



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #SAC-12-006

TITLE: Opposition to H.R. 1904, Southeast Arizona Land Exchange and Conservation Act of 2011, which would Transfer Federal Land for a Massive Block Cave Mine that would Destroy Native American Sacred and Cultural Sites

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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, the United States Government has legal and moral responsibilities to manage traditional cultural territories in a way that shows respect for these places that hold cultural, historical, spiritual, and religious importance to Indian tribes and their quality of life; and

WHEREAS, these places have resources that provide Indian tribes with sustenance, the subsurface aquifers, natural spring waters, and other forms of watershed found in these mountains, gives life to plants and animals, and from these elements we are blessed with food and medicine; and

WHEREAS, H.R. 1904, entitled the "Southeast Arizona Land Exchange and Conservation Act of 2011," would mandate that the Secretary of Agriculture transfer over 2,400 acres of federal lands located within the Tonto National Forest to a private mining company called Resolution Copper, which is owned by the foreign mining giants Rio Tinto PLC (United Kingdom) and BHP Billiton Ltd (Australia), for purposes of an unprecedented block cave copper mine that would be the largest mine in North America; and

WHEREAS, the federal lands proposed for transfer, which are generally known as Oak Flat, including the Oak Flat Withdrawal area, are the ancestral lands of tribes in the region; and these lands are of unique religious, cultural, traditional, and archeological significance; and

WHEREAS, H.R. 1904 would require Congress to lift the decades old ban against mining within the 760 acres of the Oak Flat Withdrawal, which was expressly set aside from mining by President Eisenhower in 1955 due to the land's value for recreation and other important purposes; and

WHEREAS, the mining proposed for Oak Flat will destroy the religious, cultural and traditional integrity of Oak Flat for tribes in the region, and it will cause serious and highly damaging environmental consequences to the water, wildlife, plants, and other natural ecosystems of the area; and

WHEREAS, the block cave mining method to be employed at Oak Flat will also cause the collapse of the surface of the earth and endanger the religious, cultural, and historic terrain at Apache Leap, Oak Flat, and Gaan Canyon, which are adjacent to Oak Flat; and

WHEREAS, the mining activity would deplete and contaminate water resources from nearby watersheds and aquifers leaving in its wake long term and in some cases, permanent religious, cultural and environmental damage; and

WHEREAS, the extent of irreparable water damage through contamination is unknown and will continue throughout the 40-plus year life span of the proposed mine and will cause continuing harm to all living things in the region forever following mine closure; and

WHEREAS, in its minimal exploration to-date the mining company has already begun to leave a destructive footprint on culturally significant areas and on precious resources, such as water, in and surrounding Oak Flat and Apache Leap; and

WHEREAS, H.R. 1904 has national significance because it is the only legislation pending in Congress that would transfer federal land that is a sacred site of tribes to a private company for mining activities that will destroy it; and

WHEREAS, H.R. 1904 sets bad precedent because it does not allow for meaningful consultation with Indian tribes that would be affected by the proposed conveyance; and

WHEREAS, H.R. 1904 mandates that the Secretary of Agriculture convey to Resolution Copper the land in question within one year of enactment of the Act without any advance studies or analyses; and

WHEREAS, these studies and analyses should be conducted before there are any decisions on whether to convey this land; and

WHEREAS, the Inter Tribal Council of Arizona, the All Indian Pueblo Council, the Eight Northern Indian Pueblos Council, the United South and Eastern Tribes, Inc., the Inter-Tribal Council of Nevada, the Great Plains Tribal Chairman's Association, Arizona tribes, New Mexico tribes, and other tribes across the country have passed resolutions or sent letters to the U.S. Congress opposing H.R. 1904 due to the harm to religious, cultural, archeological, and historic resources, as well as the environmental consequences to the land from the proposed mining activities; and

WHEREAS, despite strong opposition to H.R. 1904 from tribes and tribal organizations across the country due to the proposed mine's impacts on and destruction of Native American sacred and cultural sites, on October 26, 2011, the House of Representatives passed H.R. 1904 by a vote of 235-186; and

WHEREAS, Rep. Ben Ray Lujan (NM-3), offered an amendment to H.R. 1904 on the House floor during debate of H.R. 1904 that would have exempted all sacred and cultural sites from the land conveyance in H.R. 1904; but, despite strong support from Indian tribes across the country, the amendment failed by a vote of 189-233; and

WHEREAS, on October 31, 2012, H.R. 1904 was received in the Senate and referred to the full Senate Energy and Natural Resources Committee; and

WHEREAS, on February 9, 2012, the Senate Energy and Natural Resources Committee held a hearing on H.R. 1904 to compare it to its predecessor bill in the 111th Congress, S. 409 as marked up to reflect changes to that bill agreed to by Senator John McCain; and

WHEREAS, former Inter-Tribal Council of Arizona President Shan Lewis testified at the Senate Energy and Natural Resources Committee hearing in strong opposition to H.R. 1904, and tribes and tribal organizations across the country sent letters and resolutions to the Senate Energy and Natural Resources Committee also strongly opposing H.R. 1904; and

WHEREAS, tribes are deeply concerned that Senate leadership may include H.R. 1904 in a legislative package, including a possible lands package that it seeks to pass during the lame duck session that begins the week of November 12th.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby reiterate its strong opposition to H.R. 1904, the Southeast Arizona Land Exchange and Conservation Act of 2011, and any companion legislation that may be introduced or considered in the U.S. Congress as set forth in NCAI Resolution #PDX-11-001 adopted by the General Assembly in Portland, Oregon, during NCAI's 2011 Annual Session from October 30-November 4, 2011; and

BE IT FURTHER RESOLVED, that the NCAI declares that Resolution Copper should not be allowed to circumvent laws and policies designed to promote tribal consultation and designed to ensure transparency and full consideration of impacts and consequences; and

BE IT FURTHER RESOLVED, that the NCAI urgently calls upon the Senate Energy and Natural Resources Committee, the Senate Indian Affairs Committee, Senate Majority Leader Harry Reid, other Members of the United States Senate, and the President of the United States to act to ensure that H.R. 1904 is not enacted into law, including ensuring that it is not included in any legislation that the Senate passes during the lame duck session of the 112th Congress; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution; and until the United States Government and all its agencies act in a manner that is respectful to the quality of life and existence of tribal communities.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2012 Annual Session of the National Congress of American Indians, held at the Sacramento Convention Center from October 21-26, 2012 in Sacramento, California, with a quorum present.



President

ATTEST:



Recording Secretary