



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians  
Resolution #ABQ-19-062

**TITLE: Support for the Protection of Oak Flat and Other Native American Sacred Spaces from Harm**

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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 and the United Nations Declaration on the Rights of Indigenous Peoples, 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 nations lost 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 tribal nations and the historical and spiritual connections of Native Americans to these lands have not been extinguished; and

**WHEREAS**, some of these lands contain the remains of our ancestors and 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 these ancestral lands to Native Americans and to protect these traditional cultural territories in a manner that respects the cultural, historical, spiritual and religious importance of these lands to tribal nations; and

**WHEREAS**, for more than ten years, Congress considered and rejected legislation titled the “Southeast Arizona Land Exchange and Conservation Act” (“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), in order to facilitate the development of a massive and unprecedented block cave copper mining project; and

**WHEREAS**, pursuant to §3003 of the National Defense Authorization Act of 2015 (NDAA), Congress authorized the transfer of all right, title, and interest of the United States in approximately 2,242 acres federal lands in the Tonto National Forest, commonly known as Oak Flat, in exchange for all right, title, and interest in specifically identified non-federal lands held by Resolution Copper; and

**WHEREAS**, Oak Flat is part of the ancestral homelands of the Western Apache, Yavapai, Hopi, Zuni, and O’odham people; and

**WHEREAS**, Oak Flat is a place filled with power – a place where Native people have, since time immemorial, and continue to go to 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 and continues to play 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**, on March 4, 2016, Oak Flat was listed on the National Park Service’s National Register of Historic Places as a Traditional Cultural Property; and

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

**WHEREAS**, the Inter Tribal Association of Arizona (“ITAA”), an association of 21 tribal governments in Arizona, provides a forum for tribal governments to advocate for national, regional and specific tribal concerns and to join in united action to address these issues; and

**WHEREAS**, the ITAA has passed resolutions opposing the Land Exchange and has joined hundreds of tribal 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 Native sacred area to a private company for mining activities; and

**WHEREAS**, by standing resolution #REN-13-019, NCAI has opposed the Land Exchange (H.R. 1904 and H.R. 687, and S. 339), the Southeast Land Exchange, and has joined hundreds of tribal nations, tribal organizations and others in opposition to the Land Exchange; and

**WHEREAS**, over united opposition by NCAI, ITAA member tribes, and other tribal nations, and organizations across the country, the Southeast Arizona Land Exchange legislation was attached to the FY 2015 National Defense Authorization Act and enacted in December 2014; and

**WHEREAS**, under Section 3003, the United States Department of Agriculture (USDA) must begin implementation of the Land Exchange, which includes conducting an Environmental Impact Statement 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 findings of the Environmental Impact Statement and tribal government consultation; and

**WHEREAS**, the U.S. Forest Service, in carrying out the directives of Section 3003 published the Draft Environmental Impact Statement of the Land Exchange and mine project; and

**WHEREAS**, by standing resolution #MSP-15-001, the NCAI expressed its support for the Repeal of Section 3003 of the FY 2015 National Defense Authorization Act, the Southeast Arizona Land Exchange; and

**WHEREAS**, legislation calling for the Repeal of Section 3003 of the FY 2015 National Defense Authorization Act has now been re-introduced in the current 116<sup>th</sup> Congressional session as H.R. 665 (sponsored by Representative Grijalva), and S. 173 (sponsored by Senator Sanders).

**NOW THEREFORE BE IT RESOLVED**, that the National Congress of American Indians (NCAI) reaffirms its commitment to strongly advocate for the protection of Native American sacred places in accordance with its 2002 Policy Statement, NCAI standing resolution #PHX-08-069c, “NCAI Policy Statement on Sacred Places,” NCAI standing resolution #SD-02-002, “Essential Elements of Public Policy to Protect Native Sacred Spaces,” and other resolutions that oppose mining that harms sacred places; and

**BE IT FURTHER RESOLVED**, that NCAI will support national and international administrative and legislative actions that meet the standards set forth in, but not limited to, the above mentioned NCAI resolutions and protect sacred places from destruction and harm; and

**BE IT FURTHER RESOLVED**, that NCAI supports legislative efforts to repeal Section 3003 of the FY 2015 National Defense Authorization Act because it affirms the trust responsibility of the United States to protect Native American sacred places; 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 2019 Annual Session of the National Congress of American Indians, held at the Albuquerque Convention Center, October 20-25, 2019, with a quorum present.



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Fawn Sharp, President

**ATTEST:**



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Juana Majel Dixon, Recording Secretary