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SAN CARLOS APACHE TRIBE

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December 23, 2019

Neil Bosworth
Supervisor
Tonto National Forest
U.S. Department of Agriculture
2324 E. McDowell Road
Phoenix, Arizona 85006
E-M: nbosworth@fs.fed.us

Dear Supervisor Bosworth:

On behalf of the over 16,800 members of the San Carlos Apache Tribe (“Tribe”) and the San Carlos Council, as the governing body of the Tribe, this letter transmits the Tribe’s comment to the Tonto National Forest (“Forest Service”) on the proposed Resolution Copper Mine (“RCM”) Project (the “Project”) and Land Exchange Draft Environmental Impact Statement (DEIS”). This comment supplements the Tribe’s detailed scoping comments to the Forest Service for the Project submitted on July 18, 2016. In addition, the Tribe incorporates by reference comments submitted by the Arizona Mining Reform Coalition et al., submitted November 7, 2019 and July 18, 2016, and adopts and incorporates by reference the comments submitted by the Inter Tribal Association of Arizona, Inc. (“ITAA”), Earthworks and the Access Fund.

Oak Flat, known to Apaches as *Chí’chil Bildagoteel* (pronounced Chi Chill Bıl Dah Go Tell, or “a broad flat of Emory oak trees”), is a most precious culturally and geographically defined landscape within the Tonto National Forest whose ecological integrity is vital to the continuation of Western Apache cultural practices, particularly to many members of the San Carlos Apache Tribe.

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The Southeast Arizona Land Exchange Act (“SEALECA”), a piece of federal legislation forced into the Fiscal Year 2015 National Defense Appropriations Act, as the result of back room deals subverting the will of the majority of members of Congress, transfers Oak Flat to Resolution Copper Mining, a subsidiary of BHP Billiton and Rio Tinto, foreign conglomerates.

Some may see Oak Flat a simple, but inhospitable, dry, rocky landscape. Rio Tinto and BHP Billiton see billions of dollars in profits lying beneath the surface, and others see only jobs.

Apaches see Oak Flat differently – it is a church, a place for worship and the practice of our traditional religion. It is the center of our most sincerely held, religious beliefs, where *diyí* (sacred power) can be called upon via prayers. Oak Flat is the *goíí* (home) of our *diyí*’n, visited by our *ga’an* (spiritual beings) who provide us with healing and spiritual services. It is also a place that speaks to the very essence of tribal culture.

Covering 4,309 acres, Oak Flat lies within the traditional territory of the *T’iis Tsebán* (the “cottonwood trees gray among rocks people”), also known as the “Pinal Band” of Apaches, and is closely associated with the related *Tsé Binesti’é* (the “surrounded by rocks people”), also known as the Aravaipa Band. At least eight Apache clans have direct ties to this location. Tribal members continue to visit Oak Flat for prayer and a wide range of traditional needs and practices. The ethnographic and ethnohistoric study of the area surrounding Oak Flat, conducted by Anthropological Research, LLC, at the request of the Tonto National Forest, identifies 404 traditional cultural properties of at least nine tribes with traditional ties to the area.

For at least a half millennium through to the present day, members of our Tribe have utilized the Oak Flat area for traditional religious ceremonies, such as the Sunrise Dance, where we celebrate the event of a girl’s maturation from puberty over four days, through dance, drumming, song and prayer, and the visitation of Crown Dancers. It is a place where Apache Holy Ground rituals occur, where we commune with and sing to our Creator God, and celebrate our holy spirits, including our mountain spirits, the *Ga’an*. It is a place filled with rock paintings and petroglyphs, what some may describe as the footprints and the very spirit of our ancestors, hallmarks akin to the art found in gothic cathedrals and temples, like the Western Wall in Jerusalem, St. Peter’s Basilica in Vatican City, or Angkor Wat in Cambodia. This is why I call Oak Flat the Sistine Chapel of Apache religion.

Oak Flat is also a burial ground, a holy cemetery. Recently, using cadaver dogs, an effort which was not done with the approval of tribes, the Forest Service found the remains of up to 100 bodies, many of whom were most likely our Apache Ancestors. The echoes of their encampments still reverberate with the outlines of wikiups, lava rock structures, metate stones for grinding foodstuffs, and other tools and artifacts.

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Oak Flat is also a place where our members still conduct traditional harvesting of plants important to our diet, such as acorns from Emory oaks, and healing plant-based medicines for a wide range of ailments.

As you have personally witnessed, it is a pristine, bucolic oasis of many varied plants and animals that depend on Oak Flat's waters. Water is very scarce in Arizona. Pinal County predicts an 8.1 million acre foot deficit in its water supply. And yet, Oak Flat is a place of water, what Apaches call *tu*. The water in the area plays an integral role in our traditional religion and ceremonies. Oak Flat is also full of seeps, some 46 springs, and a number of streams and ponds form an integral part of the region's weather system and the formation of ancient aquifers, like the Apache Tuff, which lies below the Town of Superior and supplies the town's municipal water system, and the Queen Creek community.

