

RESOLUTION OF INQUIRY REQUESTING THE PRESIDENT AND DIRECTING  
THE SECRETARY OF AGRICULTURE TO TRANSMIT, RESPECTIVELY, CER-  
TAIN DOCUMENTS TO THE HOUSE OF REPRESENTATIVES RELATING TO  
RESOLUTION COPPER MINE

NOVEMBER 29, 2022.—Referred to the House Calendar and ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources,  
submitted the following

**ADVERSE REPORT**

together with

**DISSENTING VIEWS**

[To accompany H. Res. 1378]

The Committee on Natural Resources, to whom was referred the resolution (H. Res. 1378) of inquiry requesting the President and directing the Secretary of Agriculture to transmit, respectively, certain documents to the House of Representatives relating to Resolution Copper mine, having considered the same, reports unfavorably thereon with an amendment and recommends that the resolution not be agreed to.

The amendment is as follows:

Strike all after the resolving clause and insert the following:

That the President is requested, and the Secretary of Agriculture is directed, to transmit, respectively, to the House of Representatives, not later than 14 days after the date of the adoption of this resolution, copies of all documents, memoranda, advisory legal opinions, notes from meetings, audio recordings, records (including telephone records and electronic mail records), correspondence, and other communications, or any portion of any such communications, to the extent that any such one or more items are within the possession of the President or the Secretary of Agriculture, respectively, and refer to Resolution Copper mine.

**PURPOSE OF THE LEGISLATION**

The purpose of H. Res. 1378 is to request the President and direct the Secretary of Agriculture to transmit, respectively, certain documents to the House of Representatives relating to Resolution Copper mine.

## BACKGROUND REGARDING THIS LEGISLATION

A resolution of inquiry (ROI) is a simple resolution (as opposed to a joint resolution or concurrent resolution) that makes a non-binding demand for the Executive Branch to provide the U.S. House of Representatives with specific information.<sup>1</sup> Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, if the committee of referral does not report a properly drafted ROI back to the House within 14 legislative days of the ROI's introduction, then any Member may offer a non-debatable motion on the House Floor that such ROI be discharged from committee. By contrast, if an ROI is reported to the House within the 14-day window, then only a Member authorized by the committee may call up the resolution on the floor.

## COMMITTEE ACTION

H. Res. 1378 was introduced on September 21, 2022, by Representative Paul A. Gosar (R-AZ). The resolution was referred solely to the Committee on Natural Resources. On November 16, 2022, the Natural Resources Committee met to consider the legislation. Chair Raúl M. Grijalva (D-AZ) offered an amendment in the nature of a substitute, which was agreed to by voice vote. The resolution, as amended, was adopted and ordered reported unfavorably to the House of Representatives by a roll call vote of 22 yeas and 21 nays, as follows:

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<sup>1</sup>See generally CHRISTOPHER M. DAVIS, CONG. RES. SERV., IN10661, RESOLUTIONS OF INQUIRY IN THE HOUSE (updated July 21, 2022) <https://www.crs.gov/Reports/IN10661> and CHRISTOPHER M. DAVIS, CONG. RES. SERV., R40879, RESOLUTIONS OF INQUIRY: AN ANALYSIS OF THEIR USE IN THE HOUSE, 1947–2017 (updated Nov. 9, 2017), <https://www.crs.gov/reports/pdf/R40879>—of which the above text is largely excerpts.

