

BREAKING: Federal court greenlights destruction of Oak Flat

Apache Stronghold vows to appeal decision to U.S. Supreme Court

For Immediate Release: March 1, 2024

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WASHINGTON— A divided federal court (6-5) today [refused to protect](#) an ancient Native American sacred site from destruction by a multinational mining giant, putting the case on a fast track to the Supreme Court. In *Apache Stronghold v. United States*, a rare “en banc” panel of eleven judges from the Ninth Circuit Court of Appeals ruled that the federal government can transfer the sacred site Oak Flat to Resolution Copper, a foreign-owned mining company that plans to turn the site into a massive mining crater, ending Apache religious practices forever. ([Watch this short video to learn more](#)).

The decision was by a bare majority, with five judges vigorously disagreeing and writing that the majority “tragically err[ed]” in allowing the government to “obliterate[*e*] Oak Flat” and prevent the “Western Apaches from ever again” engaging in their religious exercise. With the help of Becket, Apache Stronghold has vowed to appeal the decision to the U.S. 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 *Chí'chil Bidaagoteel*, Oak Flat is on the National Register of Historic Places and has been protected from mining and other harmful practices for decades. These protections were eliminated in 2014, when a last-minute provision was inserted into a must-pass defense bill authorizing the transfer of Oak Flat to Resolution Copper, 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, recently 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 like Mount Sinai to us—our most sacred site where we connect with our Creator, our faith, our families, and our land,” **said Dr. Wendsler Nosie of Apache Stronghold**. “Today’s ruling targets the spiritual lifeblood of my people, but it will not stop our struggle to save Oak Flat. We vow to appeal to the Supreme Court.”

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 also opposed by twenty-one of the twenty-two tribal nations in Arizona and by the National Congress of American Indians—the oldest, largest, and most representative association of tribal governments on the continent. The Ninth Circuit today ruled that the mine is not subject to federal laws protecting religious freedom. But Chief Judge Murguía, along with Judges Gould, Berzon, Mendoza, and Lee, dissented, explaining that the decision misreads precedent and uniquely harms Native American religious exercise. Apache Stronghold has vowed to immediately appeal this decision to the Supreme Court.

“Blasting a Native American sacred site into oblivion is one of the most egregious violations of religious freedom imaginable,” **said Luke Goodrich, vice president and senior counsel at Becket**. “The Supreme Court has a strong track record of protecting religious freedom for people of other faiths, and we fully expect the Court to uphold that same freedom for Native Americans who simply want to continue core religious practices at a sacred site that has belonged to them since before the United States existed.”



Press Release

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

Apache Stronghold has 90 days to appeal to the U.S. Supreme Court.

For more information or to arrange an interview, contact Ryan Colby at media@becketlaw.org or 202-349-7219. Interviews can be arranged in English, Mandarin, French, German, Portuguese, Russian, and Spanish.

Additional Information:

- [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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