The area surrounding Superior, Arizona, as well as Oak Flat, Apache Leap and Ga'an Canyon, was also the area where mining interests and the press ignited vigilante, genocidal, militias and military campaigns between 1859 and 1874 that killed over 380 Pinal Apaches – including many women and children – and resulted in the confining of survivors in a prisoner of war camp known as Old San Carlos.

For all of these reasons and factors, Oak Flat was listed in the U.S. National Register of Historic Places. Yet, if it becomes operational, the Resolution Copper Mine will swallow up and completely destroy Oak Flat in its entirety – all of the historic, cultural properties, our burial ground, our place of worship, our church, and the foundation of our traditional religious beliefs. Rio Tinto, BHP Billiton and the Forest Service each admit this wholesale destruction will occur.

Ironically, the Forest Service was established in 1905 principally to protect the region's watershed. However, the SEALECA and the 1872 Mining Act eliminates these protections. The Forest Service's Draft Environmental Impact Statement ("DEIS") blindly follows the SEALECA, and ignores other controlling statutes and regulations.

Totaling some 400 pages, that methodically details the destruction of Oak Flat and its environment, the DEIS casts the Project as a *fait accompli*, despite the certain and massive environmental catastrophes that will result once the mine becomes operational. As you know, the DEIS received 6,500 pages of analytical comments in opposition from tribes and Oak Flat supporters, including the Center for Biological Diversity, the Sierra Club, and the Arizona Mining Reform Coalition. Even though these comments point to serious, critical flaws in the DEIS, we have been advised by the Forest Service that it will not reconsider or issue a supplemental DEIS; instead, the Forest Service will only provide responses to the comments received.

According to the DEIS, the block cave mining technique was chosen because it was the most profitable method to extract a cubic mile of copper ore body lies over 1 mile below the surface. In the process, the Oak Flat area will subside or cave-in starting in year six after the mining begins, ultimately collapsing an area approximately 2 miles in diameter of the earth's surface and swallowing and destroying Oak Flat. While the DEIS proclaims that this mining technique is the only alternative, we believe that RCM has intentionally withheld information as to the ore body's CU value, which may open up the possibility of other mining alternatives.

The mine will also consume well over 550,000 acre-feet of water, enough water to supply 168,000 homes over 40 years. This in an area already stressed by long-term drought. Worse, the water modelling employed for the DEIS's conclusions has major data gaps that do not adequately portray the impact of this mine on the region's water supply. The Forest Service does not even account for the impacts that the mine will have on the Tonto National Forest's own water supply. Nor does it take into account the Pinal County water deficit of 8.1 million acre feet 100 years from now.

The DEIS details how mine's waste will eventually be stockpiled over an area encompassing six square miles and 500 feet high. Imagine one-quarter of Manhattan, from Canal Street through Wall Street and down to the Staten Island Ferry buried in up to 50 stories of rubble. Just imagine the environmental disaster this stockpile of mining waste will create for the whole area, including our Reservation which stands only 14 miles away, yet the DEIS takes no issue with the stockpile and even leaves the issue for resolution at a later date.

In 40 years, when the copper will run out if RCM is allowed to mine, the quality of life, especially the elimination and pollution of scant water supplies will affect not just Apaches, but all humans that live in the surrounding areas. Once the water dries up and what remains becomes contaminated, what will prevent the people living off our Reservation to go to Congress and ask Congress for the water under the San Carlos Apache Reservation? Clearly, without question, this mine will put Apache children, grandchildren and those not born at risk. Without water, without our church, I fear for the very survival and existence of Apache life, culture and religion.

As with the comments submitted by the ARMC and others, the Tribe's analysis of the DEIS shows that it is ill conceived, missing fundamental data, forwarding flawed analyses and methodologies, and does not meet the legal standards of other federal statutes and regulations. In addition, the Forest Service has not engaged in meaningful government-to-government consultation, as established by executive orders and statutes.

For these reasons, I respectfully request that the Forest Service reconsider the DEIS and work with the stakeholders in effort to either re-issue, or otherwise supplement the DEIS.

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As we say in our Apache language, A'hiyi'é (thank you) in advance for your attention to the Tribe's comments.

Sincerely,

SAN CARLOS APACHE TRIBE



Terry Rambler
Chairman

Enclosure

Comment of the San Carlos Apache Tribe on the TNF RCM DEIS

Cc: Maria Dadgar, Exec. Dir., ITCA, mariadadgar@itcaonline.com

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