



## SAN CARLOS APACHE TRIBE

Department of Justice

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San Carlos, Arizona 85550

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August 1, 2023

**Via E-mail and U.S. Postal Service**

Christopher D. Thomas  
Perkins Coie  
2901 N. Central Avenue  
Suite 2000  
Phoenix, Arizona 85012-80114  
E-M: [CThomas@perkinscoie.com](mailto:CThomas@perkinscoie.com)

Dear Mr. Thomas:

It has come to my attention from my client, the San Carlos Apache Tribe ("Tribe"), that employees, agents or contractors of your client, Resolution Copper Mining, LLC and/or Resolution Copper Company ("RCM"), have sought to influence decision-making by the Tribe's elected officials and employees through job fairs or contributions in the form of checks, cash, or other goods, services or items of value. By this letter, I further provide my client's demand that your client and its partners, Rio Tinto and BHP Billiton or BHP Copper, Inc., employees, agents, contractors, and associates immediately cease and desist from engaging in such activities.

Pursuant to Resolution No. AP-15-086 (*see* Exhibit 1) of the San Carlos Council ("Council"), the Tribe's governing body, the Tribe opposes Section 3003 of the National Defense Authorization Act for Fiscal Year 2015, entitled, "the Southeastern Arizona Land Exchange and Conservation Act." Section 3003 authorizes the transfer of some 2,400 acres of the Tonto National Forest to RCM for the purpose of conducting a massive, unprecedented block cave copper mining project which will destroy Chi'Chil'Bilda'Goteel (Oak Flat), a traditional Apache sacred site located off the Tribe's Reservation near the Town of Superior but part of the Tribe's aboriginal homelands.

Subsequently, the Council became concerned that RCM was attempting "to provide financial contributions and gifts of products and items of value to programs, departments, agencies, enterprises and other enterprises of the Tribe," and pursuant to Council Resolution No.

**Chris Thomas**

*Re: Cease & Desist*

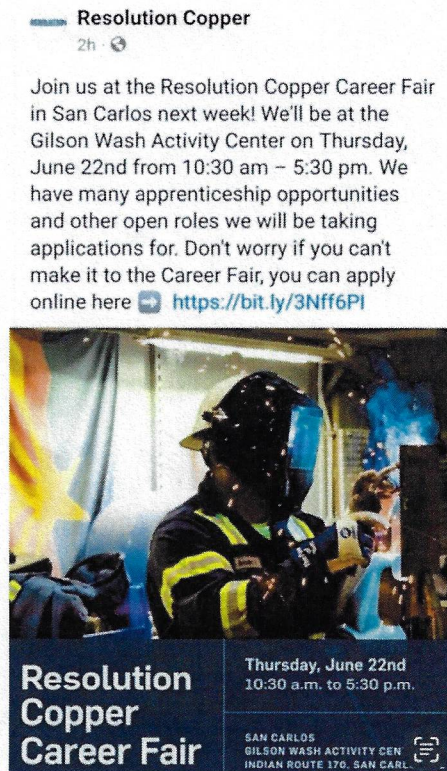
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JN-15-120 (*see* Exhibit 2), the Council prohibited all “employees, programs, departments, agencies, committees and enterprises of the Tribe ... from accepting any form of contribution, whether in the form of funds or items of value,” from RCM, Rio Tinto, BHP Billiton, “or any other business, association, or individual who supports the Southeastern Arizona Land Exchange and Conservation Act, or the mine proposed by Resolution Copper Mine, L.L.C.” In its finding, the Council decried such contributions as “nothing more than attempts to influence political and public opinion on the San Carlos Apache Reservation, and are in contravention to Resolution No. AP-15-086.”

RCM contributions appear to have come in a number of forms. First, there are job fairs held at the Apache Gold Convention Center and the Gilson Wash Activity Center (“GWAC”), both of which are located on the Tribe’s Reservation. One such job fair was advertised as follows:



Second, there have been outright attempts to provide funds to members of Council. Chairman Terry Rambler was offered cash, goods and services by a RCM employee or agent, while Council Member Ned Anderson, Jr. was recently provided a check (*see* Exhibit 3) in the



**Chris Thomas**

*Re: Cease & Desist*

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amount of \$750.00 from the Boilermakers 627 PAC, a political action committee set up by the Boilermakers Local No. 627, a labor union whose members work for RCM.

