

Apache Stronghold will ask Supreme Court to save Oak Flat

Full Ninth Circuit declines to rehear case, teeing up Supreme Court appeal

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Media Contact: Ryan Colby | media@becketlaw.org | 202-349-7219

WASHINGTON – A 29-judge federal appeals court [refused](#) to protect an ancient Native American sacred site from destruction by a multinational mining giant, paving the way for an appeal to the Supreme Court. In *[Apache Stronghold v. United States](#)*, a coalition of Western Apaches and allies asked the full Ninth Circuit Court of Appeals to rehear their case after a special “en banc” panel of eleven judges [split 6-5](#) earlier this year, refusing to stop the federal government from transferring the sacred site Oak Flat to Resolution Copper, a foreign-owned mining company that plans to turn Oak Flat into a massive mining crater, ending Apache religious practices forever. ([Watch this short video to learn more](#)). The Apaches will now seek to save the spiritual lifeblood of their people at the Supreme Court.

Since time immemorial, Western Apaches and other Native peoples have gathered at Oak Flat for sacred religious ceremonies that cannot take place anywhere else. Known in Apache as *Chi’chil Bildagoteel*, Oak Flat is listed in the National Register of Historic Places and has been protected from mining and other harmful practices for decades. These protections were targeted in December 2014 when a last-minute provision was inserted into a must-pass defense bill authorizing the transfer of Oak Flat to the Resolution Copper company. Resolution Copper is a foreign-owned mining company that plans to turn the sacred site into a two-mile-wide and 1,100-foot-deep crater. The majority owner of Resolution Copper, Rio Tinto, sparked international outrage when it [deliberately destroyed](#) 46,000-year-old Indigenous rock shelters at one of Australia’s most significant cultural sites.

“Oak Flat is the place where generations of Apaches have come to connect with our Creator, our faith and our land,” said **Dr. Wendsler Nosie Sr. of Apache Stronghold**. “We pray the Supreme Court will take our case and protect Oak Flat the same way it would protect other historic houses of worship across the country.”

Apache Stronghold—a coalition of Apaches, other Native peoples, and non-Native allies—filed this lawsuit in January 2021 seeking to halt the proposed mine at Oak Flat. The mine is opposed by 21 of 22 federally recognized tribal nations in Arizona and by the National Congress of American Indians. Meanwhile, national polls indicate [74% of Americans](#) support protecting Oak Flat. The Ninth Circuit ruled in March that the land transfer is not subject to federal laws protecting religious freedom. But five judges dissented, writing that the court “tragically err[ed]” by refusing to protect Oak Flat. After unsuccessfully asking all 29 judges on the Ninth Circuit to rehear the case, Apache Stronghold will now appeal to the Supreme Court.

“Obliterating the birthplace of Western Apache religion would be a tragic betrayal of our nation’s promise of religious freedom for all,” said **Luke Goodrich, vice president and senior counsel at Becket**. “We will ask the Supreme Court take this case, protect Oak Flat, and ensure that Indigenous peoples receive the same protection for religious freedom that all other faith groups enjoy.”

In addition to Becket, Apache Stronghold is represented by attorneys Michael V. Nixon and Clifford Levenson.

Apache Stronghold’s Supreme Court appeal is expected by August 12, 2024.

For more information or to arrange an interview, contact Ryan Colby at media@becketlaw.org or 202-349-7219.

Additional Information:

- [Ninth Circuit's denial of full court en banc rehearing in *Apache Stronghold v. United States* \(May 14, 2024\)](#)
- [Apache Stronghold's petition for full court en banc rehearing in *Apache Stronghold v. United States* \(April 15, 2024\)](#)
- [U.S. Court of Appeals for the Ninth Circuit's en banc Opinion in *Apache Stronghold v. United States* \(March 1, 2024\)](#)
- [U.S. Court of Appeals for the Ninth Circuit's Initial Panel Opinion in *Apache Stronghold v. United States* \(June 24, 2022\)](#)
- [Video: Sacred Lands and Copper Ore: Apaches Fight for their Ancestral Lands](#)
- [Case Page for *Apache Stronghold v. United States* \(Images, b-roll and legal documents\)](#)
- [Media kit for *Apache Stronghold v. United States* \(Images for media use; credit Becket\)](#)

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