

**TESTIMONY OF THE INTER TRIBAL COUNCIL OF ARIZONA  
BY  
MR. SHAN LEWIS,  
VICE CHAIRMAN, FORT MOJAVE INDIAN TRIBE  
PRESIDENT, INTER TRIBAL COUNCIL OF ARIZONA  
REGARDING HOUSE BILL H.R. 1904**

**Presented to  
Chairman Rob Bishop, and Members of the Subcommittee on National Parks,  
Forests and Public Lands  
Hon. Doc Hastings, Chairman  
Committee on Natural Resources  
1334 Longworth House Office Building  
Washington, DC. 20510**

**June 14, 2011**

***Mr. Chairman and Members of the Subcommittee:***

Mr. Chairman, Subcommittee Members and Guests. Good Afternoon. My name is Shan Lewis, Vice Chairman, Fort Mojave Indian Tribe, and President of the Inter Tribal Council of Arizona (ITCA). My Tribe is a member of the Inter Tribal Council of Arizona.

I speak today on behalf of the Inter Tribal Council of Arizona which consists of 20 federally recognized American Indian Tribes, Nations and Communities with lands within the State of Arizona, New Mexico and California. We join together on matter of tribal, national, and statewide importance to the Tribes.

H.R. 1904, introduced on May 13, 2011, by Representative Gosar and various co-sponsors, would allow Resolution Copper -- a joint venture of foreign mining giants Rio Tinto and BHP Billiton (collectively, "Rio Tinto") -- to secure private ownership of over 2,400 acres of U.S. Forest Service lands and the purported domestic copper supplies located underneath these lands in order to facilitate an unprecedented large-scale block cave copper mine in the Oak Flat region, which is bounded by portions of Apache Leap and Gaan ("Devil's") Canyon, and which includes the 760 acre Oak Flat Withdrawal (collectively "Oak Flat"), which is within the ancestral lands of Western Apache and Yavapai tribes. You should also consider that 9% of RioTinto, the controlling interest in Resolution Copper, is currently held by China, by and through its state-controlled Aluminum Corporation of China, known as Chinalco. If the exchange goes through,

China will end up holding a 4.5% private interest in the ancestral lands of certain American Indian Nations in Arizona, so that they can mine this land with virtual impunity. A legislative transfer of land in essence to a **foreign government** as presented by H.R. 1904 is offensive to us and to the rest of the country.

The Oak Flat region remains today a place of profound religious, cultural, and historic significance to the San Carlos Apache Tribe, the White Mountain Apache Tribe, the Fort McDowell Yavapai Nation, the Yavapai-Apache Nation, the Tonto Apache Tribe and other American Indian Nations.

Because of its importance to these American Indian tribes, nations and communities, the Oak Flat region, as well as specific places within the Oak Flat Withdrawal area, are eligible for inclusion in, **and protection under**, the Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470 *et seq.* (“NHPA”). Further, Oak Flat meets the criteria to be identified as a “sacred site” within the meaning of Executive Order 13007, Indian Sacred Sites, May 24, 1996, 61 Fed. Reg. 26771 (“E.O. 13007”), as well as pursuant to the American Indian Religious Freedom Act, 42 U.S.C. § 1996, *et. seq.* (“AIRFA”), and related laws, regulations and policies.

Oak Flat should not be transferred to the ownership of Rio Tinto in order to facilitate a block cave mine on and underneath these lands. Transfer of these lands to Rio Tinto for mining purposes will deplete and contaminate water resources from nearby watersheds and aquifers and result in the collapse of the Earth, irrevocably damaging the landscape of Oak Flat, and the wildlife, plants and other natural features of its ecosystems and, thereby, the very integrity of Oak Flat relative to its crucial role in American Indian religion, traditions, and culture. Our strong unity on these points is underscored in numerous ITCA Resolutions on this matter (see enclosed).

Through Congressional action, H.R. 1904 lifts the Oak Flat Withdrawal, which has protected these publicly owned lands for the American and American Indian peoples since 1955, when President Eisenhower signed BLM Public Land Order 1229. This Order specifically put Oak Flat off-limits to all future mining activity, despite its presence in a known mining district. In fact, although President Nixon issued BLM Public Land Order 5132 in 1971 to modify PLO 1229 he expressly precluded any form of appropriation of Oak Flat “under the U.S. mining laws.” These two executive orders -- from two different Republican administrations -- both mandated that these lands were to be preserved in perpetuity with special emphasis on prohibiting mining activities at Oak Flat. There is no compelling reason for these Orders to be overturned today, especially to benefit two foreign mining interests.

