H. R. 665


IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 2019

Mr. Grijalva (for himself, Mr. Aguilar, Mr. Jones, Mr. Mullin, Mr. Kilmer, Mr. Cartwright, Mr. Blumenauer, Ms. DeGette, Ms. Pingree, Mr. Hastings, Ms. Ocasio-Cortez, Mrs. Napolitano, Mr. Sablan, Mr. Luján, Mr. Cole, Ms. DelBene, Mrs. Torres of California, Mr. Cárdenas, Mr. Gómez, Mr. Gallego, Ms. McCollum, Mr. McEachin, Mr. Ruiz, Ms. Haaland, Mr. DeFazio, Mr. Ted Lieu of California, Mr. Huffman, Mr. Meeks, Mr. Lowenthal, and Ms. Moore) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL


1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the "Save Oak Flat Act".

4 SEC. 2. FINDINGS.

5 Congress finds that—
(1) section 3003 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (16 U.S.C. 539p) authorizes the approximately 2,422 acres of Forest Service land in the Tonto National Forest in southeastern Arizona commonly known as “Oak Flat” (referred to in this section as “Oak Flat”), which is sacred to Indian Tribes in the region and is listed on the National Register of Historic Places, to be transferred to Resolution Copper Mining, LLC, a Delaware limited liability company (referred to in this section as “Resolution Copper”);

(2) Resolution Copper plans to hold Oak Flat privately for a mining project that will—

(A) result in the physical destruction of Tribal sacred areas and deprive American Indians from practicing their religious ceremonies and other traditional practices;

(B) create significant negative environmental impacts by destroying Oak Flat and depleting and contaminating precious water resources; and

(C) require significant quantities of water, which will—
(i) likely affect the local hydrology, including the underlying aquifer; and

(ii) result in polluted water that will seep into drinking water supplies;

(3)(A) once Resolution Copper owns Oak Flat, Resolution Copper plans to use the highly destructive block cave mining method to remove 1 cubic mile of ore that (as of the date of enactment of this Act) is located 7,000 feet beneath the surface of the earth without replacing any of the earth removed, because that is the cheapest form of mining; and

(B) Resolution Copper admits that the surface of Oak Flat will subside and ultimately collapse, destroying forever the Tribal sacred area described in paragraph (2)(A);

(4) the Tonto National Forest in which Oak Flat is located was established in 1905 from the ancestral homelands of American Indians, who were forcibly removed at gunpoint from Oak Flat and other areas of the Forest by the Army during the 1880s and imprisoned as prisoners of war until the early 1900s;

(i) was included in that Act without proper legislative process, in a manner that circumvented the will of the majority of Members of the House of Representatives and the Senate; and

(ii) was originally introduced in the House of Representatives as H.R. 687 and in the Senate as S. 339 during the 113th Congress;

(B) H.R. 687 was—

(i) brought to the floor of the House of Representatives for consideration twice; and

(ii) pulled from consideration each time;

(C) S. 339 was never considered—

(i) by the Senate; or

(ii) for mark-up by the Committee on Energy and Natural Resources of the Senate;

(D) section 3003 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (16 U.S.C. 539p) was included in that Act without majority support from either the House of Representatives or the Senate; and

(E) a proposed amendment to remove that section was not allowed to be considered before passage of the bill;
(6)(A) Indian Tribes have—

(i) ceded or had taken from the Tribes millions of acres of land to help build the United States; and

(ii) suffered under Federal assimilationist policies that sought to destroy Tribal cultures;

(B) despite those policies, American Indians continue to practice their religions as they have done for thousands of years;

(C) American Indian places of worship, or sacred areas, are often land-based, including mountains, streams, and trees; and

(D) as a result of previous Federal land policies that resulted in the significant loss of land of Indian Tribes, many sacred areas of the Tribes are currently located on Federal land;

(7)(A) the United States has a trust responsibility acknowledged by Congress to protect Tribal sacred areas on Federal land, including pursuant to laws requiring meaningful consultation with affected Indian Tribes before making decisions that will impact American Indians; but

(B) in contradiction to those laws, section 3003 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year
2015 (16 U.S.C. 539p) requires the mandatory conveyance of a Tribal sacred area located on Federal land, regardless of the outcome of consultation with affected Indian Tribes;


(A) was strongly opposed by Indian Tribes throughout the United States because that section establishes a dangerous legislative precedent for the lack of protection of Tribal sacred areas located on Federal land by mandating the conveyance of Federal land with significant religious, cultural, historic, and anthropological significance for Indian Tribes to a private company that will destroy the land;

(B) circumvents standard environmental review procedures that ensure that the public interest is protected, including the interests of Indian Tribes; and

(C) requires a mandatory conveyance of Oak Flat, regardless of the findings resulting from the environmental review process; and

(9) the inclusion in the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization
Act for Fiscal Year 2015 of section 3003 of that Act (16 U.S.C. 539p) establishes a negative precedent for—

(A) the legislative process; and

(B) Federal Indian policy.

SEC. 3. REPEAL OF SOUTHEAST ARIZONA LAND EXCHANGE AND CONSERVATION PROVISION.