



**National Trust for
Historic Preservation**

Save the past. Enrich the future.

**Statement of the National Trust for Historic Preservation
Tom Cassidy, Vice President for Government Relations and Policy
Subcommittee for Indigenous Peoples of the United States
Natural Resources Committee, United States House of Representatives
March 12, 2020**

Chairman Grijalva, Chairman Gallego, and Members of the Subcommittee, thank you for holding this hearing to examine “the irreparable environmental and cultural impacts of the proposed Resolution Copper mining operation” in southeast Arizona. I appreciate this opportunity to reiterate the longstanding concerns of the National Trust for Historic Preservation about the threats of large-scale mining to Oak Flat, a site of cultural significance to the San Carlos Apache and other tribes in the region, and which was listed on the National Register of Historic Places as the Chi’chil Bildagoteel Historic District Traditional Cultural Property in 2016. I want to acknowledge and thank you, Chairman Grijalva, for introducing the bipartisan Save Oak Flat Act (H.R. 665) to prevent this land from being conveyed.

Interests of the National Trust for Historic Preservation

The National Trust for Historic Preservation is a privately funded charitable, educational, and nonprofit organization chartered by Congress in 1949 to “facilitate public participation in historic preservation” and to further the purposes of federal historic preservation laws. The intent of Congress was for the National Trust “to mobilize and coordinate public interest, participation, and resources in the preservation and interpretation of sites and buildings.” With headquarters in Washington, D.C., eight field offices, 27 historic sites, more than one million members and supporters, and a national network of partners in states, territories, and the District of Columbia, the National Trust works to save America’s historic places and advocates for historic preservation as a fundamental value in programs and policies at all levels of government.

Historic and Cultural Significance of Oak Flat

Oak Flat contains sites with profound religious, historic, and cultural significance to the San Carlos Apache, as well as other tribes in the region. Recognizing this, in 2015, the National Trust listed Oak Flat on our annual list of America’s 11 Most Endangered Historic Places. With that designation, the National Trust aimed to increase national awareness of the historic significance of Oak Flat and encourage Congress to reconsider the land exchange authorized in the National Defense Authorization Act for Fiscal Year 2015 (P.L. 113-291). That Act authorized an exchange of federally owned land at Oak Flat to facilitate destructive copper mining at this culturally significant historic place. As mentioned, Chairman Grijalva’s Save Oak Flat Act (H.R. 665) would prevent the exchange of this land.

On March 4, 2016, the Chi’chil Bildagoteel Historic District (Oak Flat) was added to the National Register of Historic Places—the official list of the Nation’s historic places worthy of preservation—with the support of the San Carlos Apache Tribe. This designation formally recognized the cultural significance of Oak Flat, a significance that has been long known by the San Carlos Apache and other tribes. As Former Chairman Wendsler Nosie, Sr. describes in his testimony, Chi’chil Bildagoteel is a place whose connection to the San Carlos Apache culture is longstanding and enduring as a place where people pray, collect water and medicinal plants for ceremonies, gather acorns and other foods, and honor those who are buried.

Southeast Arizona Land Exchange

The National Trust has opposed development of the large-scale mine proposed for this area for more than a decade. We advocated against various versions of the Southeast Arizona Land Exchange Act requiring the U.S. Forest Service to convey the Oak Flat parcel within Arizona's Tonto National Forest to Resolution Copper Mining, LLC, in exchange for other parcels owned by the company, and without protections for cultural resources or meaningful tribal consultation.

For example, on July 11, 2011, the National Trust sent a letter outlining our concerns about the Southeast Arizona Land Exchange and Conservation Act to the then Chairman and Ranking Member of the House Natural Resources Committee. In that letter, we expressed alarm that the legislation effectively exempted the transfer from federal law pertaining to consultation with Tribes and limited the public's opportunity to comment during the environmental review process. On October 24, 2011, the National Trust, along with the Alliance for Historic Landscape Preservation, the American Rock Art Research Association, the Crow Canyon Archaeological Center, the New Mexico Heritage Preservation Alliance, the Partnership for the National Trails System, Sacred Sites International, and the Society for American Archaeology sent a letter to House leadership opposing the House version of the bill.

Unfortunately, a version of this legislation was ultimately included as section 3003 of the National Defense Authorization Act, despite an effort led by Representatives Tom Cole (R-OK) and Markwayne Mullin (R-OK) to amend the bill to strike that provision. The land exchange directed by the law will convey all right, title, and interest of the full 2,422-acre Oak Flat parcel to Resolution Copper Mining, LLC—sixty days after an Environmental Impact Statement (EIS) is completed—regardless of what the EIS identifies as likely impacts to cultural and environmental resources as a result of the land exchange. The EIS process is now nearing completion.

This exchange will transfer Oak Flat out of public ownership and make it available for Resolution Copper to mine under only those restrictions that apply to mining on private lands. The mining contemplated at the site will directly and permanently damage Oak Flat. According to the draft EIS, the project would also destroy many existing yet currently unidentified prehistoric and historic cultural artifacts, potentially including human burials. The exchange largely circumvents the National Historic Preservation Act (NHPA), the Native American Graves Protection and Repatriation Act (NAGPRA), the Archaeological Resources Protection Act (ARPA), the American Indian Religious Freedom Act (AIRFA), the National Environmental Policy Act (NEPA) and other federal laws enacted to protect the traditional, religious and cultural practices of tribes. The mine and its associated disturbances will have devastating consequences on the area's ecosystem, as well as its religious and cultural integrity. This and other traditional cultural properties warrant protection, and proposed government actions, including land exchanges, require meaningful consultation with Tribes, neither of which is afforded under the impending land transfer.

I would like to again thank the Subcommittee for holding this hearing to discuss the irreparable environmental and cultural impacts of the proposed Resolution Copper mining operation.