of the proposed GPO with the forest plan indicates that approval of the proposed GPO would result in conditions that are inconsistent with the forest plan. An amendment to the forest plan is proposed that may address objectives, standards, and guidelines relating to recreation, vegetation, cultural resource management, visual quality, and wildlife.

Land Exchange

Section 3003 of the NDAA directs the conveyance of specified federal lands to Resolution Copper if Resolution Copper offers to convey the specified non-federal land to the United States, which Resolution Copper has done. The following paragraphs summarize the land parcels that will be exchanged.

The 2,422-acre Oak Flat parcel will be transferred by the United States to Resolution Copper.

The following parcels will be transferred from Resolution Copper to the United States, to be included in the NFS:

- 110 acres near Superior in Pinal County, Arizona, known as the Non-Federal

Parcel–Apache Leap South End, to be administered by the TNF

- 148 acres in Yavapai County, Arizona, known as the Non-Federal Parcel–Tangle Creek, to be administered by the TNF
- 147 acres in Gila County, Arizona, known as the Non-Federal Parcel–Turkey Creek, to be administered by the TNF
- 149 acres near Cave Creek in Maricopa County, Arizona, known as the Non-Federal Parcel–Cave Creek, to be administered by the TNF
- 640 acres north of Payson in Coconino County, Arizona, known as the Non-Federal Parcel–East Clear Creek, to be administered by the Coconino National Forest

The following parcels will be transferred from Resolution Copper to the U.S.

Department of the Interior:

- 3,050 acres near Mammoth in Pinal County, Arizona, known as the Non-Federal Parcel–Lower San Pedro River, to be administered by the Bureau of Land Management (BLM) as part of the San Pedro Riparian National Conservation Area
- 940 acres south of Elgin in Santa Cruz County, Arizona, known as the Non-Federal Parcel–Appleton Ranch, to be administered by the BLM as part of the Las Cienegas National Conservation Area
- 160 acres near Kearny in Gila and Pinal Counties, Arizona, known as the Non-Federal Parcel–Dripping Springs, to be administered by the BLM

Also as a requirement of the NDAA, if requested by the Town of Superior, Arizona, the following land will be transferred from the United States to the Town of

Superior:

- 30 acres associated with the Fairview Cemetery
- 250 acres associated with parcels contiguous to the Superior Airport
- 265 acres of federal reversionary interest associated with the Superior Airport

As of February 2016, the Town of Superior has not requested this land transfer.

Possible Alternatives

The EIS will analyze the no action alternative, which would neither approve the proposed GPO nor complete the land exchange. However, the responsible official does not have discretion to select the no action alternative, because it would not be consistent with the requirements of 36 CFR 228.5, nor would it comply with the NDAA. Further information regarding the nature of the decision to be made is presented in a following section.

Additional alternatives may be evaluated in the EIS. These alternatives may require changes to the proposed GPO, which are necessary to meet Forest Service regulations for locatable minerals set forth at 36 CFR 228 Subpart A.

Lead and Cooperating Agencies

The Forest Service will be the lead agency preparing the EIS. Cooperating agencies have not yet been identified.

Responsible Official

The Forest Supervisor of the TNF will be the responsible official who prepares the record of decision (ROD), approves the GPO, and administers the land exchange.

Nature of Decision To Be Made

The TNF Supervisor will consider the beneficial and adverse impacts of each alternative. With respect to the proposed GPO, the TNF Forest Supervisor has discretion to determine whether changes in the proposed GPO will be required prior to approval. With respect to the land exchange, the TNF Forest Supervisor has limited discretion to make decisions that are consistent with Section 3003 of the NDAA. The nature of the decision to be made is discussed further in the following sections.

General Plan of Operations

Using the analysis in the EIS and supporting documentation, the TNF Forest Supervisor will make the following decisions regarding the proposed GPO:

1. Decide whether to approve the proposed GPO submitted by Resolution Copper, or require changes or additions to the proposed GPO to meet the requirements for environmental protection and reclamation set forth at 36 CFR Subpart A before approving a final GPO. The Forest Service decision may be to approve a plan of operations composed of elements from one or more of the alternatives considered. The alternative that is selected for approval in the final GPO must minimize adverse impacts on NFS surface resources to the extent feasible.
2. Decide whether to approve amendments to the forest plan, which would be required to approve the final GPO.
3. Decide whether to approve a special use permit for the Salt River Project to authorize construction and operation of power lines on NFS lands.

Regulations of the Secretary of Agriculture that govern the use of surface

resources in conjunction with mining operations on NFS lands are set forth under 36 CFR 228 Subpart A. These regulations require that the Forest Service respond to parties who submit proposed mining plans for approval to conduct mining operations on or otherwise use NFS lands in conjunction with mining for part or all of their planned actions. In accordance with regulations at 36 CFR 228.5, the submittal of the proposed GPO by Resolution Copper requires the Forest Service to consider whether to approve the proposed GPO or to require changes or additions deemed necessary to meet the requirements of the regulations for locatable mineral operations set forth in 36 CFR Subpart A. The Forest Service cannot categorically prohibit mining operations that are reasonably incident to mining of locatable minerals on NFS lands in the area of the proposed action.

