

CONSULTED PARTIES

4.1 Introduction

This chapter provides an overview of the consultation and coordination conducted to date between the Forest Service and Federal, State, and local agencies, tribes, and the public. The FEIS will expand this section to update consultation, agency permitting activities, and additional comments and outreach activities conducted after publication of the DEIS, including cooperating agency review, the EIS public review, and comment analysis and agency response processes.

4.2 Notice of Intent and Scoping

An NOI announcing the intent of the Tonto National Forest to prepare this EIS was published in the Federal Register on March 18, 2016. The notice announced the preparation of this EIS and announced opportunities for public involvement, including scoping meetings. Five public scoping meetings were subsequently held at the locations and on the dates shown in table 1.6.1-1 in chapter 1. The official scoping and public commenting period lasted 120 days, from March 18 to July 18, 2016.

Members of the public were afforded several methods for providing comments during the scoping period. These included multiple comment stations with comment forms or providing oral comments to a court reporter at the scoping meetings, the opportunity to send emails to <comments@resolutionmineeis.us> or to submit letters via U.S. mail to the Tonto National Forest, or to submit written comments in person at the Tonto National Forest Supervisor's Office, 2324 East McDowell Road, Phoenix, AZ 85006, during normal business hours. In total, 133,653 comment submittals were received during the project scoping period.

A comprehensive scoping report summarizing the public meeting and comment process and providing a detailed synopsis of the scoping comments received was released in March 2017. The scoping report

(U.S. Forest Service 2017f) is available at the Tonto National Forest Supervisor's Office at the address shown in the previous paragraph.

A website was created to provide access to project schedule, updates, project and alternative information, and baseline data and reports. The website is found at www.ResolutionMineEIS.us and has been active since 2016.

4.3 Project Mailing List

Early in the project NEPA process, an initial mailing list identifying individuals (as points of contact) in organizations, agencies, and interest groups was compiled from Tonto National Forest records of interested parties and from organizations and individuals who submitted comments related to the "Final Environmental Assessment: Resolution Copper Mining Baseline Hydrological and Geotechnical Data Gathering Activities Plan of Operations" (U.S. Forest Service 2016a). Those interested or who had commented on the "Apache Leap Special Management Area Management Plan Environmental Assessment" (U.S. Forest Service 2017a) are also included in this mailing list. After alternatives were developed for detailed analysis, the mailing list was once again updated to include those landowners or stakeholders who would be affected by the alternative tailings locations or associated corridors.

The goal of the mailing list is to enable broad distribution of information to local and regional businesses, organizations, and interested individuals about public meetings, comment period deadlines, and other key project milestones. As of June 2019, the mailing list included approximately 40,000 email and postal service addresses. However, the list has been, and will continue to be, periodically updated and expanded throughout the entire Resolution Copper Project and Land Exchange EIS process.

4.4 Tribal Consultation (Government-to-Government)

Federal agencies are required to consult with American Indian Tribes as part of the Advisory Council on Historic Preservation (ACHP) regulations, Protection of Historic Properties (36 CFR 800), implementing Section 106 of the National Historic Preservation Act (NHPA). Accordingly, the NHPA outlines when Federal agencies must consult with tribes and the issues and other factors this consultation must address. Pursuant to Executive Order 13175, executive departments and agencies are charged with engaging in regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications and are responsible for strengthening the government-to-government relationship between the United States and Indian Tribes. In addition, the NDAA requires consultation with affected Indian Tribes concerning issues of concern related to the land exchange.

The Tonto National Forest has been conducting tribal consultation related to various Resolution Copper projects, the land exchange, and the Apache Leap SMA environmental assessment. This consultation has included formal and informal meetings, correspondence, sharing information, and documentation of tribal comments and concerns by the Forest Service. The consultation is ongoing and will continue through the end of the project. The following tribes are involved in the consultation process:

- Fort McDowell Yavapai Nation
- Gila River Indian Community
- Hopi Tribe
- Mescalero Apache Tribe
- Pueblo of Zuni
- Salt River Pima-Maricopa Indian Community
- San Carlos Apache Tribe

- Tonto Apache Tribe
- White Mountain Apache Tribe
- Yavapai-Apache Nation
- Yavapai-Prescott Indian Tribe

Additional tribes were included in consultation with the introduction of the Peg Leg alternative location. These tribes, included at the request of the BLM, are as follows:

- Ak-Chin Indian Community
- Fort Sill Apache Tribe
- Pascua Yaqui Tribe
- Tohono O'odham Nation

4.5 Section 106 Consultation

Section 106 consultation was initiated by the Tonto National Forest and the SHPO on March 31, 2017, and the ACHP on December 7, 2017. A Programmatic Agreement is being drafted with the Tonto National Forest, Arizona SHPO, ACHP, Resolution Copper, ASLD, BLM, USACE, and tribes. The PA will be a signed and legally binding document to ensure cultural and historical resources are protected and managed in a predetermined manner with those involved.

