

**Testimony of Justine R. Jimmie, Deputy Attorney General
San Carlos Apache Tribe
Legislative Hearing on H.R. 1479, the Chiricahua National Park Act
House Natural Resources Subcommittee on Federal Lands
September 18, 2024**

Good morning, Chairman Tiffany, Ranking Member Neguse, and Members of the Subcommittee. My name is Justine Jimmie, and I serve as Deputy Attorney General of the San Carlos Apache Tribe (Tribe) located in southeastern Arizona. I am a member of the Tribe, which is over 17,300 members strong. Like many Apaches on the San Carlos Apache Reservation (Reservation), my family history includes Chiricahua ancestors.

Thank you for this opportunity to testify about the Tribe's concerns with H.R. 1479, which would designate Chiricahua National Monument as a National Park. We respectfully request that the Subcommittee work with us to include the amendment set forth below to protect our continuing and unbroken connections to this land, which is part of our ancestral homelands. The Mescalero Apache Tribe, comprised of Chiricahua, Lipan, and Mescalero Apaches and located in what is now southern New Mexico, submitted testimony on this bill to request this same amendment. To honor its Treaty obligations to us, the Subcommittee must work to improve the protection of our cultural resources and ensure access to this land for traditional activities.

To better understand our views, it is helpful to know more about our history. The aboriginal territory of the Apache Nation included the western part of Texas, the current states of Arizona and New Mexico, and part of the country of Mexico. The Apache Treaty of Santa Fe in 1852 was executed by Mangus Colorado and others on behalf of the Apaches. Pursuant to the Treaty, lands within the aboriginal territories of the Apache Nation were to be set aside for a permanent Tribal homeland and the U.S. promised to provide for the "humane" needs of the Apache people. In exchange, the Apache Nation agreed to the end of hostilities between the two nations.

As underscored by the name "Chiricahua" for this National Monument and the extensive information about the history of the Chiricahua Apaches in the area now known as Chiricahua National Monument compiled by the National Park Service, the federal government acknowledges the long relationship of the Chiricahua Apaches to this area. Chiricahua National Monument is located in Cochise County, which is named after renowned Chiricahua Apache Chief Cochise. In 1872, the U.S. military designated a reservation for the Chiricahuas under the leadership of Chief Cochise. This 1872 reservation contained the area that is now Chiricahua National Monument and spanned what is largely now Cochise County. However, President Grant terminated the reservation in 1876 to open the land to gold, silver, and copper mining – the same history of mistreatment of tribes by the United States told over and over again.

The U.S. Cavalry forcibly removed Chiricahuas from this area to what is now the San Carlos Apache Reservation (Reservation), originally established by the U.S. Cavalry as a concentration camp. Famous Chiricahuas who were imprisoned on the Reservation included Geronimo, Cochise, Nachie, Chatto, and others. Our people were treated as prisoners of war, and U.S. military forces were stationed on the Reservation until 1900, almost 30 years after the conclusion of the Western Apache wars. Even though we were removed at gunpoint by the United States

from our ancestral homelands, including what is now Chiricahua National Monument, we still have deep historical and spiritual connections to this land that have never been extinguished.

We understand that a primary purpose of this bill is to boost tourism and create an economic boon for the rural towns and communities surrounding Chiricahua National Monument. While the Tribe is supportive of economic development, this legislation should not come at the expense of tribes and our culture and traditions. The land that is now Chiricahua National Monument has been our homeland since time immemorial – long before the formation of the United States and before the U.S. Cavalry took our land to give to settlers, pioneers, and miners. A National Park designation would significantly increase foot and vehicular traffic and result in related infrastructure development on this land, jeopardizing tribal cultural resources, including burial sites and ceremonial areas, viewsheds, sight-lines, landscapes, and animal/plant life. Moreover, the National Park Service would exponentially increase the number of personnel that would manage and patrol the land, which will, in turn, result in difficulties for Tribal members seeking to access this land for cultural and traditional purposes.

