Kevin Shea

Acting Secretary, U.S. Department of Agriculture

1400 Independence Ave., S.W.

Washington, DC 20250

February 17, 2021

Dear Acting Secretary Shea,

The National Association of Tribal Historic Preservation Officers (NATHPO) is a non-profit organization that supports and encourages tribal historic preservation programs. We provide guidance to preservation officials, elected representatives, and the public about national historic preservation legislation, policies, and regulations. We promote tribal sovereignty, develop partnerships, and advocate for Tribes in governmental activities on preservation issues. NATHPO empowers tribal preservation leaders to protect culturally important places that perpetuate Native identity, resilience, and cultural endurance. Connections to cultural heritage sustain the health and vitality of Native peoples.

We write regarding a matter of urgent concern to all Tribal Nations: the need for recission of the Oak Flat Final Environmental Impact Statement (FEIS). Chi'Chil Bildagoteel, also known as Oak Flat, is of irreplaceable cultural and ecological importance for the Western Apache and other Tribes. Oak Flat is part of the ancestral homelands of not only the Apache, but also the Yavapai, Hopi, Zuni and many other Tribes in the Southwest. Nearly all of the 574 federally recognized Tribes have expressed opposition to the land transfer and support the protection of Oak Flat.

The 2014 McCain rider in the National Defense Authorization Act (NDAA) mandates the Southeast Arizona Land Exchange in Tonto National Forest (TNF), also known as Oak Flat, to Rio Tinto/BHP for the Resolution Copper project within 60 days of the filing of the FEIS, which the U.S. Forest Service (USFS) filed on January 15, 2021. On February 11, 2021, the Advisory Council on Historic Preservation (ACHP) terminated consultation on the development of a Section 106 agreement under the National Historic Preservation Act (NHPA) with USFS, finding “that the proposed undertaking would destroy significant historic properties, including the highly significant Oak Flat, and the measures in the PA are not sufficient to adequately resolve those adverse effects.”

Nonetheless, the clock is still ticking toward the land transfer to Rio Tinto/BHP on March 12, 2021, with a legislative change being the only real solution. To delay the land transfer long enough for that to be possible, you must rescind the Oak Flat EIS. The EIS is so faulty, so incomplete, and its release so obviously and disingenuously expedited from Spring 2021 to five days before the inauguration, that rescinding it is the right and appropriate thing to do. If this is allowed to happen, it will be almost impossible to reverse the transfer, regardless of federal legislation that may be passed. Recission of the EIS will allow Congress time to act to repeal the bad-faith rider to the 2014 NDAA. We implore you to rescind the EIS immediately.

Destruction of a place that is so culturally and ecologically important is a detriment to indigenous peoples everywhere, and indeed to the human race. Destruction following this despicable process is dangerous precedent, and destruction in this manner, for the purpose of extraction, would be a permanent stain on our nation’s history. Thank you so much for your attention to this extremely urgent and critical issue affecting Indian Country.

Respectfully,

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Shasta C. Gaughen, PhD

Chairperson, Board of Directors

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