

RESOLUTION OF THE  
NÁABIK'ÍYÁTI' COMMITTEE OF THE  
NAVAJO NATION COUNCIL

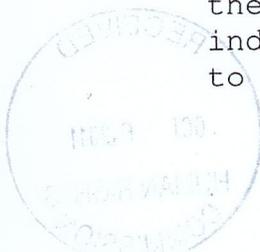
AN ACTION

RELATING TO NÁABIK'ÍYÁTI'; ACKNOWLEDGING THE REPORT BY THE UNITED NATIONS SPECIAL RAPPORTEUR ON THE RIGHTS OF INDIGENOUS PEOPLES; REQUESTING THE PRESIDENT OF THE UNITED STATES SUSPEND THE U.S. FOREST SERVICE PERMIT TO DEVELOP RECLAIMED WATER SYSTEM FOR MAKING ARTIFICIAL SNOW ON THE SAN FRANCISCO PEAKS; AUTHORIZING NAVAJO NATION OFFICIALS TO ATTEND THE 18<sup>TH</sup> SESSION OF THE UNITED NATIONS HUMAN RIGHTS COUNCIL AT GENEVA, SWITZERLAND; AND, AUTHORIZING NAVAJO NATION OFFICIALS TO PROTECT AND ADVOCATE FOR THE HUMAN RIGHTS OF THE NAVAJO PEOPLE AS THEY PERTAIN TO THE SAN FRANCISCO PEAKS

BE IT ENACTED:

Section 1. Findings

- A. For over a decade, the Navajo Nation participated in international meetings and advocated for the recognition of existing human rights of the Navajo and other indigenous peoples in the United States and other indigenous peoples in the United States and world-wide.
- B. The world community adopted the International Covenant on Civil and Political Rights and International Convention on the Elimination of all Forms of Racial Discrimination to protect the rights of peoples all over the world including, but not limited to, ensuring that minorities such as indigenous peoples to practice their religions without any interference.
- C. In September 2007, the United Nations General Assembly adopted the United Declaration on the Rights of Indigenous Peoples ("Declaration"). However, the United States of America voted against the adoption of the Declaration.
- D. The Declaration was adopted by the United Nations to ensure that nations/states in the world recognize and initiate mechanisms to protect human rights of indigenous peoples in their respective lands. The Declaration states in part that indigenous peoples have the right to self-determination, right to own lands, resources and autonomy.



- E. In December 2010, the United States of America announced to the world community that it supports the Declaration.
- F. The United States of America ratified and is a party to the implementation of international binding treaties that protect the human rights of the Navajo people. These International binding treaties include the International Covenant on Civil and Political Rights and International Covenant on the Elimination of all Forms of Racial Discrimination.
- G. In May 2010, the Diné Hataaʼí Association, Diné Medicine Man Association, and Azee' Bee Nahagha of Diné Nation jointly requested the Navajo Nation Human Rights Commission to communicate with Professor S. James Anaya, United Nations Special Rapporteur, regarding the desecration of the San Francisco Peaks and violation of Navajo human rights.
- H. On May 17, 2010, based on the recommendation of the Commission, the Intergovernmental Relations Committee of the Navajo Nation Council authorized the submission of a complaint to Professor S. James Anaya, Special Rapporteur, and requested that the Special Rapporteur carry out his mandates to protect the human rights of Navajos and other indigenous peoples as they pertain to their religious beliefs that the San Francisco Peaks is a sacred site.
- I. The Navajo Nation has repeatedly opposed the use of reclaimed waste water to make artificial snow on San Francisco Peaks, a sacred site for the Navajo people and other indigenous peoples in Arizona.
- J. By Resolution NNHRCSEPT-09-11, attached hereto as Exhibit B, the Navajo Nation Human Rights Commission acknowledged the report by the United Nations Special Rapporteur on the Rights of Indigenous Peoples and recommended that the Navajo Nation request the President of the United States of America to suspend the U.S. Forest Service permit to make artificial snow on San Francisco Peaks and Navajo Nation attended the 18<sup>th</sup> session of the United Nations Human Rights Council.
- K. On August 22, 2011, Professor S. James Anaya, Special Rapporteur, issued his report, attached hereto as Exhibit A, entitled *Report by the Special Rapporteur on the [R]ights of [I]ndigenous [P]eoples*, Rep. of Human Rights Council, 18<sup>th</sup> Sess., Aug. 22, 2011, U.N. GAOR, 65<sup>th</sup> Sess., (Sept. 14, 2011), detailing that the United States did not respond to

calling attention to information he received "relating to the proposed use of recycled wastewater for the commercial ski operation [on] the San Francisco Peaks, a mountainous area that is sacred to several Native American tribes." *Id.* At 43.