Although the Inter Tribal Council of Arizona is not opposed to mining in general, *this form of mining* and *mining in this location* is highly offensive to us, and would pose a danger to many important values of this region.

The 20 member Tribes of the ITCA therefore oppose H.R. 1904 and mining activities at Oak Flat.

## Cultural and Religious Effects of the Proposed Exchange

Congress has enacted legislation to protect the religious, cultural and social integrity of Indian people. This was to ensure (among other things) that the policies and procedures of various Federal agencies, as they may impact the exercise of traditional Indian religious practices, are brought into compliance with the constitutional injunction that Congress shall make no laws abridging the free exercise of religion.

It is important to understand that the religious and cultural importance of the Oak Flat area does not only reside in isolated spots but also in the integrity of the ecosystem and environment of the area as a whole. Thus, impacts to **any part** of Oak Flat have an impact on the religious and cultural integrity of the area **as a whole** -- both as a holy and religious place and as a place of continued traditional and cultural importance to Apache, Yavapai, and other indigenous people.

For example, Apache People call Oak Flat “*Chich’il Bildagoteel*,” or “a Flat with Acorn Trees” and it lies at the heart of *T’iis Tseban* Country, which is associated with at least eight Apache clans and two Western Apache bands -- the Pinal Band and the Aravaipa Band. Oak Flat area is called *Gohwhy Gah Edahpbah* by the Yavapai people. Oak Flat has, for generations, played a crucial role in the exercise of Apache religious, traditional, and cultural practices, **and these practices continue to this day**. Since time immemorial these tribes have performed a variety of deeply ceremonial dances on these highly cherished grounds. Oak Flat has long been used -- and is used today -- for religious ceremonies and its existence continues to enhance the lives of Apaches and Yavapais.

The oak groves at Oak Flat have always provided an abundant source of acorns that serve as an important food source for the Apache people. There are also hundreds of traditional Apache plants and other living things in the Oak Flat area that are crucial to Apache religion and culture. Some of these plants are common and some are among the holy medicines known to and harvested by only gifted Apache herbalists. Similarly, Yavapais also have relied on the abundance of Oak Flat for physical and spiritual sustenance. While these plants can be gathered in other areas, only the plants within the Oak Flat area are imbued with the unique power of this area.

Allowing Rio Tinto to conduct block cave mining at *Chich’il Bildagoteel* (Oak Flat) will destroy the living things and ecosystems that are associated with the Holy Beings that Apaches depend on, in particular a certain kind of Gaan – all powerful Mountain Spirits – with whom the Oak Flat area is associated. These Holy Beings are among the most powerful, and they must be respected if the Apache people are to receive their power. Without their power, the Apache people cannot conduct their ceremonies and they become vulnerable to a wide variety of illness. The mining that will be facilitated by this land exchange legislation will also adversely impact the power of the plants that Apaches harvest and use within the Oak Flat area for ceremonial, religious, medicinal, and other purposes. The Yavapai are connected to this land in ways that can not be expressed through the English word. The land and its presence is apart of who they are and defines them as a People. Their language reflects their consecutiveness to the land. Once the land is gone part of their language will die forever.

## **Oak Flat Should Not be Sacrificed In Exchange for Other Lands Selected by Rio Tinto and Offered to the United States**

To build support to the block and cave mining operations, Rio Tinto proposes the acquisition and conservation of a handful of land parcels scattered in other locations within Arizona.

While some of these offered lands may have value for the American public, none of them have been recognized through their previous withdrawal by Executive Order, like the Oak Flat area, nor do they have the totality of values as a sacred site or traditional cultural property recognized by American Indians.

Moreover, if the offered parcels are as meritorious and deserving of conversation and public use, as Oak Flat was determined to be over 50 years ago by President Eisenhower, those who seek the conservation of these parcels should look for funding help from such potential resources as the Land and Water Conservation Fund, The Conservation Fund, The Nature Conservancy, The Trust For Public Lands, the Paul Allen Foundation and others – not by sacrificing lands at Oak Flat. No one should attempt to, nor can they, put a price on the value of an intact and healthy ecosystem within the Oak Flat area or its adjacent lands, or on safe drinking water, or the protection of spiritual, religious, cultural, and archeological values. The United States, as Trustee for all American Indians should not attempt to trade away these priceless values in order to facilitate the cheapest method of mining, which in the end has exclusive benefit for Rio Tinto (including China) and BHP and their shareholders.

