



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #ANC-22-013

TITLE: Supporting the Continued Protection of Northern Paiute and Shoshone Traditional Homelands from the Permitted Thacker Pass Lithium Mine in Northern Nevada

EXECUTIVE COMMITTEE

PRESIDENT
Fawn R. Sharp
Quinault Indian Nation

1ST VICE PRESIDENT
Mark Macarao
Pechanga Band of Luiseño Indians

RECORDING SECRETARY
Stephen Roe Lewis
Gila River Indian Community

TREASURER
Shannon Holsey
Stockbridge-Munsee Band of Mohican Indians

REGIONAL VICE PRESIDENTS

ALASKA
Mike Williams
Akiak Native Community

EASTERN OKLAHOMA
Norman Hildebrand
Wyandotte Nation

GREAT PLAINS
Harold Frazier
Cheyenne River Sioux Tribe

MIDWEST
Rebecca Crooks-Stratton
Shakopee Mdewakanton Sioux Community

NORTHEAST
Lance Gumbs
Shinnecock Indian Nation

NORTHWEST
Melvin Sheldon, Jr.
Tulalip Tribes of Washington

PACIFIC
Jack Potter
Redding Rancheria

ROCKY MOUNTAIN
Mark Pollock
Blackfeet Nation

SOUTHEAST
Reggie Tupponce
Upper Mattaponi Indian Tribe

SOUTHERN PLAINS
Gonzo Flores
Lipan Apache Tribe of Texas

SOUTHWEST
Joe Garcia
Ohkay Owingeh Pueblo

WESTERN
Bernadine Burnette
Fort McDowell Yavapai Nation

CHIEF EXECUTIVE OFFICER
Dante Desiderio
Sappony

NCAI HEADQUARTERS
1516 P Street, N.W.
Washington, DC 20005
202.466.7767
202.466.7797 fax
www.ncai.org

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, NCAI thoroughly acknowledges the United States Federal Government has a fiduciary and trust relationship to and a government-to-government relationship with Tribal Nations; and

WHEREAS, Thacker Pass, traditionally called Peehee Mu'huh (Rotten Moon), an important cultural and historic site to the Paiute and Shoshone Peoples located in our homelands in Nevada, is administered by the Department of Interior U.S. Bureau of Land Management (BLM) which approved the Thacker Pass lithium mine on January 15, 2021, less than 365 days after scoping began for the Thacker Pass lithium mine's Environment Impact Statement (EIS) and only five days before the end of the previous Trump Administration; and

WHEREAS, on September 12, 1865, the Nevada Calvary conducted a brutal massacre of between 31 and 70 Northern Paiute and Shoshone people at Thacker Pass, and where the ancestral human remains still lay and where the living were prohibited to return to the 1865 massacrred to bury their dead; and

WHEREAS, these sacred Native ancestral remains and the historical significance of the 1865 massacre has not been properly evaluated under the criteria for listing on the National Register of Historic Places according the National Historic Preservation Act; and

WHEREAS, the federally recognized Tribal Nations, Burns Paiute Tribe and the Reno-Sparks Indian Colony (“RSIC”), are two of the seven plaintiffs in the ongoing Thacker Pass Litigation Case No. 3:21-cv-80-MMD-CLB (*Bartell Ranch LLC, et al., vs. Ester M. McCullough, et al., and Lithium Nevada Corporation*) in the U.S. District Court, District of Nevada; and

WHEREAS, the Thacker Pass Projects Record of Decision (ROD), Memorandum of Agreement (MOA) and Historic Properties Treatment Plan (HPTP) is in violation of the National Historic Preservation Act (“NHPA”), the Archeological Resources Protection Act (“ARPA”), the Administrative Procedure Act (“APA”), the Native American Graves Protection and Repatriation Act (“NAGPRA”), and the National Environmental Policy Act (“NEPA”); and

WHEREAS, BLM has failed to properly engage with Tribal Nations with regards to the September 12, 1865 Massacre and continues to violate 43 CFR § 10.3(b)(2) of the NAGPRA implementing regulations by allowing excavation to proceed without proper consultation with the appropriate Tribal Nations and known lineal descendants; and

WHEREAS, NAGPRA consultation is triggered when a planned activity *may* result in intentional excavation or any inadvertent discovery of human remains, etc. the Reno-Sparks Indian Colony has offered plenty of evidence that human remains may be intentionally excavated or inadvertently discovered in the Thacker Pass project area and by excavations described in the HPTP; and

WHEREAS, BLM’s own records include letters from the Tribal Nations and BLM claims it consulted regarding Thacker Pass Lithium mine and these letters state BLM never did consult with them; and

WHEREAS, Lithium Nevada Corporation’s contractor Far Western Anthropological Research Group, Inc. has ignored tribal protests and begun disrespectful archeological procedures as the first step in constructing an open-pit lithium mine in Thacker Pass; and

WHEREAS, NCAI has long called for the protection of golden and bald eagles as which are spiritually or culturally significant to many Tribal Nations, and has raised concerns regarding the issuance of take permits over the objections of Tribal Nations; and

WHEREAS, in addition to the human remains, there are three eagle nests at Thacker Pass and the USFWS has issued a five-year Eagle Take Permit under the Bald and Golden Eagle Protection Act to Lithium Nevada Corporation to allow the mining company to disrupt the eagles breeding cycles; and

WHEREAS, construction of the Thacker Pass mine would bring an influx of men (“man camps”) to Nevada for construction, and man camps are linked to exploitation, violence, and other crimes against indigenous women and peoples; and

WHEREAS, NCAI consistently calls for fully informed tribal consultation that conforms with the U.N. Declaration on the Rights of Indigenous Peoples’ Free, Prior, and Informed Consent policy.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) calls for the immediate halt of archeological and mining activity at Thacker Pass that comes at the expense of the sacred and cultural patrimony and property of the Native Peoples of Nevada; and

BE IT FURTHER RESOLVED, that NCAI reaffirms its call on the U.S. to uphold its trust and treaty obligations to Tribal Nations by engaging in robust and adequate tribal consultation on the Thacker Pass mine and any other proposed lithium mine to allow all Tribal Nations to participate consistent with the U.N. Declaration on the Rights of Indigenous Peoples' Free, Prior, and Informed Consent policy; and

BE IT FURTHER RESOLVED, that NCAI opposes the Thacker Pass lithium mine and calls on the Department of Interior (DOI) and the Bureau of Land Management (BLM) to rescind the approval of the mine's Plans of Operation, and for Congress to investigate the failure of regulatory process of the Justice System that has led to this injustice; and

BE IT FURTHER RESOLVED, that NCAI calls on the Administration and DOI's U.S. Fish and Wildlife Service to revoke the eagle take permit of this mine and to be considered in any other existing and future mining projects; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the Mid Year Conference of the National Congress of American Indians, held in Anchorage, Alaska from June 12-16, 2022 with a quorum present.



Fawn Sharp, President

ATTEST:



Stephen Roe Lewis, Recording Secretary