

Navajo Nation Human Rights Commission

2013 Shadow Report

Regarding the United States of America fourth periodic report on the International Covenant on Civil and Political Rights as it relates to indigenous peoples' sacred places and free, prior and informed consent.



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On behalf of the Navajo Nation, the Navajo Nation Human Rights Commission (“Commission”), we thank you for the opportunity to present the Commission’s shadow report (“Report”) regarding the United States of America (“United States”) fourth periodic report on the International Covenant on Civil and Political Rights (“Covenant”) as it relates to indigenous peoples’ sacred places and free, prior and informed consent. In addition, this Report will provide specific examples of where the United States’ laws and policies contradict the United States report¹ to the United Nations Committee on Human Rights (“Committee”) concerning the Covenant.

I. INTRODUCTION

In December 1966, the United Nations General Assembly passed the Covenant, which commits its parties to recognize the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, and the right to due process. The Covenant expresses and states the inherent rights of the United States’ Indigenous Peoples (“Native Americans”) and ensures that Native Americans are consulted – that their free, prior and informed consent is obtained – regarding matters that directly affect their interest.

In addition, the Covenant sets the standard for Native Americans to protect their sacred places. Since colonization and the assimilation of Native Americans into Western thinking, the United States law and policy has failed to protect and preserve sacred places or obtain its Native Americans’ free, prior and informed consent on business developments that directly affect their interest. The Navajo Nation and Navajos consider the San Francisco Peaks (“Peaks”) located near Flagstaff, Arizona, sacred. The Peaks constitute one of the six Navajo sacred mountains.²

II. THE SAN FRANCISCO PEAKS

The sacred mountains serve as the foundation of the Navajo Life Way. The mountains – the Mount Blanca to the East, Mount Taylor to the South, the Peaks to the West, and Mount Hesperus to the North – represent the sacred elements of earth, fire, water and air. Each element symbolizes freedom, cultural integrity and dignity, language, and spirituality and ceremony. Each element of the mountains is inextricably linked to a Navajo person’s mental, physical, and spiritual health. The remaining two mountains are Huerfano Mesa to the Center and Gobernador

¹ *Consideration of reports submitted by States parties under article 40 of the Covenant*, Rep. U.N. Human Rights Comm., 109th Sess, Oct. 14, 2013—Nov. 1, 2013, U.N. Doc. CCPR/C/USA/4 (May 22, 2012) [hereinafter *USA Fourth Report*]

² Resolution of the Navajo Nation Council, CN-69-02 (11/08/2002) (stating that Navajo (Diné) Natural Law recognizes the six sacred mountains of the Navajo Nation: Mount Blanca near Alamosa, Colorado; Mount Taylor near Grants, New Mexico; the San Francisco Peaks near Flagstaff, Arizona; Mount Hesperus near Durango, Colorado; and Huerfano Mesa and Gobernador Knob, both near Bloomfield, New Mexico).

Knob to the East of Center. When one of these mountains and elements is harmed, it throws the Navajo Life Way out of balance and weakens Navajo ceremonies and prayers.³

For example, the Navajo blessing way ceremony involves physical elements from the mountains, prayers, songs, and chants that are systematically arranged and recited in a clockwise fashion according to the six sacred mountains. Elements from each mountain are contained in a sacred medicine bundle. Each bundle is individually tied according to the formation and order of the sacred mountains. The ceremonies and prayers performed by a medicine person give strength and stability to one's thinking, planning, and life.⁴ The mountains serve as the basis for the Navajo fundamental and natural laws that guide the Navajo people and the Navajo Nation government. It is our responsibility to care for each sacred place because they are the home to our deities and they are the home to the Navajo people.

Since 1937 to present day, the Navajo Nation and the Navajo people have opposed the development of the Arizona Snowbowl Resort Limited Partnership (“Snowbowl”). In 1937, the Navajo Nation and Navajo traditional practitioners filed a federal lawsuit to halt the skiing activities on the Peaks. However, the Navajo Nation and Navajo traditional practitioners lost the federal lawsuit case. In the 1960s and 1981, the Navajo Nation again filed federal lawsuits to halt the construction and development of the Snowbowl on the Peaks. The Navajo Nation lost both federal lawsuit cases. All three federal lawsuit cases were argued under the United States Constitution’s religious freedom claim.⁵

In 2004, the Navajo Nation filed its fourth federal lawsuit with the United States Ninth Circuit Courts of Appeals (“Ninth Circuit”) to prevent the Snowbowl, who has a special use permit that allows it to operate a ski area on federal land by the United States Department of Agriculture Forest Service (“Forest Service”), from using recycled wastewater to produce artificial snow on the Peaks⁶ pursuant to the American Indian Religious Freedom Act of 1978, the National Historic Preservation Act of 1966, the National Environmental Policy Act of 1969, and the Religious Freedom Restoration Act of 1993 (“Acts”). Unfortunately, the Acts failed to protect the Peaks from desecration and economic exploitation.