It is highly disappointing, and indeed disturbing, that H.R. 1904 has simply cast aside the valid concerns of American Indians regarding the need to protect the religious, cultural and traditional relationship of indigenous peoples to the Oak Flat region.

### **Block Cave Mining Impacts and the Collapse and Destruction of the Oak Flat Area**

As noted above, and in prior testimony on this proposed exchange during the 111<sup>th</sup> Congress, the ITCA is not opposed to mining in general. We are, however, strongly opposed to block and cave mining **in this location**. Block and cave mining here would (among other things) collapse the surface area on public lands, destroy the integrity of the Oak Flat as a traditional cultural property and sacred site, and endanger the water supplies of Gaan Canyon, Queen Creek, Queen Creek Canyon, and the springs, seeps and other important water features in the surround countryside for miles around.

Rio Tinto has said that the reason for the block and cave mining approach is that it is “cheaper” for them. While bottom line considerations are clearly important to Rio Tinto, the Federal Government, our Trustee, must not let such factors pressure it into agreeing to destructive practices. Mining experts attest that there is no assurance once the ground starts moving in a block and cave mining operation that it will not “run with you”, or result in a collapse from the bottom of the operation up to the surface.

Despite the fact that Apache Leap has been removed from this land exchange in H.R. 1904, under the normal requirements for a land exchange in accordance with National Environmental Policy Act (“NEPA”) and the Federal Land Policy Management Act (“FLPMA”), Congress would require federal decision makers to conduct interdisciplinary studies and closely scrutinize the inevitable and destructive impacts of the mining project on Oak Flat, Apache Leap, and nearby Gaan (Devil’s) Canyon. They would be required to consult with American Indian Tribes and interested members of the public throughout the process, and would have the obligation to consider the impact of the surface collapse from the mine on Oak Flat and the landscapes found in this area as required by the National Historic Preservation Act (NHPA) and other laws. As part of this process, the federal decision makers would also be required to evaluate the impacts from the collapse of the surface at and throughout Oak Flat and the depletion and potential contamination of the region’s water supplies, and therefore, the resulting damage to the traditional cultural and religious elements of this landscape and the importance of Oak Flat as a sacred site and traditional cultural property. Rio Tinto and BHP Billiton seek to have Congress exempt them from virtually all of these important requirements of the law through H.R. 1904.

It should also be noted that while H.R. 1904 would purport to prohibit "commercial mineral extraction" from under the proposed conservation easement, it does not prohibit Rio Tinto from tunneling under Apache Leap or from conducting other below ground operations directly below the escarpment. In addition, nothing in H.R. 1904 or in the “NEPA” like review of Rio Tinto’s “mining plan of operations” would require Rio Tinto to cease its mining operations and block caving activities at Oak Flat should these operations and activities show signs of a more extensive surface collapse than anticipated, including the potential damage or violation of Apache Leap. Moreover, RCM makes no guarantees that they will prevent such a catastrophe.

Finally, Apache Leap is only part of the larger sacred site that is encompassed by the Oak Flat. Under this proposed legislation, Apache Leap would eventually be bordered by thousands of acres of land that will be irretrievably harmed by the proposed mining project and the destruction to the healthy ecosystems of the entire Oak Flat Withdrawal area.

### **The Mining Project Will Dangerously Deplete Groundwater and Surface Water Supplies Throughout the Region**

Water is a source of life for all people. The existence of water at Oak Flat, including life-giving springs, seeps and surface supplies, is fundamental to the health of Oak Flat’s ecosystems and therefore, to the religion, culture and very identity of both the Apache and the Yavapai people.

As noted briefly above, however, the massive mining operation to be facilitated by H.R. 1904, threatens to dangerously deplete surface and groundwater supplies throughout the region - water supplies that are already relied upon and desperately needed by others in Arizona. H.R. 1904 does not require Rio Tinto to perform any modeling or proper studies of the impact of their project on the regional water supply and hydrology, despite the fact that the 20 member Tribes of the Inter Tribal Council of Arizona and other Arizona tribes and nations, including the San Carlos Apache Tribe and the Fort McDowell Yavapai Nation, have repeatedly requested that an independent agency of the federal government, like the U.S. Geological Survey or other federal agency or department, conduct such studies. This is particularly egregious since Arizona is in its

13<sup>th</sup> year of drought and the area water supplies in this region are under further pressure from growth.