Date: November 16, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.Res. 1378

Amendment:

**Disposition:** Final Passage: H.Res. 1378, as amended, was adopted and unfavorably reported to the House of Representative by a roll call vote of 22 yeas and 21 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA	X		
2	Mr. Case, HI			
3	Mr. Cohen, TN	X		
4	Mr. Costa, CA	X		
5	Ms. DeGette, CO	X		
6	Mrs. Dingell, MI	X		
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL	X		
9	Mr. Grijalva, AZ (Chair)	X		
10	Mr. Huffman, CA	X		
11	Ms. Leger Fernández, NM	X		
12	Mr. Levin, CA	X		
13	Mr. Lowenthal, CA	X		
14	Ms. McCollum, MN			
15	Mr. McEachin, VA	X		
16	Mrs. Napolitano, CA	X		
17	Mr. Neguse, CO	X		
18	Mrs. Peltola, AK	X		
19	Ms. Porter, CA	X		
20	Mr. Sablan, MP	X		
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL	X		
23	Ms. Stansbury, NM	X		
24	Ms. Tlaib, MI	X		
25	Mr. Tonko, NY	X		
26	Ms. Velázquez, NY	X		
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bentz, OR		X	
2	Mrs. Boebert, CO		X	
3	Mr. Carl, AL		X	
4	Ms. Conway, CA		X	
5	Mr. Fulcher, ID		X	
6	Mr. Gohmert, TX		X	
7	Miss González-Colón, PR		X	
8	Mr. Graves, LA		X	
9	Ms. Herrell, NM		X	
10	Mr. Hice, GA		X	
11	Mr. Lamborn, CO		X	
12	Mr. McClintock, CA		X	
13	Mr. Moore, UT		X	
14	Mr. Obermole, CA		X	
15	Mrs. Radewagen, AS		X	
16	Mr. Rosendale, MT			
17	Mr. Stauber, MN		X	
18	Mr. Tiffany, WI		X	
19	Mr. Webster, FL		X	
20	Mr. Westerman, AR (RM)		X	
21	Mr. Wittman, VA		X	
	<b>TOTALS</b>	22	21	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

## HEARINGS

Clause 3(c)(6) of House rule XIII requires designating a hearing as used to develop or consider certain bills and joint resolutions. The provision does not apply to simple resolutions.

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

To the extent that clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives may apply, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND  
CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* The Committee notes that the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 do not apply to committee reports on simple resolutions.<sup>2</sup> Clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974 also do not apply to simple resolutions.<sup>3</sup> The Committee notes that clause 3(d) of rule XIII of the Rules of the House of Representatives as well does not apply to committee reports on simple resolutions.

To the extent that any of the preceding requirements may nonetheless apply, the Committee notes that it has requested but not received a cost estimate for this legislation from the Director of Congressional Budget Office. The Committee adopts as its own cost estimate any forthcoming cost estimate of the Director of the Congressional Budget Office, should such cost estimate be made available before House agreement to the resolution. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this legislation contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. *General Performance Goals and Objectives.* To the extent that clause 3(c)(4) of rule XIII of the Rules of the House of Representatives may apply, the general performance goals and objectives of this resolution are to express a nonbinding demand from the House to the Executive Branch for certain documents as described in the text of the resolution.

## EARMARK STATEMENT

Clause 9 of rule XXI of the Rules of the House of Representatives does not apply to reports on simple resolutions. However, the Com-

<sup>2</sup>See Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93-344, § 308(a), 88 Stat. 297, 313 (1974), <https://uscode.house.gov/statviewer.htm?volume=88&page=313> (codified as 2 U.S.C. § 639(a)) (statutory compilation through P.L. 116-94 at <https://www.govinfo.gov/content/pkg/COMPS-10356/pdf/COMPS-10356.pdf>) (explicitly limiting the subsection's various requirements to (1) "a bill or joint resolution, or committee amendment thereto, providing new budget authority", (2) a conference report, or (3) PAYGO legislation).

<sup>3</sup>Compare Pub. L. No. 93-344, at § 402 (codified as 2 U.S.C. § 653) (limiting the section's requirements to "each bill or resolution of a public character" reported by a committee (emphasis added)), with, e.g., JANE A. HUDIBURG, CONG. RES. SERV., R46603, BILLS, RESOLUTIONS, NOMINATIONS, AND TREATIES: CHARACTERISTICS AND EXAMPLES OF USE 4 (2020), <https://www.crs.gov/reports/pdf/R46603> (noting that simple resolutions govern only "the internal affairs of one chamber" of congress and are not used for enacting public law).

mittee finds that the legislation does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI.