The Navajo Nation then petitioned for Writ of Certiorari in the United States Supreme Court (“Supreme Court”).⁷ On June 8, 2009, the Supreme Court declined certiorari and upheld the

³ Resolution of the Navajo Nation Human Rights Commission, NNHRCFEB-12-12 (02/03/2012) (Statement from the Diné Hataalii Association, Inc., Diné Medicine Man Association, and Azee Bee Nagaghá of Diné Nation to the Committee on the Elimination of Racial Discrimination).

⁴ Interview by Leonard Gorman with Anthony Lee, President, Diné Hataalii Association, in St. Michaels, Ariz. (June 20, 2011).

⁵ E-mail from Tony Joe, Supervisory Anthropologist, Navajo Nation Historic Preservation Department, Traditional Culture Program, to Rodney L. Tahe, Policy Analyst, Office of Navajo Nation Human Rights Commission (Dec. 19, 2011, 10:21 a.m. MST).

⁶ *Navajo Nation v. U.S. Forest Serv.*, 479 F.3d 1024, 1025-26 (9th Cir. 2007).

⁷ *Navajo Nation v. U.S. Forest Serv.*, 535 F.3d 1058 (9th Cir. 2008), *petition for writ filed*, WL 355746, U.S. Feb. 6, 2009 (No. 08-846), at 12.

Ninth Circuit en banc ruling, which authorized the Snowbowl to use recycled wastewater to produce artificial snow.⁸ On May 24, 2011, the Snowbowl began construction to install a water pipeline for producing artificial snow. The Navajo Nation continues to oppose the Snowbowl's efforts because the use of recycled wastewater will contaminate the soil and medicinal vegetation needed to perform ceremonies and prayers. The use of recycled wastewater will prevent Navajo traditional medicine persons from effectively treating his or her patient. Moreover, the cultural integrity of the Navajo people depends on the Peaks remaining pure. The Navajo Nation maintains the six sacred mountains, including the Peaks, must be "respected, honored, and protected for they are the foundation of the Navajo Nation."⁹

To date, the legal battle to halt the use of recycled wastewater to produce artificial snow and to protect the Peaks continues. It is disappointing to know the legal system, the courts, will continue to rule in favor of the Forest Service and Snowbowl. On Thursday, February 9, 2012, the Ninth Circuit upheld a district court decision dismissing the lawsuit filed by the Save Peaks Coalition against the Forest Service and Snowbowl to protect the Peaks from artificial snow making from reclaimed wastewater.¹⁰ Ninth Circuit Judge Milan D. Smith, Jr. wrote, "[t]his case represents a gross abuse of the judicial process. Just when Defendants-Appellees [Forest Service] and Joseph P. Stringer [Forest Service], and Intervenor-Defendant [Snowbowl] had successfully defended an agency decision to allow snowmaking at a ski resort on federal land all the way to the [Supreme Court], 'new' plaintiffs appeared."¹¹ The Ninth Circuit declared that the Save the Peaks lawsuit rehashed the first lawsuit with the same attorney and some of the same plaintiffs.

III. INDIGENOUS SACRED AREAS

Though the United States government possesses a general trust responsibility towards its Native Americans in the United States, it has not protected the cultural properties important to the Navajo people. In fact, the United States frequently allows for the desecration and economic exploitation of Native Americans' sacred places for the financial and recreational benefit of non-Native American business owners and the non-Native American public. While the United States' report to the Committee states, "the [Obama] Administration has taken a number of steps to strengthen the government-to-government relationships between the United States and federally recognized tribes,"¹² none of these steps include filling the gaps where United States' law and policy fail to protect and preserve sacred places, particularly under the American Indian Religious Freedom Act of 1978 ("Freedom Act") or the Religious Freedom Restoration Act of 1993.

⁸ *Navajo Nation v. U.S. Forest Serv.*, cert. denied, 129 S. Ct. 2763 (2009).

⁹ Resolution of the Navajo Nation Council, CN-69-02 (11/08/2002) §5(B) (amending Title 1 of the Navajo Nation Code to recognize the Fundamental Laws of the Dine).

¹⁰ Gale Courey Toensin, *Ninth Circuit Allows Recycled Sewage on Sacred San Francisco Peaks*, Indian Country Today Media Network.com, <http://indiancountrytodaymedianetwork.com/2012/02/10/ninth-circuit-allows-recycled-sewage-on-sacred-san-francisco-peaks-97013> (last visited on April 5, 2012).