The copper ore body is estimated at its highest point to be located 7,000 feet below the surface; however, because the actual surface at Oak Flat and Apache Leap already sits between 4,100 feet and 4,600 feet above sea level, the top of the massive ore body appears to be actually located at approximately 3,000 feet below sea level. Given the depth of the ore body throughout the 40 plus years of the mining project, Rio Tinto will have to aggressively conduct extensive "dewatering" activities in order to continually pump and remove the surface water and the groundwater from both the shallow alluvial aquifer at Oak Flat and the deeper aquifers which will increasingly migrate into the enormous cavity created by the removed ore and waste rock (and the extensive tunnel system needed for the mine), nearly **all of which will be located well below the elevation of the streams in the region, and will cut through the region's groundwater aquifers. This also means the springs in the area that the Apaches and the Yavapai hold sacred will be destroyed forever.**

Surface water, tributary groundwater, and aquifers that are located above, beside, and beneath the copper ore body will be impacted by excavation to create the mining tunnels. Thus, throughout the mining process water will constantly migrate to and from the vacant ore body and mining tunnels. As this process continues over the decades long life of the project, the mine will deplete billions of gallons of water from the surface water and groundwater throughout the region, resulting in the loss of important seeps, springs and other surface water features, and resulting in the gross depletion, and likely contamination, of important and unique perennial pools in Gaan (Devil's) Canyon, flows to Queen Creek and other surface water features, all of which is crucial to maintain the healthy ecosystem of Oak Flat and the surrounding area, and therefore the integrity of this place as a sacred site and traditional cultural property. Neither Rio Tinto nor BHP Billiton have the legal right to disrupt, deplete or contaminate this water under any law. Yet, **this legislation provides for an unprecedented water taking and condones water pollution.**

Further, the alteration of both the subsurface and the surface geological structure of this area as the result of the block caving process and the imminent surface collapse will alter the natural state of the aquifers and surface drainage of the watersheds throughout the region forever. Despite the fact that legislation has been pending off and on in Congress for almost six years, to date the Inter Tribal Council of Arizona has never seen any meaningful studies conducted by Rio Tinto or the federal government regarding these impacts to the water supplies of the region. These studies are crucial to ensure that the dwindling water supplies in Arizona are protected for communities and cities downstream including the Phoenix metropolitan area.

The gross depletion of the local aquifers and the local springs, seeps and other water supplies of the Oak Flat area, cannot be remediated by "banking" Central Arizona Project water elsewhere, including in storage facilities near Phoenix and in Pinal County.

Ironically, at the same time that Inter Tribal Council of Arizona and other Indian tribes, nations and communities have raised these and related concerns before Congress, Rio Tinto has succeeded in **changing laws and regulations** in Arizona which have been in place for decades

in order to exempt itself from vital public safeguards and conditions normally used to protect Arizona's water supplies. *See, e.g.*, H.B. 2289, 49th Leg., 2d Reg. Sess. (Ariz. 2010); H.B. 2617, 49th Leg., 2d Reg. Sess. (Ariz. 2010); S.C.R. 1046, 49th Leg., Reg. Sess. (Ariz. 2010).

We ask that Congress maintain federal ownership of these lands and exercise its federal control necessary to ensure that the surface water and ground water supplies of this region are protected in both quantity and quality, and that federal, tribal, private, and public water rights are protected in perpetuity from the interference, diminishment and degradation presented by this massive mining project.

### **H.R. 1904 Requires that the Land Exchange be Consummated Without Advanced NEPA Review**

There is nothing in H.R. 1904 that calls for Congress or the USDA/Forest Service to review the proposed land exchange itself, prior to Rio Tinto's acquisition of the Oak Flat lands. Section 4(i) of the bill provides that "the land exchange directed by this Act **shall be** consummated not later than one year after the date of enactment of this Act." (Emphasis added). In addition, Sec. 4(a) provides that when Rio Tinto offers to convey the non-federal lands to the United States, "**the Secretary** is authorized **and directed** to convey to Resolution Copper, all right, title, and interest of the United States in and to the Federal land." (Emphasis added).