Beginning in 2018, multiple meetings have been held with interested parties and those who would be signatories of the document. The draft PA is provided as appendix O of this EIS. A final PA will be signed and completed prior to publication of the FEIS.

4.6 Other Agency Consultation

Section 7 consultation will occur after a preferred alternative is selected and would involve the Tonto National Forest, the U.S. Fish and Wildlife Service, and other land management agencies (ASLD or BLM) as applicable, depending on the final arrangement of land in the preferred alternative.

4.7 Tonto National Forest Tribal Monitor Cultural Resources Program and Emory Oak Restoration Studies

4.7.1 Tribal Monitor Program

As a result of input received during ongoing consultation between the Tonto National Forest and participating tribes, the Tonto National Forest agreed to initiate, and Resolution Copper agreed to fund, a unique program that would employ tribal members as auxiliary specialists to assist cultural resources staff and proponent-contracted archaeologists in surveying lands proposed for development as part of the project (i.e., lands proposed for development either as component facilities of the Resolution Copper GPO or as EIS alternative facility locations). In particular, the goal of this program is to provide the tribes with greater opportunity to identify traditional ecological knowledge places (TEKPs) and other tribal resources that are likely not to be recognized by non-Native archaeologists.

The Tonto National Forest conducted an initial tribal monitor training session from January 25 through February 2, 2018, and tribal members began accompanying contracted cultural resource survey crews in March 2018. A second training of additional tribal members was held between October 1 and October 10, 2018, to enable representation of additional tribes in survey efforts. Fifty-four tribal members completed the training between the two 2018 sessions. The tribal monitors will survey each project component in addition to Class III survey to ensure not only archaeological information, but tribal perspectives are understood and

documented. This work is ongoing and may include additional training for tribal monitors to assist with other resource surveys.

The tribal monitors have already proven highly effective in identifying areas, resources, and sites of importance to the four cultural groups with ties to the area (Apache, O’odham, Puebloan, and Yavapai), including springs and seeps, plant and mineral resource collecting areas, landscapes and landmarks, caches of regalia and human remains, and other sites. The tribal monitors have not only surveyed new alternative tailings locations, but also revisited the Near West tailings location and Oak Flat to evaluate the areas based on their tribal perspectives.

4.7.2 Emory Oak Restoration

As noted in chapter 1, in December 2014, Congress passed the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015 (NDAA), which included as Section 3003 the “Southeast Arizona Land Exchange and Conservation Act of 2011.” Under this legislatively mandated land exchange, Resolution Copper would receive lands containing the Oak Flat Campground east of the town of Superior, which is a known historical and current Emory oak acorn gathering location for the Apache and Yavapai.

As stated in the Southeast Arizona Land Exchange and Conservation Act, the Tonto National Forest and Resolution Copper are to address the concerns of Indian Tribes. Because the tribes have expressed concern about the Emory oak grove at Oak Flat, Resolution Copper has committed to funding Forest Service efforts to restore Emory oak at suitable locations elsewhere in Arizona, particularly within the “Four Forests Restoration Initiative” (4FRI) project areas, consisting of the Kaibab, Coconino, Apache-Sitgreaves, and Tonto National Forests.

The initial 5-year phase of the Emory oak restoration program, which began in fall 2018, lays out a series of goals for each year of the program. The following is a highly summarized listing of the detailed program goals that have been set forth and agreed upon by both the Forest Service and the participating tribes.

- The first year will consist of initial meetings and field visits between the Forest Service and tribal representatives to identify existing areas that have been used to collect acorn; groves that could potentially be treated and developed for acorn harvesting; and selection of up to six existing or potential oak grove sites for further study of their feasibility for restoration as future tribal acorn-gathering locations.
- The second year (beginning in fall 2019) will develop and implement treatment plans to improve the selected oak groves, based on the ongoing research. Treatments designed by the project team may include erecting fences, removing brush, burning understory, transplanting oak seedlings, landscaping to ensure groves receive adequate water, and other measures.
- The third and fourth years (fall 2020, fall 2021) will consist of monitoring treated groves and developing recommendations on the efficacy and any modifications of the treatments. Field visits will be arranged for elders and youth to participate in traditional activities, including acorn harvesting.
- The fifth year will consist of continued monitoring and harvesting, and developing a report to document the procedures used, the results of the treatments, and recommendations for management protocols that may preserve Emory oaks on forests where this resource is critical to culturally affiliated tribes.