The word “contribution” is defined in the Cambridge English Dictionary as “something that you contribute or do to help produce or achieve something together with other people, or to help make something successful.” Resolution No. JN-15-120 prohibits “any form of contribution, whether in the form of money or items of value.” (Emphasis supplied).

By extension, if a contribution by RCM may be offered and intended as a bribe to persuade an employee of the Tribe or its subsidiaries to act in RCM’s favor, illegally or dishonestly, or otherwise accepted for such purpose, that would stand against the Tribe’s Criminal Code. Further violations by RCM will result in removal and trespass actions, which may also be pursued federally.

RCM’s recent FaceBook ad offers “apprenticeship opportunities and other open roles.” RCM’s event on June 22, 2023, is a job fair, an event in which RCM gives information about open positions it has at its facilities. The link in the add directs the user to Rio Tinto’s Search Jobs page, which lists apprenticeships ranging from electrical to mechanical, and the positions of Senior Advisor – Project Controls and Human Resources Advisor, located in Superior, Arizona. See [https://jobs.riotinto.com/job-search-results/?primary\\_state=AZ](https://jobs.riotinto.com/job-search-results/?primary_state=AZ).

The GWAC is a department of the Tribe and Apache Gold is a subsidiary enterprise of the Tribe. By seeking to rent space from either GWAC or Apache Gold for a job fair, RCM is not only asserting influence over the tribe by pouring money into rental fees in violation of Resolution No. JN-15-120, but it is also seeking political influence over public opinion and elections. By offering jobs and training on the Reservation—i.e., items that are “of value” for purposes of Resolution No. JN-15-120—RCM is attempting to sway political and public opinion in favor of RCM, thus undermining the Tribe’s opposition to the mine and the destruction of Oak Flat as set forth under Council Resolution No. AP-15-086.

Accordingly, pursuant to Council Resolution No. JN-15-120, RCM cannot hold job fairs on the property of the Tribe or its subsidiary enterprises, such as GWAC or Apache Gold. Without permission to hold such job fairs on the property of the Tribe’s government or its subsidiary enterprises will be considered an act of trespass, which will result in their removal of non-Indians from the Reservation, and the pursuit by the Tribe for federal trespass charges.

Nor can RCM, its employees, agents, contractors or associated labor unions provide cash, checks, goods or services, or items of value to the Tribe’s elected officials, employees, agents, or contractors. Your client should be aware that any attempt to bribe elected leaders or influence the Tribe’s elections may run afoul of Arizona and federal law for bribery. In addition, there may be additional penalties under the Foreign Corrupt Practices Act (“FCPA”) for such an act. It appears that one of your client’s owners, Rio Tinto, was charged in March of this year by the

**Chris Thomas**

*Re: Cease & Desist*

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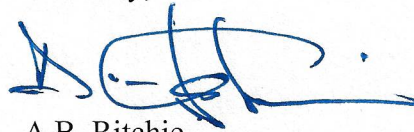
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Securities Exchange Commission for violations of the FCPA (arising out of a bribery scheme involving a consultant in Guinea), so your client should be aware of the consequences of such a violation. I also note that in 2014 and 2019, your firm published an article and a blog post concerning the application of the FCPA to tribes, and has familiarity with the subject.

For these reasons, advise your client to immediately cease and desist from its apparent practices of seeking to influence decision-making by the Tribe's elected officials or employees, or to otherwise influence the Tribe's elections, either directly or indirectly, as regards to supporting RCM or rescinding Resolution No. AP-15-086, otherwise we will have no choice but to seek appropriate legal remedies.

If you have any questions, please contact me.

Sincerely,



A.B. Ritchie  
Attorney General  
Department of Justice  
San Carlos Apache Tribe

Enclosures

Exhibit 1 – Resolution No. AP-15-086  
Exhibit 2 – Resolution No. JN-15-120  
Exhibit 3 – Boilermakers 637 PAC Check

Cc: Terry Rambler, Chairman  
Tao Etpison, Vice Chairman  
San Carlos Council Members  
Chrono



## **Exhibit 1**

**Certified Resolution AP-15-086**

**SAN CARLOS APACHE TRIBE  
SAN CARLOS APACHE INDIAN RESERVATION  
SAN CARLOS, ARIZONA**

**(OPPOSITION TO SECTION 3003 OF THE NATIONAL DEFENSE AUTHORIZATION  
ACT FOR FISCAL YEAR 2015 ACT; REPEAL OF SECTION 3003; OFFICE OF THE  
ATTORNEY GENERAL TO TAKE APPROVED LEGAL ACTION)**