Thus, H.R. 1904 fails to require or **even permit** the Secretary to take a "hard look" at the land exchange itself under NEPA or other laws, before the exchange is consummated, and seemingly fails to vest any discretion in the Secretary of Agriculture to consider possible alternatives to the exchange. H.R. 1904 also does not call for or permit the mitigation of impacts related to the land exchange and it would not permit the Secretary to avoid consummating the exchange should the Secretary determine under the FLPMA and other laws, that the exchange is a bad deal for the American taxpayer or the citizens or in the event he finds that the religious, environmental, cultural, water supply and other harms of the mining project are simply too great.

### **H.R. 1904 Contains Sham NEPA Requirements After the Exchange**

The NEPA process outlined by Sec. 4(j) of H.R. 1904 (which is to be conducted after the lands are exchanged) is little more than a futile exercise on the part of the Secretary. Under H.R. 1904, the Secretary would have no discretion to exercise any meaningful authority over Rio Tinto's mining plan of operations or mining activities on private land after the exchange, absent a federal nexus. There is also no requirement in the bill for the Secretary to examine the direct, indirect and cumulative impacts of interim exploratory activities, pre-feasibility and feasibility operations, or mine facility construction that will be conducted by Rio Tinto after the exchange, but before production of commercial quantities of minerals. Sec. 4(f) mandates that the Secretary "shall" provide Rio Tinto with a special use permit within 30 days of enactment of the Act to engage in mineral exploration activities underneath the 760-acre Oak Flat Withdrawal and, within 90 days, the Secretary is required to allow Rio Tinto to begin mineral explorations within the Oak Flat Withdrawal itself.

In fact, under H.R. 1904, the integrity of Oak Flat could be harmed so substantially by exploratory activities before the limited NEPA requirements found in Sec. 4(j)(2) are triggered, that any NEPA review conducted upon the submission of the mining plan of operations would have little to no benefit in any event. Similarly, the Secretary would also seemingly lack any authority under this bill to even consider alternatives to these interim activities, which may include alternatives necessary to protect the integrity of Oak Flat as a traditional cultural property and sacred site, including its water resources, landscape, plants and ecosystems. Allowing the immediate exploration on and under Oak Flat prior to the NEPA review contemplated by Sec. 4(j) of the Act will constitute an “irretrievable commitment of resources” in contravention to NEPA.

It is also critical to understand that under H.R. 1904, there is no definition of “mining plan of operations”, and there is nothing to make clear what form the “plan of operations” required by Sec. 4(j)(1) of the bill would take, as this term is not tied to the requirements of 36 C.F.R., Part 288. There no guarantees that the “plan of operations” will be sufficiently detailed or contain a complete description of the type of mining to be conducted on the lands, the subsurface information for the area, the length of operations, or the measures that Rio Tinto will take to meet the environmental and cultural resources protections that would normally be required by the law if these lands were not exchanged into private ownership. Furthermore, Rio Tinto may well change the mining plan **without public review** after the initial plan is submitted that could significantly alter the way the mine is operated. Such changes could pose an even more serious threat to this area.

Deputy Chief of the USDA/Forest Service, Joel Holtrop, has warned in response to prior legislation for this land exchange, that a plan of operations which contains, in particular, subsurface information is “**essential in order to assess environmental impacts, including hydrological conditions, subsidence, and other related issues.**” See Deputy Chief of the USDA/Forest Service, Joel Holtrop, August 2009, written response to questions by the Senate Subcommittee on Public Lands and Forests on S. 409. However, H.R. 1904 would not provide the Secretary with authority to reject the plan of operations submitted by Rio Tinto if the information contained in the plan is insufficient to conduct even the limited review called for under Sec. 4(j)(2) of the bill.

The Secretary is also only given 3 years under H.R. 1904 to conduct his review after submission of a “mine plan of operations.” Under this limited time frame, the Secretary would have little time to demand that Rio Tinto refine its plan, even if this was necessary to conduct a meaningful review.

Indeed, USDA Secretary, Thomas Vilsack, has previously objected to similar sham NEPA provisions contained in previous legislation for this land exchange (S.409, 111<sup>th</sup> Congress), warning:

The purpose of a requirement [in S.409] that the agency prepare the EIS after the exchange, when the land is in private ownership, is unclear because **the bill provides the agency with no discretion to exercise after completing the EIS.** If the objective of the environmental analysis is to ascertain the impacts of the



potential commercial mineral production on the parcel to be exchanged, then the analysis should be prepared before an exchange, not afterwards, and only if the agency retains the discretion to apply what it learns in the EIS to its decision about the exchange. **It seems completion of the exchange prior to the EIS would negate the utility of the EIS.** (Emphasis added).

