



NAVAJO NATION HUMAN RIGHTS COMMISSION

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NNHRC encourages public participation at forums addressing SB 2109

To gain a better understanding and to boost human rights standards

SAINT MICHAELS, Ariz.—The Navajo Nation Human Rights Commission encourages Navajo people to attend the upcoming public forums about the Navajo Hopi Little Colorado River Water Rights Settlement of 2012, also known as “SB 2109.” Arizona Senators John McCain (R-AZ) and Jon Kyle (R-AZ) introduced Senate Bill 2109 on February 14, 2012 in Washington, D.C., and it marked the preliminary formality to enact the Bill and begin discussion and negotiations about the Bill.

NNHRC is authorized to educate the public about Navajo human rights, one human rights standard NNHRC considers in this initiative is free, prior and informed consent. And, because SB 2109 addresses a natural resource—water, a sacred element of the Navajo Life Way, another human rights standard about natural resource, is that Navajo people have a right to make a decision about their natural resources.

“The people have a human right to know and a human right to provide meaningful input through the process of decision making about their natural resource,” said NNHRC Executive Director Leonard Gorman. For NNHRC, meaningful input in the past has meant a referendum.

Gorman said, “The Navajo Nation Human Rights Commission’s intent is from the perspective of free, prior and informed consent which is a human rights standard.”

Gorman highlighted a resolution NNHRC had passed on February 6, 2009 that proclaimed the human rights standard of free, prior and informed consent.

About natural resources, Gorman said, “In regards to the United Nations Declaration on the Rights of Indigenous Peoples, as it specifically pertains to natural resources, there are five articles addressing natural resources if not more.” The five articles of UNDRIP are Article 26, Article 27, Article 28, Article 29 and Article 32.

He explained that people have the right to the resource that was traditionally owned, occupied or acquired as stated in Article 26 of UNDRIP.

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“The question about Article 26 of UNDRIP becomes what are the waters that were traditionally owned, used or acquired by the Navajo people,” said Gorman.

He assured that the Navajo Nation should have the information but that it hasn't been presented to Navajo people in such a way that conveys traditionally owned, used or acquired waters.

Gorman then explained that Article 27 of UNDRIP strives for more transparency.

About Article 28 of UNDRIP, Gorman said, “From our understanding as a Navajo human rights agency that refers to the people—the Navajo people, all Navajo people.”

“If people are informed using the minimum standard of free, prior and informed consent with transparency outlining the pros and cons, people could make an informed decision and decide where the bill needs amendments,” said Gorman.

“I look forward to the Friday Commissioner's meeting with the Navajo Water Rights Commission to learn more and become better informed about their concerns and recommendations,” said Gorman.

To better inform the Commissioners for NNHRC, NNHRC Commissioners will receive an update from the Navajo Water Commissioners at the NNHRC regular meeting scheduled for Friday, April 6, 2012, at the Navajo Nation Department of Child Support Enforcement's conference room located in the Saint Michaels Professional Building #2, Suite #122 in Saint Michaels, Navajo Nation (Ariz.). The NNHRC regular meeting is open to the public.

Finally, Gorman said, “I'm glad the Arizona Senators want the Navajo Nation's and Hopi's consent prior to moving any further in enacting the Bill.”

According to the United Nations Declaration on the Rights of Indigenous Peoples,

“Article 26

- 1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.*
- 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.*
- 3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.*

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Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

- 1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.*
- 2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.*

Article 29

- 1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.*
- 2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.*
- 3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.*

Article 32

- 1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.*
- 2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.*
- 3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.”*

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