¹¹ *Id.*

¹² See USA Fourth Report, *supra* note 1, at 3.

The Freedom Act provides a federal policy to “protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions. . . including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.”¹³ The Freedom Act directs the federal agencies to consult with native traditional religious leaders to determine what changes need to occur within the federal policy.¹⁴ One change made to the federal policy was Executive Order 13007, which encourages agencies to “preserve and protect” indigenous peoples’ religion and practices.¹⁵ However, the Executive Order creates no substantive rights or remedies indigenous peoples religious practice.¹⁶ The Executive Order states that it may not be used to “impair enforceable rights to use Federal land that have been granted to third parties.”¹⁷

Despite the fact that United States government intended for the Freedom Act to provide protection for sacred sites, the Supreme Court consistently finds against Native Americans’ efforts to protect and preserve places located on federal public land.¹⁸ Furthermore, the Freedom Act suggests that indigenous peoples “enjoy protection of sacred sites beyond the Constitution; the reality is that they enjoy less protection and freedom than other American individuals and groups”¹⁹ because the statute is void of legal rights enforceable against any person or entity.²⁰ In fact, the Freedom Act is routinely thought of as having “no teeth.”²¹ The United States continues to effect policies that are mainly procedural with no substantive rights such as the signed “Memorandum directing every federal agency to develop plans to implement fully Executive Order 13175 on ‘*Consultation and Coordination with Tribal Governments*,’ which mandates that all [federal] agencies have a process to ensure meaningful and timely input by tribal officials in the development of certain policies that have tribal implications.”²²

In November 2010, the Forest Service held public listening sessions throughout the United States to reach out to the Native American communities, which included indigenous leaders, culture-keepers, and traditional practitioners as part of the Executive Order 13007 and 13175 consultation process to help review existing policies and procedures, and examine the effectiveness of current laws and regulations to ensure a consistent level of protection for sacred

¹³ 42 U.S.C. § 1996 (2011).

¹⁴ *Id.*

¹⁵ Exec. Order No. 13007, Fed. Reg. 26771 (May 24, 1996).

¹⁶ Sandra B. Zellmer, *Cultural and Historic Resources, Sacred Sites and Land Management in the West*, Rocky Mountain Law Special Institute, Ch. 3 (2003).

¹⁷ Exec. Order No. 13007, *supra* note 15, at § 4.

¹⁸ *See Navajo Nation*, 535 F.3d at 1058 (Fletcher, J. dissenting) (stating majority “misunderstands the very nature of religion . . . the religious significance [of the San Francisco Peaks] is of centuries’ duration.”); *Lyng v. Nw. Indian Cemetery Protective Ass’n*, 485 U.S. 439, 477 (Brennan J. Dissenting) (stating majority makes a mockery of Indian religious freedom federal policy.”).

¹⁹ Kristen A. Carpenter, *Real Property and Peoplehood*, 27 STAN. ENVTL. L.J. 313, 362 (2008).

²⁰ Zellmer, *supra* note 16, at 10, n. 161.

²¹ Rebecca W. Watson, *Managing Cultural Resource Issues on Indian Lands*, Rocky Mountain Mineral Law Foundation (2011). *See also Lyng*, 485 U.S. at 455 (ruling that “nowhere in [Freedom Act] is there so much as a hint of any intent to create a cause of action or any judicially enforceable right.”).

²² *See USA Fourth Report*, *supra* note 1, at 3.

sites located on National Forest System lands for Native Americans.²³ In July 2012, the United States Department of the Interior Bureau of Indian Affairs (“Indian Affairs”) followed suit and held public listening sessions to “address tribal concerns regarding sacred sites... [and develop] practices or policies to protect sacred sites.”²⁴

The Commission appealed to the Forest Service in December 2012²⁵ and Indian Affairs in October 2012²⁶ to abandon and replace the words “sacred sites” with “sacred places.” The Commission in December 2011 wrote the Navajo Nation President response on the draft report to the United States Department of Agriculture on the Forest Service’s policy and procedure review on sacred sites. In addition, the Commission in October 2012 wrote the Diné Hataa’ii Association, Inc., Diné Medicine Men Association, Inc., and Azee’ Bee Nahaghá of Diné Nation recommendations to the Indian Affairs on developing policies and decision-makings that affect the Navajo people when it comes to sacred sites on and off the Navajo Nation. By abandoning and replacing the words “sacred sites” with “sacred places,” both federal agencies acknowledge that “sacred places” encompasses both sacred sites and the surrounding area. By using a more comprehensive language like “sacred places,” both federal agencies recognizes that places sacred to the Navajo Nation and Navajo people are not limited to specific landmarks or sites. Sacred places encompass places such as, but not limited to, federal or state public lands, landmarks, mountain ranges, water areas, canyons, and other places located on indigenous nations aboriginal territory. All sacred places located both on and off the current boundaries of indigenous nations are entitled to protection, which both federal agencies must provide to Native Americans as a matter of federal trust responsibility and international indigenous human rights policy.