**No. AP-15-086**

**WHEREAS**, the San Carlos Apache Tribe ("Tribe") is a federally recognized Indian Tribe organized pursuant to the provisions of Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984); and

**WHEREAS**, the San Carlos Council has the authority, among other things, to "represent the Tribe and act in all matters that concern the welfare of the Tribe, and to make decisions not inconsistent with or contrary to [the Tribe's] Constitution and Bylaws," pursuant to Article V, Section 1(a) of the Amended Constitution and By-Laws of the San Carlos Apache Tribe; and

**WHEREAS**, the United States Department of Agriculture Forest Service, Bureau of Land Management, National Park Service, and other federal lands nationwide are carved out of the ancestral homelands of Indian Tribes, and many of these lands encompass areas where Native people worship and conduct ceremonies, gather medicinal and traditional plants, such as acorn and red berries, and continue other centuries old cultural traditions; and

**WHEREAS**, the United States has legal and moral obligations to protect Native sacred areas located on federal lands, ensuring Native people access to these lands to practice religions and continue cultural traditions; and

**WHEREAS**, pursuant to Resolution No. FB-13-035, the Tribe did take a position opposing the Southeast Arizona Land Exchange and Conservation Act of 2013; and

**WHEREAS**, the Tribe did submit testimony on November 1, 2007 (U.S. House Natural Resources Committee – H.R. 3301) and June 17, 2009 (Senate Subcommittee on Public Lands and Forests – S. 409) by then-Chairman Wendsler Nosie, Sr., and on June 14, 2011 (U.S. House Natural Resources Committee – H.R. 1904), February 22, 2012 (Senate Committee on Energy and Natural Resources – H.R. 1904), March 21, 2013 (House Subcommittee on Energy and Mineral Resources – H.R. 687), and November 19, 2013 (Senate Subcommittee on Public Lands, Forests and Mining – S. 339) by current Chairman Terry Rambler, opposing the Southeast Arizona Land Exchange and Conservation Act



**WHEREAS,** the Southeast Arizona Land Exchange and Conservation Act was signed into law under Section 3003 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 Act (“the Act”), which now requires the Tonto National Forest in Arizona to exchange approximately 2,422 acres of Forest Service land located in Pinal County, Arizona (“the Federal Land”) with Resolution Copper Mining, L.L.C. (“Resolution Copper”), a private mining company owned by the foreign mining giants Rio Tinto PLC (United Kingdom) and BHP Billiton Ltd (Australia), to conduct a massive and unprecedented block cave copper mining project; and

**WHEREAS,** the Federal Land to be conveyed under the Act lie within the Tonto National Forest and are known as Chi'Chil'Bilda'Goteel since time immemorial and now as “Oak Flat”, which are the ancestral homelands of the Apache, Yavapai, and other tribes in the region; and

**WHEREAS,** if authorized, the proposed mining project would destroy the physical, religious and cultural integrity of Oak Flat, most likely wipe out Emory Oak trees that produce acorn, and extinguish all significant cultural and religious ties the Tribe has with this sacred and holy site, which would thereby prevent the ability of tribal members to continue practicing their religion, ceremonies and traditional practices; and

**WHEREAS,** if authorized, the proposed mining project would cause the gravest environmental impact in the region by destroying, depleting and contaminating precious water resources in the region, because dewatering will undo the hydrology of the seeps, springs and rivers that depend upon the underlying aquifer and also produce water laden with toxins that will in turn penetrate and mix into aquifers, thereby rendering well water undrinkable and causing the region to look for other water supplies in other aquifers, which may include those under the lands of the Reservation; and

**WHEREAS,** the proposed mine will also obliterate and degrade the land and environment by causing subsidence that will not only create a two-mile wide cone of depression, but will take with it escarpments that have stood for millenia; and

**WHEREAS,** Oak Flat has played an essential role in Apache, Yavapai and other tribes’ religion, traditions, and culture for centuries and is a holy site and a traditional cultural property with deep tribal religious, cultural, archaeological, historical and environmental significance; and

**WHEREAS,** Apache, Yavapai and Native American people lived, prayed, and died in the Oak Flat area for centuries before this mining project was conceived; and

**WHEREAS,** at least eight Apache Clans and two Western Apache Bands have documented history in the area, and Apache clans originated from this area before being forced to reservations as Prisoners of War by the United States; and