Land Exchange

Congress has directed the Forest Service to complete the land exchange contemplated by Section 3003 of the NDAA. This act directs the Secretary to convey to Resolution Copper all right, title, and interest of the United States in and to identified federal land if Resolution Copper offers to convey to the United States all right, title, and interest of Resolution Copper in and to identified non-federal lands. With respect to the land exchange, the Forest Supervisor has limited discretion to: (1) address concerns of affected Indian Tribes; (2) insure that title to the non-federal lands offered in the exchange is acceptable; (3) accept additional non-federal land or a cash payment from Resolution Copper to the United States in the event that the final appraised value of the federal land exceeds the value of the non-federal land; or (4) other matters related to the land exchange that are consistent with Section 3003 of the NDAA.

Final EIS and Record of Decision

The Forest Supervisor plans to release two draft RODs in conjunction with the final EIS. The first draft ROD would address the land exchange and the second draft ROD would address the GPO. Each draft decision would be subject to 36 CFR 218, “Project-Level Pre-decisional Administrative Review Process.” Depending on the nature of the forest plan amendments required, the draft decisions may also be subject to 36 CFR 219 Subpart B, “Pre-decisional Administrative Review Process.”

Following resolution of objections to the draft RODs, final RODs would be issued. Resolution Copper would have an opportunity to appeal the decisions as set forth at 36 CFR 214, “Postdecisional Administrative Review Process for Occupancy and Use of National Forest System Lands and Resources.”

Prior to approval of the GPO, Resolution Copper may be required to modify the proposed GPO to align it with the description of the selected alternative in the final ROD. In addition, the TNF Forest Supervisor would require Resolution Copper to submit a reclamation bond or other financial assurance to ensure that NFS lands and resources involved with the mining operation are reclaimed in accordance with the approved GPO and Forest Service requirements for environmental protection (36 CFR 228.8 and 228.13). After the Forest Service has determined that the GPO conforms to the ROD and that the reclamation bond is acceptable, it would approve the GPO. Implementation of mining operations that affect NFS lands and resources may not commence until a plan of operations is approved and the reclamation bond or other financial assurance is in place.

Section 3003 of the NDAA requires the Secretary to convey all right, title, and interest of the United States in and to the federal land to Resolution Copper no later than

60 days after the date of publication of the final EIS.

Preliminary Issues

Issues to be analyzed in the EIS will be developed during this scoping process. Preliminary issues expected to be analyzed include potential impacts to: air quality, socioeconomics; groundwater and surface water quality; riparian and aquatic areas and springs; surface water runoff; ground subsidence; historical and cultural resources; traditional cultural properties and cultural landscapes; biological resources, including threatened and endangered species; environmental justice; recreation; transportation; noise; and visual resources. This list is subject to change based on comments received from the public and resource agencies.

Permits or Licenses Required

The following is a partial list of additional permits that may be required: permits associated with well drilling and groundwater withdrawal (Arizona Department of Water Resources); air permits (Arizona Department of Environmental Quality and Pinal County); aquifer protection permit (Arizona Department of Environmental Quality); right-of-way permit for new 50-foot powerline right-of-way (Arizona State Land Department); Certificate of Environmental Compatibility for new power lines (Arizona Corporation Commission Power Plant and Line Siting Committee); Arizona Pollutant Discharge Elimination System permit (Arizona Department of Environmental Quality); dam safety permits (Arizona Department of Water Resources); water quality certification under Section 401 of the Clean Water Act (issued by the Arizona Department of Environmental Quality); and a permit under Section 404 of the Clean Water Act (administered by the U.S. Army Corps of Engineers).

Scoping Process

This notice of intent initiates the scoping (public involvement) process, which guides the development of the EIS. Public comments may be submitted to the TNF in a variety of ways, including: via email, via the project website, by mail, via facsimile, and verbally by leaving a phone message. In addition, the TNF will conduct a minimum of four open houses during which members of the public can learn about the proposed action and the NEPA review process, and submit comments. Comments sought by the TNF include specific comments to the proposed action, appropriate information that could be pertinent to analysis of environmental effects, identification of significant issues, and identification of potential alternatives.

Written comments may be sent to: Resolution EIS Comments, P.O. Box 34468, Phoenix, AZ 85067-4468. Comments may also be sent via email to: Comments@resolutionmineeis.us, submitted via website at www.resolutionmineeis.us, sent via facsimile to 1-866-546-5718, or submitted by leaving a verbal message at 1-866-546-5718.

It is important that reviewers provide their comments at such times and in a manner in which they are useful to the agency's preparation of the EIS. Although comments are welcome at any time during the NEPA review, they will be most useful to us if they are received within 60 days following the publication of this notice. Comments should clearly articulate the reviewer's concerns. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the agency with the ability to provide the respondent with subsequent environmental documents.

Dated: March 9, 2016.

Neil Bosworth,
Forest Supervisor.

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