



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #MSP-15-001

### **TITLE: Support for Repeal of Section 3003 of the FY15 National Defense Authorization Act, the Southeast Arizona Land Exchange**

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**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, through treaties with the United States, federal laws mandating the allotment of Indian lands, and other U.S. takings, tribal governments ceded and had taken hundreds of millions of acres of tribal homelands to help build this Nation; and

**WHEREAS**, federal lands are carved out of the ancestral lands of Indian tribes, the historical and spiritual connections of Native Americans to these lands have not been extinguished, and some of these lands include the remains of our ancestors, Native Americans continue to pray, hold ceremonies, and gather traditional and medicinal plants on these lands; and

**WHEREAS**, the United States government has legal and moral obligations to provide access to Native Americans and to protect these traditional cultural territories in a manner that respects for the cultural, historical, spiritual and religious importance to Indian tribes; and

**WHEREAS**, for more than ten years, Congress considered and rejected legislation titled the “Southeast Arizona Land Exchange and Conservation Act of 2013” (“the Land Exchange”) that proposed a mandatory conveyance of National Forest Service lands to Resolution Copper, a private mining company owned by the foreign mining giants Rio Tinto PLC (United Kingdom) and BHP Billiton Ltd (Australia), to conduct a massive and unprecedented block cave copper mining project; and

**WHEREAS**, the lands to be conveyed under the Land Exchange lie within the Tonto National Forest and are known as “Oak Flat”, which are the ancestral homelands of the Apache, Yavapai, Pima, Hohokam and other Tribes in the region; and

**WHEREAS**, Oak Flat is a place filled with power – a place where Native people go today for prayer, to conduct ceremonies such as Holy Ground and the Apache Puberty Rite Ceremony that some refer to as the Sunrise Dance, which celebrates a young woman’s coming of age, to gather medicines and ceremonial items, and to seek and obtain peace and personal cleansing; and

**WHEREAS**, Oak Flat has played an essential role in Apache religion, traditions, and culture for centuries and is a holy site and traditional cultural property with deep tribal religious, cultural, archaeological, historical and environmental significance; and

**WHEREAS**, the Land Exchange circumvents federal laws that mandate protection of Native religion and culture and circumvents federal laws that mandate protection the environment; and

**WHEREAS**, NCAI has passed resolutions opposing the Land Exchange and has joined hundreds of Native Nations, Native organizations and others in opposition to the Land Exchange, because the proposal will destroy the religious and cultural integrity of Oak Flat, and set dangerous precedent for all of Indian Country by conveying federal lands that encompass a known Apache sacred area to a private company for mining activities; and

**WHEREAS**, united opposition to the Land Exchange in the 114<sup>th</sup> Congress resulted in the House of Representatives Leadership pulling the bill from the House floor twice because the misguided legislation lacked votes for passage; and

**WHEREAS**, in the face of this opposition, supporters of the Land Exchange forced a legislative rider onto the FY15 National Defense Authorization Act (NDAA), which was enacted into law in December of 2014 over the strong objections of the San Carlos and other Tribes throughout the nation; and

**WHEREAS**, under Section 3003, the United States Department of Agriculture (USDA) must begin implementation of the Land Exchange, which includes conducting an environmental assessment of the Land Exchange and conducting government-to-government consultation with impacted Indian tribes – but which also includes a mandatory transfer of Oak Flat to the foreign-owned mining corporation regardless of the results of the environmental assessment and tribal government consultation.

**NOW THEREFORE BE IT RESOLVED**, that NCAI reaffirms its commitment to the protection of Native sacred and cultural sites located on federal lands; and

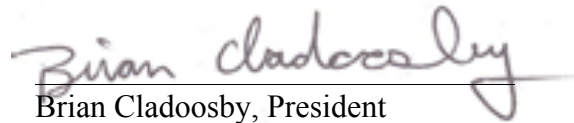
**BE IT FURTHER RESOLVED**, that NCAI urges Congress to enact legislation to repeal the Land Exchange, Section 3003 of the FY15 National Defense Authorization Act; and

**BE IT FURTHER RESOLVED**, that NCAI urges the Administration to make all appropriate efforts to stop implementation of Section 3003, and ensure full transparency and information sharing to the general public of the outcomes of the ongoing environmental assessment and impacts on tribal religion and culture prior to issuing a final environmental assessment; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

**CERTIFICATION**

The foregoing resolution was adopted by the General Assembly at the 2015 Midyear Session of the National Congress of American Indians, held at the St. Paul River Centre, St. Paul, MN, June 28 to July 1, 2015, with a quorum present.

  
Brian Cladoosby, President

**ATTEST:**

  
Aaron Payment, Recording Secretary