4.8 Cooperating Agencies

CEQ regulations (40 CFR 1508.5) define a cooperating agency as any Federal agency (other than the lead agency) and any State or local agency or Indian Tribe with jurisdictional authority or special expertise with respect to any environmental impact involved in a proposal. The cooperating agencies that assisted in preparation of this EIS are listed and their respective jurisdictional authorities or areas of special expertise are described in chapter 1, section 1.6.3; for convenience, the nine participating agencies are also identified in the accompanying

Cooperating Agencies for the Resolution Copper Project and Land Exchange EIS

- Arizona Department of Environmental Quality
- Arizona Department of Water Resources
- Arizona Game and Fish Department
- Arizona State Land Department
- Arizona State Mine Inspector
- Bureau of Land Management
- Pinal County Air Quality Control District
- U.S. Army Corps of Engineers
- U.S. Environmental Protection Agency

text box. These agencies assisted with EIS preparation in a number of ways, including conducting or providing studies and inventories, reviewing baseline condition reports, identifying issues, assisting with the formulation of alternatives, and reviewing preliminary DEIS text and other EIS materials.

Not all of the cooperating agencies have participated in all aspects of the EIS preparation. Early in the cooperating agency process, each agency conferred with the Tonto National Forest and agreed to a carefully defined role and set of responsibilities in relation to the Resolution Copper Project and Land Exchange that aligned with that agency's unique jurisdictional authority or area(s) of special expertise. Individualized Memoranda of Understanding defining these roles and

responsibilities were thereafter signed by representatives of both the Forest Service and of each of the agencies listed in the text box.

The Tonto National Forest also engaged several other agencies, though those agencies ultimately did not become cooperating agencies or participate in the preparation of the DEIS. The NEPA team had sited early versions of the Peg Leg alternative on lands along the Gila River that previously had been withdrawn on behalf of the U.S. Bureau of Reclamation for potential future water projects. Ultimately, the Peg Leg alternative was resituated off of any parcels associated with the U.S. Bureau of Reclamation, but interim discussions were held with the U.S. Bureau of Reclamation to discuss the regulatory process and decision framework. The U.S. Bureau of Reclamation also was consulted regarding a separate NEPA process being undertaken for the reallocation of CAP non-Indian agriculture water contracts, including a possible allocation to Resolution Copper. The Tonto National Forest and U.S. Bureau of Reclamation determined that the non-Indian agriculture reallocation was already undergoing a separate NEPA analysis and did not need to be included in the proposed action for this EIS, although it is considered a reasonably foreseeable future action and considered for cumulative effects.

The Tonto National Forest engaged the USGS early in the groundwater modeling process, and discussed the potential for the USGS to be involved in various technical aspects of the project involving geological, geotechnical, or hydrologic analyses. Ultimately, the USGS declined involvement, though specialists attended early meetings of the Groundwater Modeling Workgroup. The San Carlos Apache Tribe also indicated interest in participating in the Groundwater Modeling Workgroup, and a representative attended a number of Groundwater Modeling Workgroup meetings.

4.9 Project Notifications to Other Federal, State, and County Agencies and Municipal Governments

In addition to project-related information provided to the nine cooperating agencies identified in section 4.8, each of the following Federal, State, County, and local governments and agencies has been and will continue to be provided with regular updates and other notifications regarding the project NEPA process.

4.9.1 Federal

- Advisory Council on Historic Preservation
- U.S. Bureau of Reclamation
- U.S. Fish and Wildlife Service
- U.S. House of Representatives
- U.S. Senate

4.9.2 State

- Arizona Department of Transportation
- Arizona Geological Survey
- Arizona Governor
- Arizona State Board of Regents
- Arizona State Parks (Arizona State Historic Preservation Office)

4.9.3 County

- Coconino County
- Gila County Board of Supervisors
- Gila County Planning and Zoning
- Graham County Board of Supervisors
- Maricopa County
- Pima County
- Pima County Board of Supervisors
- Pinal County Board of Supervisors
- Pinal County Public Works
- Santa Cruz County
- Yavapai County

4.9.4 Local

- Cave Creek Council
- City of Chandler
- City of Globe
- City of Mesa
- City of Phoenix
- Superior Police
- Superior Schools
- Town of Benson
- Town of Carefree
- Town of Hayden
- Town of Kearny
- Town of Mammoth

- Town of Miami
- Town of Paradise Valley
- Town of Patagonia
- Town of Payson
- Town of Queen Creek
- Town of Sierra Vista
- Town of Superior
- Town of Winkelman

4.9.5 Tribal

- Ak-Chin Indian Community
- Fort McDowell Yavapai Nation
- Fort Sill Apache Tribe
- Gila River Indian Community
- Hopi Tribe
- Mescalero Apache Tribe
- Pascua Yaqui Tribe
- Pueblo of Zuni
- Salt River Pima-Maricopa Indian Community
- San Carlos Apache Tribe
- Tohono O’odham Nation
- Tonto Apache Tribe
- White Mountain Apache Tribe
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