

**Committee on Natural Resources**  
**Subcommittee for Indigenous Peoples of the United States**  
**Remote Legislative Hearing - Cisco WebEx**  
**April 13, 2021**  
**1:00 p.m.**

**Legislative Hearing on [H.R. 1884](#) (Rep. Raúl Grijalva), *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.***

**Questions from Rep. Gosar** for President Fawn Sharp of the National Congress of American Indians

1. NCAI long supported the Sealaska land exchange bill (Southeast Alaska Native Land Entitlement Finalization & Jobs Protection Act), which was also part of the 2015 NDAA. It transferred 70,000 acres from the Tongass National Forest for timber harvesting that would result in economic development from Timber harvesting. As you know, the lands package in the 2015 NDAA is considered a major public lands compromise after 5 years of complete inaction. It included new parks, wilderness area and river protections, such as the Blackstone River Valley National Historical Park in Rhode Island (“the birthplace of the American Industrial Revolution”), expanding the Alpine Lakes Wilderness in Washington state, turning the Valles Caldera National Preserve in New Mexico into a national park. All of these were considered “late riders” into the defense authorization bill, all had been proposed for multiple congresses and all had opposition. The Southeast Arizona Land Exchange was the only one that required a NEPA analysis and additional consultation before the land exchange could take place. Since this bill was included in the NDAA, key aspects of which NCAI supported, with additional requirements that were the result of compromise, why do you single out this bill as having been added to the NDAA as a “late night rider” when in reality, the entire lands package that was added into the NDAA was a broad bipartisan late-night compromise agreement?
2. Were you aware that the following studies were conducted for the Resolution Land Exchange: an ethnographic/ethnohistoric study, 100% class III cultural resources survey, Native Pant survey and tribal perspectives surveys – tribal members worked on the ground alongside experts for job training and employment to cover over 60,000 acres with millions in employment benefits spanning three years? Yes or no? Why does NCAI not support these requirements as part of the land exchanges you have pushed Congress to approve?
3. Chairwoman Sharp, you mention in your testimony that the Oak Flat Area was placed on the National Register of Historic Places (National Register) in 2016, but this nomination and process seems to have been in direct response of the

- passage of the Southeast Arizona Land Exchange bill. The nomination as TCP has a very odd shape as it follows sharp angular boundaries that directly align to the land exchange boundary and unpatented mining claims held by Resolution Copper, yet specifically excludes and carves out private land holdings of Resolution Copper in the middle and State Land within and surrounding the nomination. Why is the nomination area such a strange shape – historically did Native American Tribes follow sharp, odd, shaped boundaries to define sacred areas within a common landscape?
4. Chairwoman Sharp, you mentioned that the US Government has “a legal and moral obligation to ensure tribal peoples have access to their ancestral lands to practice traditional religious freedoms, you even site religious freedom. In a February 2021 press release, Resolution Copper asserted once again that they “will maintain public access to areas within Oak Flat including the campground and recreational trails and climbing, after completion of the land exchange.” This was also mandated in the land exchange bill. The land exchange bill also mandated a number changes per testimony by Wendsler Nosie and Chairman Rambler including the permanent protection of Apache Leap through the creation of a special management area, , the completion of a final EIS prior to the exchange of title and enhanced consultation provisions. The USFS has over 550 documented consultations over the last decade (FEIS Appendix S). Based on this, how is the government not meeting its legal and moral obligations?
  5. Chairwoman Sharp, you also refer to obligations under Section 106, specifically that consultation with affected Tribal Nations or their representatives is essential. Most of the other tribes meaningfully participated in good faith, in hundreds of consultations and have considerably influenced activities resulting in the complete relocation of facilities off National Forest System Lands, and the protection of specific TCPs, avoidance of medicinal plants, seeps, springs and ancestral sites, the implementation of a tribal monitoring program that has resulted in the employment of over 30 tribal members, and the creation of a program to protect and restore Emory oak groves. Additionally, compensatory funds for Native American tribes were developed in response to tribal consultation efforts between the affected tribes and the Tonto National Forest. The purpose of the funds is to support the exiting tribal monitoring program, the emory oak collaborative restoration initiative, tribal youth programs, tribal higher education programs, and a tribal cultural preservation program. The San Carlos Apache Tribe did not participate in this dialogue, but other Tribes did. Was their time wasted? Does their input and voice not matter?
  6. A number of San Carlos Apache members also depend on Resolution Copper for employment, directly or through local contractors – don’t they matter?
  7. After a decade of opposition from the Carlos Apache Tribe to a new open pit mine and land exchange a few miles from the eastern border of the San Carlos

Apache Reservation (Dos Pobres/San Juan), the San Carlos Apache Tribe and Freeport McMoran found a path forward through sales of San Carlos Apache water from the Black River and job / skills training. A recent expansion of that mine (Lone Star EIS) with a new open pit mine, waste rock dumps and a new leach facility was completed in less than 3 years with no opposition from the San Carlos Apache Tribe (or ITAA or other mine opposition groups). We see this as a positive example where mines and Tribes can work together for mutual benefit – Chairwoman Sharpe would you be willing to help bring the 2 sides together to initiate a mutually beneficial dialogue on how to shape this mine?

8. In 2017, NCAI Resolution MOH-17-053 ‘Continued Support for the Paris Climate Agreement and Action to Address Climate Change’ was passed resolving that NCAI will continue to support and advocate for initiatives intended to reduce greenhouse gas emissions and promote climate resiliency including increased investment and use of renewable energy resources. In 2021, NCAI passed Resolution #PDX-20-30 ‘Development of a 2021 Tribal Climate Crisis Action Plan’ finding that “federal action must be taken to support the efforts of [American Indians and Alaska Natives] to adapt to climate change impacts and to reduce their carbon footprints through a range of mitigation approaches, including renewable energy development and energy efficiency.” Given that Resolution Copper will produce copper and tellurium for renewable energy production here in the United States, how does NCAI reconcile the resolutions supporting clean energy and the resolutions opposing the development of the Resolution Copper Project?