National Parks have become so packed with tourists that many National Parks resemble amusement parks during the height of tourist season. In contrast, we go to our cultural areas, including these areas located in what are now National Parks, to seek sanctuary, pray, and perform ceremonies. Adequate statutory protections are needed so that we can continue to practice our traditional ways of life without interruption, distraction, or barriers.

To protect our historical and ongoing connections to this land that would be designated as a National Park under this bill, we respectfully request inclusion of the following straight-forward language in the bill:

SEC. 3. TRADITIONAL CULTURAL AND RELIGIOUS SITES.

(a). INDIAN TRIBE. --- Indian tribe means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(b) In general - The Secretary of the Interior, in consultation with Indian tribes, shall ensure the protection of traditional cultural and religious sites in the National Park.

(c) Access - The Secretary of the Interior, in accordance with Public Law 95–341 (42 U.S.C. 1996),—

(i) shall provide access to the sites described in paragraph (b) by members of Indian tribes for traditional cultural and customary uses; and

(ii) may, on request of an Indian tribe, temporarily close to general public use 1 or more specific areas of the National Park to protect traditional cultural and customary uses in the area by members of the Indian tribe.

This language is essentially streamlined language from the Valles Caldera National Preserve, New Mexico, Section 3043, P.L. 113-291; 16 U.S.C. 698v-11. Further, legislation establishing national parks, monuments, and historical sites under the National Park Service routinely includes language delineating specific management or other requirements for the National Park to follow when operating a park or managing the land.

While the destruction of tribal cultural sites and resources is generally prohibited under existing law, personnel at each National Park have broad latitude and discretion in determining the extent, scope, and magnitude of management, administration, and enforcement of existing protections, creating a burden on tribes to push a specific National Park to act to protect discrete cultural sites and resources. This amendment would require a Chiricahua National Park to acknowledge its responsibilities and work actively with stakeholder tribes to protect tribal cultural sites and resources under its jurisdiction. Given the influx of people to this area of significant cultural significance to our Tribe and other tribes if this bill is enacted into law, it is essential that the protections we request are spelled out in the law in order for Tribal members to maintain our traditional ways of life and honor our ancestors.

In addition, under the American Indian Religious Freedom Act and reinforced under Executive Order 13007, it is the policy of the federal government to maintain access to sacred sites. However, again each Park Service unit has wide-ranging latitude and discretion. In practice, tribes often face difficulties in accessing and protecting our cultural sites and resources in National Parks. Basically, current law forces tribes to plead for permission for access to an area that was ancestrally our home. This amendment would require a Chiricahua National Park to ensure tribal access to cultural sites and resources as well as provide a mechanism to ensure the protection of cultural sites and resources for tribal customary uses in a Chiricahua National Park. Given the expected crowds flocking to this area, it is necessary to make sure that certain areas of a Chiricahua National Park are protected at certain periods of time to ensure access for our tribal members for traditional activities.

Since the U.S. first began carving out National Parks from tribal ancestral lands, tribes across the country have continually experienced ongoing challenges to ensure that we can continue to practice our cultures and traditional ways of life on these lands without disruption and to ensure that our cultural resources are not damaged or destroyed. For example, tribes have faced and still face to this day a myriad of obstacles from National Park Service personnel relating to access, ceremonial practices, gathering, collection, cultural resources protection at Grand Canyon NP, Yellowstone NP, Olympic NP, Everglades NP, Smoky Mountains NP, Badlands NP, Glacier NP, and the list goes on and on. If current laws were actually effective, then there would be less difficulties experienced by tribes across the country working to protect tribal cultural resources and access in National Parks.

However, most, if not all, of these National Parks were established at a time when tribes did not have the voice they should have had, and often times these National Parks were created over tribal objections. Times have changed since then and legislation establishing a National Park should recognize, preserve, and protect tribal relationships to these lands and help ensure consistent on-the-ground application of the law from National Park Service personnel. Further, we urge that this Subcommittee hold a hearing on the difficulties experienced by tribes described

above and work to develop legislation to strengthen legal protections for tribal cultural resources and access in what are now National Parks.

As we say in our Apache language, Ahi'yi' é (thank you) for your efforts and consideration. We look forward to working with you to make the changes to this bill necessary to protect our cultural resources and traditional ways of life.