

114TH CONGRESS  
1ST SESSION

# H. R. 2811

To repeal section 3003 of the the Carl Levin and Howard P. “Buck” McKeon  
National Defense Authorization Act for Fiscal Year 2015.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2015

Mr. GRIJALVA (for himself, Mr. COLE, Mr. MULLIN, Mr. JONES, Ms. MCCOLLUM, Mrs. TORRES, Mr. MURPHY of Florida, Mr. HASTINGS, Mr. BEN RAY LUJÁN of New Mexico, Mr. RUIZ, Mr. POLIS, Mr. CÁRDENAS, Mr. BECERRA, Mr. GALLEGU, and Ms. MOORE) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To repeal section 3003 of the the Carl Levin and Howard  
P. “Buck” McKeon National Defense Authorization Act  
for Fiscal Year 2015.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Save Oak Flat Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds as follows:

7 (1) Section 3003 of the Carl Levin and Howard  
8 P. “Buck” McKeon National Defense Authorization

1 Act for Fiscal Year 2015 (Public Law 113–291) au-  
2 thorizes approximately 2422 acres of Forest Service  
3 land known as “Oak Flat” in the Tonto National  
4 Forest in Southeastern Arizona that is sacred to In-  
5 dian tribes in the region, including the San Carlos  
6 Apache Tribe and the Yavapai-Apache Nation, to be  
7 transferred to a mining company called Resolution  
8 Copper. That company plans to hold the Forest land  
9 privately for a mining project that will result in the  
10 physical destruction of tribal sacred areas and de-  
11 prive American Indians from practicing their reli-  
12 gions, ceremonies, and other traditional practices.  
13 The mining project will also create significant nega-  
14 tive environmental impacts by destroying the area  
15 and depleting and contaminating precious water re-  
16 sources.

17 (2) Once Resolution Copper owns the Oak Flat  
18 area, it plans to use the highly destructive block cave  
19 mining method to remove one cubic mile of ore that  
20 is now 7,000 feet beneath the surface of the earth  
21 without replacing any of the earth removed because  
22 that is the cheapest form of mining. Resolution Cop-  
23 per admits that the surface will subside and ulti-  
24 mately collapse, destroying forever this place of wor-  
25 ship.

1           (3) The Tonto National Forest in which Oak  
2 Flat is located was established in 1905 from the an-  
3 cestral homelands of the Tonto Apache and other  
4 American Indians who were forcibly removed at gun-  
5 point from the Oak Flat area and other areas of the  
6 Tonto National Forest by the United States Army  
7 in the 1880s and imprisoned in other areas, includ-  
8 ing what is now the San Carlos Apache Reservation,  
9 located approximately 15 miles from Oak Flat,  
10 where Apaches were held as prisoners of war until  
11 the early 1900s.

12           (4) Section 3003 was included in the Carl Levin  
13 and Howard P. “Buck” McKeon National Defense  
14 Authorization Act for Fiscal Year 2015 without  
15 proper legislative process and circumvented the will  
16 of the majority of Members of the House of Rep-  
17 resentatives. Section 3003 was originally introduced  
18 in the House of Representatives as H.R. 687 and in  
19 the Senate as S. 339 in the 113th Congress. H.R.  
20 687 was brought to the floor of the House of Rep-  
21 resentatives for consideration twice and was pulled  
22 from consideration both times. S. 339 was never  
23 considered by the Senate or even considered for  
24 mark up by the Senate Committee on Energy and  
25 Natural Resources. Section 3003 was then included

1 in the Carl Levin and Howard P. “Buck” McKeon  
2 National Defense Authorization Act for Fiscal Year  
3 2015 without majority support from either the  
4 House or Senate and an amendment to remove sec-  
5 tion 3003 was not allowed to be considered.

6 (5) American Indian tribes have ceded or have  
7 had taken from them millions of acres of land to  
8 help build the United States and have suffered  
9 under Federal assimilationist policies that sought to  
10 destroy tribal cultures. Despite these policies, Amer-  
11 ican Indians continue to practice their religions as  
12 they have done for thousands of years. American In-  
13 dian places of worship, or sacred areas, are often  
14 land based, including mountains, streams, and trees.  
15 As a result of previous Federal land policies that re-  
16 sulted in the significant loss of lands of American  
17 Indian tribes, many sacred areas of tribes are now  
18 located on Federal lands.

19 (6) The United States has a trust responsibility  
20 acknowledged by Congress to protect tribal sacred  
21 areas on Federal lands. These laws require meaning-  
22 ful consultations with affected Indian tribes before  
23 making decisions that will impact American Indians.  
24 In contradiction to these laws, section 3003 requires  
25 the mandatory conveyance of a tribal sacred area lo-

1 cated on Federal lands regardless of the outcome of  
2 consultation with affected Indian tribes.

3 (7) Section 3003 was strongly opposed by In-  
4 dian tribes nationwide because it sets dangerous leg-  
5 islative precedent for the lack of protection of tribal  
6 sacred areas located on Federal lands by mandating  
7 the conveyance of Federal lands with significant reli-  
8 gious, cultural, historic, and anthropological signifi-  
9 cance for Indian tribes to a private company that  
10 will destroy the land.

11 (8) Section 3003 circumvents standard environ-  
12 mental review procedures that ensure that the public  
13 interest is protected, including the interests of In-  
14 dian tribes. Section 3003 requires a mandatory con-  
15 veyance of the Oak Flat area regardless of the find-  
16 ings resulting from the environmental review proc-  
17 ess. The mining project will require significant  
18 amounts of water that will likely affect the local hy-  
19 drology, including the underlying aquifer, and will  
20 result in polluted water that will seep into drinking  
21 water supplies.

22 (9) The inclusion of section 3003 in the Carl  
23 Levin and Howard P. “Buck” McKeon National De-  
24 fense Authorization Act for Fiscal Year 2015 sets

1 negative precedent for legislative process and for  
2 Federal Indian policy.

3 **SEC. 3. REPEAL OF THE SOUTHEAST ARIZONA LAND EX-**  
4 **CHANGE AND CONSERVATION.**

5 Section 3003 of the Carl Levin and Howard P.  
6 “Buck” McKeon National Defense Authorization Act for  
7 Fiscal Year 2015 (Public Law 113–291) is repealed.

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