



To: House Committee on Natural Resources Republican Members
From: House Committee on Natural Resources Republican Staff
Date: November 14, 2022
Subject: Hybrid Markup of Resolution of Inquiry: H.Res. 1378.

The Committee on Natural Resources will hold a hybrid markup on **Wednesday, November 16, 2022, at 10:00 a.m. EDT** in room 1324 Longworth House Office Building and via Cisco WebEx. The Committee will consider H.Res. 1378 (Gosar).

Republican Members are encouraged to take advantage of the opportunity to participate in person.

Member offices are requested to notify Will Layden (Will.Layden@mail.house.gov) and Baylee Seeman (Baylee.Seeman@mail.house.gov) no later than **4:30 p.m. EDT on Tuesday, November 15, 2022**, if their Member intends to participate in person in the hearing room or remotely via his/her laptop from another location. Members may vote either by voice in the hearing room or if participating remotely (while visible).

Submissions for the hearing record must be submitted through the Committee's electronic repository at HNRCDocs@mail.house.gov. Please contact David DeMarco (David.DeMarco@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- This markup is an opportunity to discuss a domestic production of minerals, which Committee Democrats have tried to halt.
- At a time when President Biden and Congressional Democrats have committed America to using more renewable energy, they unfortunately are also shutting down domestic production of the minerals needed for renewable energy infrastructure.
- The Biden Administration's inexplicable revocation of a land exchange for the Resolution Copper project is one of the best examples of the administration's glaring policy hypocrisy.
- Despite skyrocketing demand for minerals, Democrats are shutting down projects to produce minerals in America like Resolution Copper in Arizona and the Duluth Complex in Minnesota.

- Failing to mine in America means dependence on the Chinese-controlled foreign mineral supply which has been proven to use child and slave labor.
- Dependence on our adversaries for the minerals we need jeopardizes national security, increases global pollution, hurts American jobs, and leaves us with an unsteady supply chain.

II. BACKGROUND

Resolutions of Inquiry (ROIs) are simple House resolutions that seek factual information from the Executive Branch. ROIs have privileged status under House rules.¹ After an ROI is introduced and referred to a committee, the committee may mark it up like it would any other resolution or bill: voting on it and reporting it favorably or adversely. If a committee does not report an ROI within 14 legislative days (exclusive of the days of introduction and discharge), the sponsor of the ROI may make a motion on the House floor to discharge the committee from consideration and call up the measure before the House.²

When Democrats changed the House Rules to allow remote participation during COVID, they also restricted ROIs, motions to instruct (MTIs), and the Committee of the Whole. After 791 days of lockdown, Democrats again changed the Rules of the House and allowed these functions to operate again, sneaking these changes in a resolution during the week of July 18th, when the Rules Committee was also holding hearings on drought, wildfire, marriage, and contraception.³

ROIs provide the minority with the opportunity to trigger action by the Majority on issues of their choosing that may not otherwise receive a hearing, markup, or recorded vote. While it is rare for ROIs to make it to the House floor, they are a tool for the minority to highlight important requests for information that have gone unanswered by the Administration and provide the opportunity for a recorded vote to place the majority on record for these issues.⁴

III. EXPECTED LEGISLATION

H.Res. 1378 (Gosar)

H.Res. 1378 would direct the Secretary of Agriculture to transmit documents relating to the Resolution Copper mine in Arizona, including all records and communications that refer to the Resolution Copper mine.

¹ Clause 7, Rule XIII of the House Rules (117th Cong.).

² *Id.*

³ H.Res. 1230, Adopting changes to the standing rules (117th Cong.)

⁴ Congressional Research Service, *Resolutions of Inquiry: An Analysis of Their Use in the House*, R40879 (Nov. 9, 2017), <https://crsreports.congress.gov/product/pdf/R/R40879>.

The Resolution Copper project is a proposed copper mine located near the town of Superior, Arizona, on lands within the Tonto National Forest. A 2014 bipartisan land exchange enacted by Congress provided for the exchange of 2,422 acres of U.S. Forest Service (FS) land (known as the “Oak Flat” parcel) for eight land parcels throughout Arizona totaling 5,376 acres owned by Resolution Copper.⁵ The Town of Superior was also provided the right to purchase the rights to 545 acres of land with the exchange. The land exchange is conditioned on the publication of a Final Environmental Impact Statement (FEIS) by the U.S. Department of Agriculture (USDA).

Chair Grijalva introduced H.R. 1884 to repeal 16 U.S.C. 539p, the Southeast Arizona Land Exchange and Conservation Act, which was enacted as part of the FY 2015 National Defense Authorization Act (NDAA). The bill established an Oak Flat withdrawal area from mineral entry. The Committee passed this bill 24 to 19 on April 28, 2021. The land exchange in the NDAA was enacted largely to enable this project, which is expected to be the largest copper mine in the United States, supplying approximately 25 percent of domestic demand.⁶

On January 15, 2021, the Trump Administration issued a 3,000-page FEIS and draft Record of Decision (ROD).⁷ On March 1, 2021, the Biden Administration withdrew the Notice of Availability and rescinded the FEIS and draft ROD on the final day of the public comment period. The reasons given were to review and ensure that the consultation process met the standard of President Biden’s Executive Order 13175 on Tribal Consultation and Strengthening Nation-to-Nation Relationships.⁸

USDA rescinded these actions using the justification of extending tribal consultation. This is despite consultations with Indian tribes and other stakeholders dating back to the mid-2000’s having occurred, many of which resulted in concessions and project changes to the project by Resolution Copper to address issues raised.⁹ In addition, the sacred site known as Apache Leap has received a Special Management Area designation by the FS, meaning there is a legal obligation to leave the 1,000 acre site in the same condition it is in now.

H.Res. 1378 seeks answers for the inexplicable revocation of land that was exchanged as part of bipartisan legislation, and which had undergone a thorough environmental review and years of tribal consultations. Reporting this ROI favorably would require the USDA to turn over communications that would shed light on the real reason for this detrimental change in policy that is preventing domestic production of much-needed copper.

Ranking Member Westerman supports the resolution.

⁵ U.S. Department of Agriculture. Tonto National Forest. “Resolution Copper Project and Land Exchange Environmental Impact Statement.” Project Update. <https://www.resolutionmineeis.us/>.

⁶ Lewis, Barbara. “Rio Tinto’s Resolution copper project in Arizona moves step closer.” Reuters. August 9, 2019. <https://www.reuters.com/article/us-riotinto-resolution/rio-tintos-resolution-copper-project-in-arizona-moves-step-closer-idUSKCN1UZ23S>.

⁷ U.S. Department of Agriculture. Tonto National Forest. “Resolution Copper Project and Land Exchange Environmental Impact Statement.” Project Update. <https://www.resolutionmineeis.us/>.

⁸ USDA, Resolution Copper Project and Land Exchange Environmental Impact Statement (updated Sept. 10, 2021), <https://www.resolutionmineeis.us/>.

⁹ Resolution Copper. Staff briefing. March 6, 2020.

During a previous markup of ROIs in the House Committee on Natural Resources, Chair Grijalva motioned for a rollcall vote to report the resolution *unfavorably*. *Because committees must report out ROIs or else risk a privileged motion being raised on the House floor, the vote at this markup will again be on reporting this resolution unfavorably. In this case, the Ranking Member recommends a “no” vote, as this is an item that he supports reporting out favorably.*

Staff contacts: Ashley Nichols (Ashley.Nichols@mail.house.gov) and Sang Yi (Sang.Yi@mail.house.gov).

III. CBO SCORES

None.

IV. EFFECT ON CURRENT LAW (RAMSEYER)

None.