

# APACHE STRONGHOLD

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and Former Chairman of the San Carlos Apache Tribe  
Written Testimony for the House Committee on Natural Resources  
Subcommittee for Indigenous Peoples of the United States**

**Remote Legislative Hearing on H.R. 1884, To repeal section 3003 of the Carl Levin and  
Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, and  
for other purposes.**

**April 22, 2021**

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I am Dr. Wendsler Nosie, Sr., and on behalf of the nonprofit Apache Stronghold organization and as a member and former Chairman of the San Carlos Apache Tribe, I am submitting this written testimony for the record to the House Committee on Natural Resources Subcommittee for Indigenous Peoples of the United States, to encourage Congress to honor the 1852 Treaty with us Apaches and protect our sacred Apache land, Chí'chil Bıldagoteel (literal translation from Western Apache to English: "Emory Oak Extends on a Level," widely known today as "Oak Flat"), and to protect our religious freedom rights at Oak Flat as guaranteed by the First Amendment to the U.S. Constitution.

First and foremost, we support H.R. 1884, the Save Oak Flat Act, which would repeal the terrible Section 3003 of the 2015 National Defense Reauthorization Act. This new law would now recognize the trust responsibility and duty of the United States to us Apaches to forever protect our sacred Oak Flat from desecration and destruction as a matter of law.

Just over a year ago, on March 12th, 2020, my Granddaughter, Naelyn Pike, and I had the opportunity to provide in-person testimony at an oversight hearing titled, "*The Irreparable Environmental and Cultural Impacts of the Proposed Resolution Copper Mining Operation,*" held by this Subcommittee. At that time, I spoke about the irreversible destruction that the

Resolution Copper Mine would have on the Oak Flat area, an area of natural beauty and wonder and known as a sacred place since time immemorial to many Native Nations in the region including my own Western Apache Nation, the San Carlos Apache Tribe. Although a year has passed and the COVID-19 pandemic has drastically changed a lot about the world we live in, one thing has remained constant for us Apaches: We remain under attack by greedy people<sup>1</sup> and we continue to live with the threat of losing our ancestral homeland to the Resolution Copper Mine at the hands of its foreign-owned partners, Rio Tinto and BHP.

We Apaches and our Indigenous neighbors have continuously fought for over a decade to stop the foreign mining companies' push of the Southeast Arizona Land Exchange ("Land Exchange"), a proposal to transfer approximately 2,422 acres of our ancestral homelands in the Tonto National Forest to foreign mining conglomerates, Rio Tinto and BHP Billiton, to dig a questionable and vast copper mine beneath lands we have always held as sacred.

It is important to keep in mind that the proposed Land Exchange that has placed Oak Flat in jeopardy was achieved through covert backdoor means via the FY15 National Defense bill. Had the Land Exchange gone through regular order and been subject to meaningful debate in Congress, we would not be in this position. We continue to stand with the Tribes, environmental protection groups, religious freedom advocates, Congressional leaders, and many other allies in asking Congress to ensure that the Tonto National Forest does not continue to move forward with a flawed FEIS, which would transfer federal land to private hands for foreign mining interests. We also encourage support and swift enactment of H.R. 1884 and S. 915, the Save Oak Flat Act, which would repeal Section 3003 from the 2015 National Defense Reauthorization Act and protect Oak Flat and areas in the Tonto National Forest from being irreversibly scarred and destroyed.

Thanks to the vocal opposition of more than 300 Native Nations and tribal organizations the House of Representatives pulled the Land Exchange scheme from floor consideration twice during the 113th Congress due to its lack of support. Despite this nationwide opposition, the Land Exchange giveaway was buried on page 1,103 of the 1,700-page National Defense Authorization (NDAA) bill that was unveiled just minutes prior to midnight the evening before

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<sup>1</sup> See, e.g., Welch, John R., "Earth, Wind, and Fire: Pinal Apaches, Miners, and Genocide in Central Arizona, 1859-1874" (Sage Open [October-December]:1-19). Available online at: <https://journals.sagepub.com/doi/full/10.1177/2158244017747016> .

the vote on the NDAA. That despicable and cowardly action in the dark of night is the antithesis of the fundamental principles of democracy and has threatened to forever destroy our religious freedom and our way of life.

If the Land Exchange giveaway is permitted to move forward through continued finalization of a flawed Final Environmental Impact Statement (“FEIS”) process, the mining corporation and TNF both acknowledge that the mine will cause a vast subsidence in the earth – creating a giant crater 2 miles wide and 1,000 feet deep – destroying our Sacred Oak Flat, our religion, and our Apache way of life.

This is why Apache Stronghold has gone to federal court to stop the desecration of our sacred Apache land and the unconstitutional violation of our religious freedom and human rights. For the record, I have included herewith copies of the Complaint and the Declarations filed in the case of *Apache Stronghold v. United States, et al.* (District of Arizona Case No. 2:21-cv-00050), which is now on an expedited injunction appeal to the U.S. Court of Appeals for the Ninth Circuit (Appeal No. 21-15295). A copy of our opening appellate brief is also included for the record.

We sincerely thank you for the opportunity to provide the Subcommittee with this testimony and documentation.