**WHEREAS,** the Oak Flat area is a place filled with power – a place where Native people go today for prayer, to conduct ceremonies such as Holy Ground and the Apache Puberty Rite Ceremony that some refer to as the Sunrise Dance, which celebrates a young woman's coming of age, to gather medicines and ceremonial items, and to seek and obtain peace and personal cleansing; and

**WHEREAS,** tribal members' ancestors passed their knowledge to their descendants who are alive today; and Apache elders teach their youth from the earliest of ages the meaning and significance of their sacred places, including Oak Flat; and

**WHEREAS,** Section 3003 of the Act sets dangerous precedent for federal Indian policy, by mandating a land transfer to bypass federal laws meant to protect Native religion and culture, but the Act does mandate the Secretary of Agriculture to undertake meaningful government-to-government consultation with impacted Indian tribes and minimize adverse effects; and

**WHEREAS,** Section 3003 of the Act revoked a decades old ban against mining within the Oak Flat area approved by Presidents Eisenhower and Nixon; and

**WHEREAS,** Section 3003 of the Act circumvents federal laws which mandate protection of Native religion and culture and require tribal consultation such as the Native American Graves Protection and Repatriation Act, the National Historic Preservation Act, the Archaeological Protection Resources Act and the Native American Indian Religious Freedom Act; and

**WHEREAS,** Section 3003 of the Act circumvents federal laws which mandate protection of air, water and the environment such as the Clean Air Act, the Clean Water Act and the National Environmental Policy Act, and it further avoids an examination of the costs, subsidence and safety issues associated with block cave mining; and

**WHEREAS,** Indian Tribes and tribal organizations nationwide were united in their opposition to Section 3003 of the Act; and

**WHEREAS,** it is the determination of the Tribal Council that Section 3003 of the Act should be repealed; and

**WHEREAS,** it is the determination of the Tribal Council that the Office of the Attorney General should take any and all action which may be advisable and legally feasible to block the exchange of the Federal Land with Resolution Copper, including association with outside counsel as necessary.

**BE IT RESOLVED** by the Council of the San Carlos Apache Tribe that the Tribe reaffirms its commitment to the protection of Native sacred and cultural sites located on federal lands.



**BE IT FURTHER RESOLVED** that the Tribe opposes the passage of Section 3003 of the Act by the United States Congress and expresses its strong disappointment and dissatisfaction at the misleading methods and tactics employed by certain members of the House of Representatives and the Senate in achieving the passage of Section 3003 of the Act for the purpose of satisfying the economic self-interests of a foreign mining conglomerate at the expense of the general public.

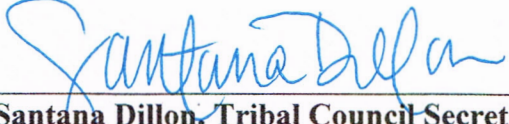
**BE IT FURTHER RESOLVED** that the Tribe shall seek the repeal of Section 3003 of the Act by all lawful means available.

**BE IT FURTHER RESOLVED** that the Tribe's Office of Attorney General shall, in consultation with and the approval of the Tribal Council, undertake all necessary and lawful means to bar and block the exchange of the Federal Land with Resolution Copper.

**BE IT FINALLY RESOLVED** by the Council of the San Carlos Apache Tribe that the Chairman, or in his absence, the Vice Chairman, or designee, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

#### **CERTIFICATION**

I, the undersigned, Secretary of the San Carlos Council, hereby certify that the Council is composed of eleven (11) members, of whom eight (8), constituting a quorum, were at a Special Meeting hereto held on the 23<sup>rd</sup> day of April, and that the foregoing Resolution No. AP-15-086 was duly adopted by a vote of FOR: 7; OPPOSED: 0; ABSTAINED: 1; of the Tribal Council pursuant to Article V, Section 1 (a) of the Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective, February 24, 1954.