Finally, H.R. 1904 does not allow for the preparation of a supplemental Environmental Impact Statement (EIS) document if additional review is called for in order to examine the direct, indirect and cumulative impacts of future activities by Rio Tinto. Sec. 4(j)(2) of the Act makes clear that the Secretary may only use the **single environmental review document** which is to be prepared within 3 years of the plan of operations as the basis for **all future** “decisions under applicable Federal laws, rules and regulations regarding any Federal actions or authorizations related to the proposed mine or plan of operations.”

In sum, the “NEPA” provisions contained in H.R. 1904, do not comply with the purposes of NEPA and they fail to vest any real discretion in the Secretary of Agriculture to address, or even meaningfully consider, the many concerns presented by the block cave mining operation proposed for the Oak Flat Withdrawal area.

### **Rio Tinto’s Promise of Significant Jobs Creation in the Local Economy is Unsupported**

Resolution Copper has circulated various economic and job figures related to their mining project. These numbers are highly speculative and unsupported as Rio Tinto does not have a Mining Plan of Operation (MPO). Since an MPO may be a decade or more away from completion, it is impossible at this time to determine with any certainty the total number of jobs or the types of jobs that might be created by the mine. In fact, Rio Tinto has acknowledged that exploration will take years and will not be completed until 2020, at the earliest. This offers little help for the needs of the local economy today. Even with the exploration complete, there is no guarantee that Rio Tinto will build the mine given the depth of the ore body and other factors. There is also no guarantee that the mine will provide the large number of jobs that Rio Tinto has promised, due to the potential automation of the project and other factors.

Rio Tinto has recently launched a prototype of a fully automated “mine of the future” in the iron rich Pilbara region of Australia. This “mine of the future” operates eleven mines with robotized drilling, automated haul trucks and driverless ore trains, all of which are controlled from an operations center 800 miles away. The aim of Rio Tinto’s prototype is to lower production costs by eliminating the need to hire a substantial number of workers. By Rio Tinto’s own admission “some of the roles currently based at the mine [Pilbara Mine] site will, in the future, be based in a city thousands of kilometers away [approximately 600 or more miles away]” and “employees will work like air traffic controllers.” See “*Mine of the Future.*” *riotinto.com. Rio Tinto, n.d. Web. 2011.* Rio Tinto’s Eagle Ore Mine in Marquette, Michigan also plans to use a fully automated system which may make mines safer, but at the cost of requiring fewer workers. This reduced labor force is a major reason why typical ‘mining jobs’ are rapidly declining industry-wide. As production and company profits continue to rise (and automation becomes operational), labor statistics show that the (mining) industry is expected to lose roughly 104,000 additional jobs between 2008 and 2018. See *U.S. Department of Labor,*

*Bureau of Labor Statistics. Career Guide to Industry. 2010-2011 Edition.*  
<<http://www.bls.gov/oco/cg/cgs004.htm#outlook>>

Rio Tinto and Resolution Copper executives openly admit they plan to implement similar automated technology at the Rio Tinto Mine in Superior, Arizona. In Resolution Copper's 2010 Sustainable Development Report they state, "Rio Tinto will use, today's improved understanding of caving processes and advanced technology will allow us to employ more automation and mechanization than were available in the past." See *Resolution Copper Mining. 2010 Sustainable Development Report 201* <<http://resolutioncopper.com/sdr/2010/environment>>

**This technology would allow Rio Tinto to operate the mine from anywhere in the world**, substantially reducing the need for manpower and skilled and unskilled workers in the Superior region. Rio Tinto boasts that in their mines of the future (which will include the Resolution Copper Mine): "Humans will no longer need to be hands on as all this equipment will be "autonomous" – able to make decisions on what to do based on their environment and interaction with other machines. Operators will oversee the equipment from the ROC (Remote Operation Centers)." See *Rio Tinto. Rio Tinto chief executive unveils vision of "mine of the future". 18 January 2008.* <[http://www.riotinto.com/media/5157\\_7037.asp](http://www.riotinto.com/media/5157_7037.asp)>