L. The Special Rapporteur further observed and reached some of the following conclusions:

- i. That the stakeholders human rights to free, prior and informed consent were violated as the United States did not comply with the requirements under the International Covenant on Civil and Political Rights and International Convention on the Elimination of All Forms of Racial Discrimination;
- ii. That "[d]espite this adamant opposition by the tribes based on their religious practices and beliefs, the Forest Service decided to approve the artificial snowmaking and other ski area modifications, bringing into question the United States' adherence to international standard to which it has expressed its commitment." *Id.* At 47.
- iii. That "[s]imply providing indigenous peoples with information about a proposed decision and gathering and taking into account their points of view is not sufficient in this context. Consultation must occur through procedures of dialogue aimed at arriving at a consensus." *Id.* At 48;
- iv. That "[i]t is far from apparent how the decision to permit snowmaking by a private recreational ski facility is in furtherance of one of the specific public purposes—public safety, order, health or morals—or the human rights of others." *Id.* At 52; and
- v. That "[i]t is highly questionable that the effects on Native American religion can be justified under a reasonable assessment of necessity and proportionality, if the purpose behind the [United States] Government decision to permit the enhancement to the ski operation is none other than to promote recreation." *Id.* at 52.

M. The Special Rapporteur provided the following Recommendations:

- i. "On the basis of the foregoing, the Special Rapporteur respectfully recommends that the United States Government engage in a comprehensive review of its relevant policies and actions to ensure that they are in compliance with international standards in relations to the San Francisco Peaks and other Native American sacred sites, and that it take appropriate remedial action." *Id.* at 52.
- ii. "In this connection, the [United States] Government should reinitiate or continue consultations with the tribes whose religious practices are affected by the ski operations on the San Francisco Peaks and endeavor to reach agreement with them on the development of the ski area. The [United States] Government should give serious consideration to suspending the permit for the modifications of Snowbowl until such agreement can be achieved or until, in the absence of such an agreement, a written determination is made by a competent government authority that the final decision about the ski area modifications is in accordance with the United States' international human rights obligations." *Id.*
- iii. "The Special Rapporteur wishes to stress the need to ensure that actions or decisions by [the United States] Government agencies are in accordance with, not just domestic law, but also international standards that protect the right of Native Americans to practice and maintain their religious traditions. The Special Rapporteur urges the [United States] Government to build on these programs and policies to conform to international standards and by doing so to establish a good practice and become a world leader that it can in protecting the rights of indigenous peoples." *Id.*

## **Section 2. Acknowledging the Special Rapporteur Report**

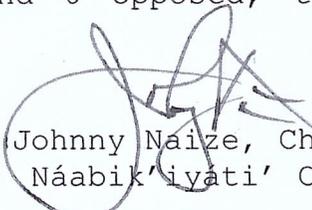
The Navajo Nation hereby acknowledges Special Rapporteur S. James Anaya's report and expresses its sincere appreciation for his work and presentation of the report to the United Nations Human Rights Council on September 20, 2011.

**Section 3. Authorization**

- A. The Navajo Nation hereby authorizes the Navajo Nation President and Vice-President and Speaker of the Navajo Nation Council to request United States of America President Barack Obama to immediately suspend the permit issued by the United States Forest Service to develop the system to use reclaimed water to produce artificial snow on San Francisco Peaks.
  
- B. The Navajo Nation hereby authorizes the Navajo Nation President and Vice-President, the Speaker of the Navajo Nation Council, their designees, and the Navajo Nation Human Rights Commission to attend the 18<sup>th</sup> session of the United Nations Human Rights Council at Geneva, Switzerland to ensure that the nations/states receive the Navajo Nation's urgent intervention that the United States of America has violated the human rights of the Navajo people by not abiding by the international binding treaties requirement that the United States secure the Navajo people's consent freely, without coercion or misinformation.
  
- C. The Navajo Nation hereby authorizes the Navajo Nation President and Vice-President, the Speaker of the Navajo Nation Council, their designees, and the Navajo Nation Human Rights Commission to do all things necessary to protect and advocate for the human rights of the Navajo people as they pertain to the San Francisco Peaks, sacred site for the Navajo people.

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the Náabik'iyáti' Committee of the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation(Arizona) at which a quorum was present and that the same was passed by a vote of 14 in favor and 0 opposed, this 23<sup>rd</sup> day of September 2011.

  
 Johnny Naize, Chairperson  
 Náabik'iyáti' Committee

Oct 05, 11

Motion: Joshua Lavar Butler  
 Second: Elmer P. Begaye

Date