



ASSOCIATION ON AMERICAN INDIAN AFFAIRS

Protecting Sovereignty ° Preserving Culture
Educating Youth ° Building Capacity
SINCE 1922

June 25, 2021

The Honorable Chuck Schumer, Majority Leader
United States Senate

The Honorable Joe Manchin, Chairman
Senate Energy and Natural Resources Committee

The Honorable Nancy Pelosi, Speaker of the House
House of Representatives

The Honorable Raul Grijalva, Chairman
House Natural Resources Committee

Re: Support for H.R. 1884/S.915, the Save Oak Flat Act

Dear Senator Schumer, Senator Manchin, Madam Speaker Pelosi, and Congressman Grijalva:

On behalf of the Association on American Indian Affairs, I write to express our support for the enactment of H.R.1885/S.915, the Save Oak Flat Act. For nearly 100 years, the Association has worked tirelessly to protect Native American cultural heritage, including Native American Sacred Places and Traditional Cultural Properties. The Association refutes development that is not sustainable and denigrates the integrity of our air, water and soil - and destroys places that are necessary for the health and well-being of our humanity, including Sacred Places such as Oak Flat. Therefore, the Association stands together with the San Carlos Apache Tribe and all Apache Tribes, other Native American Tribes, Apache Stronghold, other organizations, and individuals who are fighting to protect Oak Flat.

The Association is the oldest non-profit serving Indian Country protecting sovereignty, preserving culture, educating youth, and building capacity. Since its earliest beginnings assisting Pueblo Peoples defend their aboriginal lands and water rights in 1922, the Association was formed to change the destructive path of federal policy from assimilation, termination, and allotment—to sovereignty, self-determination, and self-sufficiency. As a vital part of our efforts, the Association works hand in hand with Tribes, to advocate for the protection and preservation of Native American Sacred Places and our Cultural Heritage.

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Chi' chil Bildagoteel, known in English as Oak Flat, is a Traditional Cultural Property listed on the National Register of Historic Places located within the Tonto National Forest (TNF) in southeastern Arizona and is a Sacred Site to the Apache and other Native Nations. The Oak Flat area plays a particularly vital role in informing spirituality and culture of many Native Nations—past and present. Since time immemorial, Native people have traveled to Oak Flat to participate in ceremonies, to pray, to gather medicines and ceremonial items, to honor those buried within its boundaries, and to seek and obtain personal cleansing & healing.

The U.S. government has a dark history in the mistreatment of Native People including the illicit taking of traditional homelands through federally mandated assimilation, removal, and relocation policies. It is important to note that no matter where a Tribe is currently located, their homelands both past and present, are still considered places they were given to be caretakers of, and continue to retain their inherent connection to these lands' past, present, and future.

Tribal leaders and allies have been working for almost two decades to protect the Oak Flat area. Resolution Copper, a subsidiary of foreign mining conglomerates Rio Tinto and BHP Billiton, hope to build the largest copper mine in North America at the Oak Flat area. To build the mine, the companies worked behind closed doors to ensure the Southeast Arizona Land Exchange was included as Section 3003 of the FY15 NDAA, P.L. 113-291. The land exchange transfers 2,422 acres of TNF land, including sacred Oak Flat, to Resolution Copper in exchange for Resolution Copper-owned parcels that will go to the Department of the Interior and the U.S. Forest Service.

The mine, associated infrastructure, and toxic waste material will not only permanently destroy Oak Flat but will directly, adversely, and permanently affect numerous sacred springs, traditional areas, burial locations, and other cultural places and experiences of high spiritual and cultural value. The massive mine will cause irreversible destruction to thousands of acres of public lands and contaminate already scarce water sources. Resolution Copper plans to use a block-cave mining technique, which will result in a 1.8-mile-wide crater (the distance from the Capitol to the Lincoln Memorial) over a thousand feet deep. The mine will consume more than 637,000 acre-feet of water and require over 40 miles of pipeline through large parts of the TNF to slurry out toxic waste and ore concentrate. It will also require the construction of massive utility and road corridors that could span 500 feet in width. This mine will deplete and contaminate precious water resources in the region and result in a toxic waste dump that could cover 15,000 acres and be taller than the Washington Monument.

As part of the legislation, the land exchange is subject to NEPA (Sec. 3003 (c)(9)) as well as appraisals of the lands to be exchanged and public review of the appraisals (Sec. 3003(c)(4)). However, TNF failed to comply with NEPA and other applicable federal laws and they failed to complete the required appraisals of the lands to be exchanged. Instead, TNF rushed to publish the Final EIS on January 15, 2021, to artificially start a 60-day clock under Section 3003(c)(10) to give away sacred Oak Flat to Resolution Copper to pave the way for its mine that will destroy Oak Flat, large swaths of TNF, and other surrounding areas with no simultaneous commensurate conveyances of Resolution Copper-owned land to the federal government.

On March 1, 2021, USDA directed the Forest Service to withdraw the Notice of Availability and rescind the FEIS and draft Record of Decision. USDA noted that rescinding the FEIS will ensure the Forest Service complies with "the environmental, cultural, and archaeological analyses

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required" and concluded that "additional time is necessary to fully understand concerns raised by Tribes and the public and the project's impacts on these important resources and ensures the agency's compliance with federal law." Importantly, USDA noted that because the exchange was directed under the FY15 NDAA that "long-term protection of the site will likely require an act of Congress."

The Association on American Indian Affairs strongly condemns any and all destruction of a Native American Sacred Places, the flagrant disregard for the importance of life-giving water, the blatant disrespect for the inherent connection to spirituality that exists upon Oak Flat, and the indifference for significant Tribal concerns during the NEPA process. What an imposition of governmental power to allow such a burden over the Human, Cultural and Religious Rights of Native Peoples!

For these reasons, we respectfully and purposefully request that you enact the Save Oak Flat Act. It is imperative that Treaty Rights and federal trust responsibilities promised to the Native Peoples of this country are not only upheld, but that they are upheld, maintained, and supported in perpetuity. Protecting Oak Flat and honoring it as an important Sacred Site is a step in the right direction towards healing and reparations.

We appreciate your time and attention. You may contact me at 240-314-7155 or via email at shannon@indian-affairs.org.

Yakoke,

A handwritten signature in black ink, appearing to read 'Shannon', with a long, sweeping horizontal line extending to the right.

Shannon O'Loughlin (Choctaw)
Chief Executive & Attorney

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