  
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**Santana Dillon, Tribal Council Secretary**  
**SAN CARLOS APACHE TRIBE**

## **Exhibit 2**

**Certified Resolution No. JN-15-120**



**SAN CARLOS APACHE TRIBE  
SAN CARLOS APACHE INDIAN RESERVATION  
SAN CARLOS, ARIZONA**

**No. JN-15-120**

**(Prohibition Against Contributions in Any Form from Resolution Copper Mine, Rio Tinto, BHP Billiton, or other individuals, businesses or associations supporting the Southeastern Arizona Land Exchange and Conservation Act or the mine proposed by Resolution Copper Mine)**

- WHEREAS**, the San Carlos Apache Tribe ("Tribe") is a federally recognized Indian Tribe organized pursuant to the provisions of Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984); and
- WHEREAS**, the San Carlos Council has the authority, among other things, to "represent the Tribe and act in all matters that concern the welfare of the Tribe, and to make decisions not inconsistent with or contrary to [the Tribe's] Constitution and Bylaws," pursuant to Article V, Section 1(a) of the Amended Constitution and By-Laws of the San Carlos Apache Tribe; and
- WHEREAS**, Chi'Chil'Bilda'Goteel, known as Oak Flat, is a site sacred to members of the San Carlos Apache Tribe; and
- WHEREAS**, the Council did pass Resolution No. AP-15-086, "Opposition to Section 3003 of the National Defense Authorization Act for Fiscal Year 205; Repeal of Section 3003; Office of the Attorney General to Take Approved Legal Action"; and
- WHEREAS**, Section 3003 of the National Defense Authorization Act is entitled the Southeastern Arizona Land Exchange and Conservation Act ("SEALECA"), which transfers certain lands, including Chi'Chil'Bilda'Goteel, to the ownership of Resolution Copper Mining, L.L.C., a private mining company owned by the foreign mining giants Rio Tinto, PLC (United Kingdom) and BHP Billiton Ltd (Australia), for the purpose of conducting a massive, unprecedented block cave copper mining project that will destroy Chi'Chil'Bilda'Goteel; and
- WHEREAS**, it has come to the attention of the Council that Resolution Copper Mine, L.L.C., the beneficiary of the SEALECA, has attempted to provide financial contributions and gifts of products and items of value to programs, departments, agencies, enterprises, committees and other enterprises of the Tribe; and
- WHEREAS**, the Council finds that such contributions by Resolution Copper Mine, L.L.C., are nothing more than attempts to influence political and public opinion on the San Carlos Apache Reservation, and are in contravention to Resolution No. AP-15-086; and

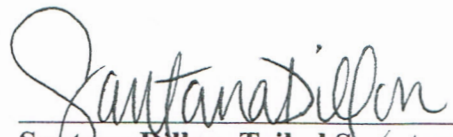
**BE IT RESOLVED** by the Council of the San Carlos Apache Tribe that:

1. All employees, programs, departments, agencies, committees and enterprises of the Tribe are hereby prohibited from accepting any form of contribution, whether in the form of funds or items of value, from Resolution Copper Mine, L.L.C., Rio Tinto, BHP Billiton, or any other business, association, or individual who supports the Southeastern Arizona Land Exchange and Conservation Act, or the mine proposed by Resolution Copper Mine, L.L.C.
2. A violation of this Resolution may result in employee discipline under the Tribe's Personnel Policies and Procedures Manual.

**BE IT FURTHER RESOLVED** by the Council of the San Carlos Apache Tribe that the Chairman, or in his absence, the Vice Chairman, or designee, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

#### **CERTIFICATION**

I, the undersigned, Secretary of the San Carlos Council, hereby certify that the Council is composed of eleven (11) members, of whom six (6), constituting a quorum, were at a Special Meeting hereto held on the 15th day of June, and that the foregoing Resolution No. JN-15-120 was duly adopted by a vote of FOR: 6; OPPOSED: 0; ABSTAINED: 0; of the Tribal Council pursuant to Article V, Section 1 (a) of the Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective, February 24, 1954.

  
Santana Dillon, Tribal Secretary  
SAN CARLOS APACHE TRIBE



### **Exhibit 3**

**Check from Boiler Makers 627 PAC**

**BOILERMAKERS 627 PAC**  
2345 W THOMAS RD  
PHOENIX, AZ 85015  
602-495-1282

**ALLIANCE BANK OF ARIZONA**  
A division of Western Alliance Bank  
alliancebankofarizona.com

1058

91-598/1221  
1134  
**CHECK ARMOR**  
FRAUD PROTECTION

06/29/2023

PAY TO THE ORDER OF Ned Anderson

\$\*\*750.00

Seven hundred fifty and 00/100\*\*\*\*\*

DOLLARS

Ned Anderson

VOID AFTER 90 DAYS

MEMO

*Richard Lerr*  
*Joe Emerson*  
AUTHORIZED SIGNATURE

⑈001058⑈ ⑆122105980⑆ 8343650667⑈

Photo Safe Deposit®  
Details on Back.