#### UNFUNDED MANDATES REFORM ACT STATEMENT

Section 423 of the Unfunded Mandates Reform Act does not apply to committee reports on simple resolutions. However, the Committee finds that the legislation contains no unfunded mandates as defined by the Unfunded Mandates Reform Act.

#### EXISTING PROGRAMS

Clause 3(c)(5) of rule XIII of the Rules of the House of Representatives does not apply to committee reports on simple resolutions. However, the Committee finds that the legislation does not establish or reauthorize a program of the federal government known to be duplicative of another program.

#### APPLICABILITY TO LEGISLATIVE BRANCH

Section 102(b)(3) of the Congressional Accountability Act does not apply to committee reports on simple resolutions. In any event, the Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

The Committee finds that the resolution, if agreed to by the House, would not have the force of law and therefore would have no preemptive effect over state, local, or tribal law.

#### CHANGES IN EXISTING LAW

Clause 3(e) of rule XIII of the Rules of the House of Representatives does not apply to committee reports on simple resolutions. In any event, the Committee finds that this legislation, if agreed to by the House, would make no changes to existing law.

## DISSENTING VIEWS

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.

The Resolution Copper project is a proposed copper mine located near the town of Superior, Arizona, on lands within the Tonto National Forest. Once fully operational, Resolution Copper would be the largest copper mine in North America, capable of producing about 40 billion pounds of copper over 40 years and meeting about 25 percent of domestic copper demand. According to the World Bank, we will need to mine as much copper in the next 25 years as we have in the last 5,000 years to meet global demand. For example, copper is essential to meet the demands of electric vehicle growth and wider electrification goals. Further, Resolution Copper is anticipated to support 1,500 direct jobs and 2,200 indirect jobs in the surrounding area. Additionally, Resolution Copper could generate as much as \$61 billion to the Arizona economy over the decades-long life of the mine. The project has already received two billion dollars in investment and currently employs about 600 individuals, many of whom are tribal members.

A land exchange to facilitate development of the mine was made law in 2014 as part of the Fiscal Year 2015 National Defense Authorization Act (NDAA), which provided for the exchange of 2,422 acres of U.S. Forest Service (USFS) land (known as the “Oak Flat” parcel). The execution of the land exchange was conditioned on the publication of a Final Environmental Impact Study (FEIS) by the Department of Agriculture, through the USFS.

Public engagement on the Resolution Copper project has occurred almost continuously since 2011. Resolution Copper engaged in extensive and ongoing consultation with USFS, local tribes, non-governmental organizations, local elected officials, and other stakeholders, before and during the submission of the original mine plan of operations in 2013, through the legislative process authorizing the land exchange, and before and after the publication of the initial FEIS.

A FEIS and draft Record of Decision (ROD) were issued by the Trump administration on January 15, 2021. However, on February 11, 2021, the Advisory Council on Historic Preservation (ACHP) terminated the Section 106 consultation process under the National Historic Preservation Act. This decision directly contradicted earlier acknowledgements that both the Tonto National Forest and Resolution Copper were in compliance with their requirements. As a result of ACHP’s termination of the Section 106 consultation, on March 1, 2021, the Biden administration withdrew the Notice of Availability and rescinded the FEIS and draft ROD.

This project has undergone years of environmental review and tribal consultation and should be allowed to go forward as intended. Further, the United States should encourage responsible domestic mining to reduce foreign dependencies and support our economy, not make domestic production more difficult. Given the importance of this project and the sudden withdrawal of the FEIS and ROD, it is critical to bring transparency to the Biden administration's decisions regarding this project.

This resolution would simply provide Congress with information relevant to the Biden administration's decisions surrounding the Resolution Copper project and would help provide Congress information to understand the extensive analysis conducted in an effort to bring the project to completion.

For these reasons, I oppose reporting H. Res. 1378 unfavorably.

BRUCE WESTERMAN.

