

118TH CONGRESS  
1ST SESSION

# H. R. 1351

To repeal section 3003 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2023

Mr. GRIJALVA (for himself, Mr. SABLAN, Mr. HUFFMAN, Ms. MOORE of Wisconsin, Mr. GOMEZ, and Ms. LEGER FERNANDEZ) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To repeal section 3003 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Save Oak Flat From  
5 Foreign Mining Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

8 (1) Resolution Copper is jointly owned by two  
9 foreign mining companies, Rio Tinto and BHP.

1           (2) The largest shareholder of Rio Tinto is a  
2 foreign mining entity, Shining Prospect Private  
3 Limited Company, that is based in Singapore and is  
4 owned by the company Chinalco.

5           (3) Chinalco is a holding company of the State-  
6 owned Assets Supervision and Administration Com-  
7 mission of the State Council (SASAC) of the Peo-  
8 ple’s Republic of China.

9           (4) Rio Tinto has a long record of human  
10 rights violations and environmental devastation,  
11 harming Indigenous and other communities around  
12 the world, including in Australia, Papua New Guin-  
13 ea, Madagascar, Indonesia, Mongolia, and Namibia.

14           (5) In 2020, Rio Tinto used explosives to blow  
15 up a site sacred to the Puutu Kunti Kurrama and  
16 Pinikura peoples in Western Australia, including the  
17 Juukan Gorge Rock Dwellings which have evidence  
18 of human habitation dating back 46,000 years, re-  
19 sulting in immeasurable cultural and spiritual loss  
20 and pain for Indigenous communities.

21           (6) Oak Flat is located in the Tonto National  
22 Forest, which was established in 1905 from the an-  
23 cestral homelands of American Indians who were  
24 forcibly removed at gunpoint from Oak Flat and  
25 other areas of the Forest by the United States Army

1 during the 1880s and held as prisoners of war until  
2 the early 1900s.

3 (7) Oak Flat is listed on the National Register  
4 of Historic Places as the Traditional Cultural Prop-  
5 erty of Chí'chil Bıldagoteel Historic District.

6 (8) Despite significant opposition in the United  
7 States Congress, section 3003 was included as a  
8 rider in the Carl Levin and Howard P. 'Buck'  
9 McKeon National Defense Authorization Act for  
10 Fiscal Year 2015 (16 U.S.C. 539p) that mandates  
11 the transfer of 2,422 acres of the sacred Oak Flat  
12 area to foreign-owned Resolution Copper within 60  
13 days of publication of an Environmental Impact  
14 Statement.

15 (9) To maximize shareholder profits through  
16 the monetization of American resources, foreign-  
17 owned Resolution Copper plans to use the cheapest  
18 and most destructive form of mining, block cave  
19 mining, to develop a large-scale copper mine that  
20 will obliterate the sacred Oak Flat area and result  
21 in a crater 1.8 miles long and at least 1,000 feet  
22 deep, depriving American Indians from conducting  
23 religious ceremonies and other traditional practices.

24 (10) Section 3003 lacks any requirement for  
25 foreign-owned Resolution Copper to sell the copper

1 it extracts from beneath Oak Flat in the United  
2 States.

3 (11) According to the United States Geological  
4 Survey's 2023 annual report, over 25 percent of all  
5 copper mined in the United States in 2022 was ex-  
6 ported overseas.

7 (12) According to a 2020 University of Arizona  
8 report, copper has consistently been a top export  
9 from the State of Arizona, with most of it being  
10 shipped to the People's Republic of China from the  
11 Port of Guaymas in Sonora, Mexico.

12 (13) Foreign-owned Resolution Copper intends  
13 to extract copper ore beneath Oak Flat, which will  
14 be slurried through 22 miles of pipelines and loaded  
15 onto trains to be likely shipped overseas according to  
16 the Arizona Department of Transportation.

17 (14) Foreign-owned Resolution Copper's mine  
18 will deplete, destroy, and poison substantial amounts  
19 of limited and precious water resources in a region  
20 that is already suffering from severe water shortages  
21 by—

22 (A) pumping at least 775,000 acre-feet of  
23 water, which is approximately 250,000,000,000  
24 gallons over the 40-year life of the mine and is

1 enough water to support 140,000 homes annu-  
2 ally for 40 years; and

3 (B) redirecting water from the East Salt  
4 River Valley, which will comprise approximately  
5 seventy percent of the project's groundwater  
6 that will be used to slurry 1,370,000,000 tons  
7 of toxic mine waste through approximately 19  
8 miles of pipelines to a massive toxic waste  
9 dump.

10 (15) Foreign-owned Resolution Copper's mas-  
11 sive depletion of local groundwater will cause land  
12 subsidence in the East Salt River Valley by as much  
13 as 4 feet, and groundwater level decreases by 199  
14 feet in some areas.

15 (16) Despite the rapidly deteriorating drought  
16 conditions in the Colorado River Basin, foreign-  
17 owned Resolution Copper received an allocation of  
18 over 2,200 acre-feet per year of Central Arizona  
19 Project water in 2021, while homes across the  
20 southwest continue to face looming water restric-  
21 tions due to oversubscribed water supplies.

22 (17) Foreign-owned Resolution Copper's mine  
23 will result in a permanent toxic waste dump site of  
24 approximately 500 feet high and 3 miles long, span-  
25 ning approximately 4,000 acres, in the Gila River

1 watershed, which will store 1,370,000,000 tons of  
2 mine waste and destroy the ecosystem and Tribal  
3 cultural resources in the region.

4 **SEC. 3. DEFINITIONS.**

5 In the Act:

6 (1) OAK FLAT.—The term “Oak Flat” means  
7 the approximately 2,422 acres of Forest System  
8 land in the Tonto National Forest in southeastern  
9 Arizona commonly known as “Oak Flat” and gen-  
10 erally depicted as “Oak Flat Withdrawal Area” on  
11 the map titled “Save Oak Flat From Foreign Min-  
12 ing Act” and dated March 2, 2023.

13 (2) RESOLUTION COPPER.—The term “Resolu-  
14 tion Copper” means Resolution Copper Mining,  
15 LLC, owned by the foreign entities of Rio Tinto and  
16 BHP.

17 **SEC. 4. REPEAL AND WITHDRAWAL.**

18 (a) REPEAL.—Section 3003 of the Carl Levin and  
19 Howard P. “Buck” McKeon National Defense Authoriza-  
20 tion Act for Fiscal Year 2015 (16 U.S.C. 539p) is re-  
21 pealed.

22 (b) WITHDRAWAL.—Subject to valid rights in exist-  
23 ence on the date of the enactment of this Act, Oak Flat  
24 is withdrawn from all forms of—

1           (1) entry, appropriation, or disposal under the  
2 public land laws;

3           (2) location, entry, and patent under the mining  
4 laws; and

5           (3) disposition under all laws pertaining to min-  
6 eral and geothermal leasing or mineral materials.

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