Once fully operational, the Remote Operation Center for Rio Tinto's Resolution Copper Mine is unlikely to be located in rural Superior, Arizona. Rather, the ROC will be "metropolitan based" and "the future miner will be required to have a higher degree of education in mechatronics, supercomputing or artificial intelligence", See *Cribb, Julian. Rio Tinto. Miners of the Future. Review. September 2008.* This would, of course, leave the Town of Superior in the same economic situation it faces now. Rio Tinto's own workers acknowledge a decrease in the need for manual labor due to automation, stating "[p]eople frequently ask whether we have anyone working here at all." *Coopes, Amy. "Robots, space technology run Australia's mining miracle". Physorg.com .* <<http://www.physorg.com/news188967104.html>>

Even today, Rio Tinto generally does not employ local drill operators or drill rigs for its exploration activities, rather, it chooses to bring in outside subcontractors from Utah, Canada and elsewhere to work on the project. This lack of local job creation will result in limited payroll, sale, and other tax revenue for the Town of Superior and the State of Arizona. This in turn limits local business growth and development, stunts housing growth and does little to infuse money into the local economy.

Lastly, it should be noted, that if Rio Tinto **does** build and operate the mine as they propose, the potential impact to the local economy through a loss in recreation and tourism, particularly ecotourism and heritage tourism, could be substantial, as the area of Oak Flat and the surrounding lands of the Tonto National Forest will be disturbed and degraded by the mine. In 2009 alone, detailed direct travel impact estimates for Pinal County totaled \$421 million dollars, with over \$16 million spent by those visiting the nearby campground areas. See *Arizona Travel Impacts 1998-2009p, July 2010 Report, Arizona Office of Tourism, Phoenix, Arizona.* Many of those dollars were spent in and around the area of this proposed mine. Of course, in the long run, the loss to the economy could be even greater, as the mine is likely to deplete and contaminate billions of gallons of water from the Superior area, potentially leaving Superior and

other nearby communities with a limited water supply, without which, any hope of future economic development will have little chance.

### **The Past Environmental and Human Rights Record of Rio Tinto and BHP Billiton Provide a Frightening Window Into the Future of Resolution Copper**

The dismal environmental track record and historical disregard for human and labor rights practices by Rio Tinto and BHP Billiton are well known.

Both companies' operations over the years have left a wake of environmental destruction, human rights complaints, and lawsuits filed worldwide. Here in the United States, the Greens Creek Mine in Alaska (owned by Rio Tinto and two other companies) is alleged to be that state's second largest discharger of toxic waste, releasing 59 million pounds of toxic chemicals in one year, and violating the Clean Water Act 391 times. In the United Kingdom, Rio Tinto's Capper Pass smelter dropped an estimated 1.3 pounds of lead and other emissions on area residents each week during its operation, leading to a settlement agreement with hundreds of claimants in which the company refused to accept blame, but provided compensation to those with cancer and other illnesses.

On the other side of the world, current and former residents of Papua New Guinea were compelled to file suit in United States federal court against Rio Tinto, alleging violations of international law, including war crimes and crimes against humanity in Rio Tinto's operation of a large-scale mine in that country. In relation to another mining operation in Papua New Guinea, villagers sued BHP Billiton for more than \$4 billion in damages for the destruction of the Ningerum people's traditional lands in which they have lived since time immemorial. BHP Billiton eventually was forced to abandon the destructive mining project after studies showed that the operation was causing great environmental harms, but the company is accused of failing to oversee that the project was properly managed upon its departure. Villagers are no longer able to safely eat locally harvested fish or food grown from their own gardens. It is estimated that it will take 300 years to clean up the area.

More recently, Rio Tinto locked out 570 miners from its borates mine in Boron, California. For 107 days, the miners and their families struggled to make ends meet without a paycheck from Rio Tinto. The company allegedly locked out the miners in retaliation for their refusal to agree to a contract that threatened to turn decent, family and community-supporting jobs into part-time, temporary or contracted jobs. Rio Tinto brought in replacement workers to do the jobs of long-time, experienced miners, some of whom have worked at the mine and processing plant for 30 to 40 years. It appeared that Rio Tinto was simply using the replacement workers to help the company starve out the locked-out families. However, after Rio Tinto got word that their product would not be shipped out of the docks because it was "scab" cargo, they decided to negotiate with the miners and on May 24, 2010, the miners returned to work.

In summary, the historical conduct of Rio Tinto and BHP Billiton provide no assurances that these companies will keep their promise to protect the Oak Flat area, or their employees and families, or for that matter, to protect the environment and respect the traditional culture and religious values of American Indians. The 20 member tribes of ITCA strongly oppose H.R. 1904.