Unfortunately, in December 2012, the Forest Service stated in its final report²⁷ to Native Americans after reviewing its existing policies and procedures that the Forest Service “does not, by itself, change policy or have any effects... and does not constitute final agency action.”²⁸ The final report further said, the “Forest Service does not intend for the concept of sacred places to replace sacred sites in [Executive Order] 13007”²⁹ because “sacred sites are limited to discrete, specific locations, while a sacred place might be larger scale geographic feature”³⁰ such as the

²³ Letter from Harris D. Sherman, Under Secretary, Natural Resource and Environment, and Thomas L. Tidwell, Chief, U.S. Forest Service, Office of the Secretary, U.S. Department of Agriculture, to Interested Tribal Participant (November 3, 2010) (on file with author).

²⁴ Letter from Donald E. Laverdure, Acting Assistant Secretary – Indian Affairs, Office of the Secretary, U.S. Department of the Interior, to Tribal Leader (July 27, 2012) (on file with author).

²⁵ Letter from Ben Shelly, President, Navajo Nation, to Thomas James Vilsack, Secretary, U.S. Department of Agriculture (December 12, 2011) (on file with author).

²⁶ Joint Resolution of the Diné Hataa’ii Association, Inc., Diné Medicine Men Association, Inc., and Azee’ Bee Nahaghá of Diné Nation (10/16/2012) (Approving the Communication to the United States Department of [the] Interior Regarding the Listening Sessions on Sacred Sites and Authorizing the Submission of the Same).

²⁷ U.S. Dep’t of Agric. Forest Service Off. of Tribal Relations, *Report to the Secretary of Agriculture. USDA Policy and Procedures Review and Recommendations: Indian Sacred Sites*, December 2012, available at <http://www.fs.fed.us/spf/tribalrelations/documents/sacredsites/SacredSitesFinalReportDec2012.pdf>

²⁸ *Id.* at 1.

²⁹ *Id.* at 18.

³⁰ *Id.* at 18.

Peaks. The definition limiting sacred sites to “specific, discrete, narrowly delineated locations”³¹ of “religious significance”³² is too narrow and inconsistent with the Navajo Nation and Navajo people’s view of sacredness. The use of “sacred places” is the appropriate terminology when referring to areas identified by Native Americans as having a religious, spiritual and cultural significance. The terminology “sacred places” does not diminish the size and element of a sacred location like the terminology of “sacred sites;” and is an accurate way of referring to places in their entirety such as the Peaks. The narrowness and inconsistency of the definition of a sacred site jeopardizes the sacred places for the Navajo people.

The Navajo Life Way is in jeopardy because the United States has not exercised its legal, political, and moral responsibility towards its Native Americans to protect indigenous sacred places and cultural property. The Forest Service authorized use of recycled wastewater to produce artificial snow for winter sports desecrates one of the six sacred mountain because the fecal matter, blood, toxins, and other waste matter the water contains spoils the purity of the Peaks. Man-made snow, whether from recycled wastewater or potable water, is a manipulation of nature and should not be mimicked by man. The natural cycle of weather phenomena is strictly reserved for the deities and if mocked, will create an imbalance between the sacred elements, thus harming the Navajo Life Way.

IV. FREE, PRIOR AND INFORMED CONSENT

In December 2010, President Obama announced the United States’ support for the United Nations Declaration on the Rights of Indigenous Peoples (“Declaration”) and stated the *Announcement of [United States] Support*³³ “underscores the [United States] commitment to strengthening the government-to-government relationships with federally recognized tribes and furthering [United States] policy on indigenous issues” including “consultation with tribes.”³⁴ The *Announcement of [United States] Support* was to signify “an important and meaningful change in the [United States] position”³⁵ on consultation but to date, the United States policy on consultation remains in place.

The Commission has asked not only the Forest Service and Indian Affairs, but the United States government, to abandon the terminology of “consultation” and replace it with the Declaration’s standard of “free, prior and informed consent.” The Commission agrees and understands that communication is important in strengthening the government-to-government relationships to protect sacred sites, circumvent the relocation of Navajos, and the development and use of the

³¹ Exec. Order No. 13007, Fed. Reg. 26771 (May 24, 1996).

³² *Id.*

³³ U.S. Dep’t of State, “*Announcement of U.S. Support for the United Nations Declaration on the Rights of Indigenous Peoples: Initiatives to Promote the Government-to-Government Relationship & Improve the Lives of Indigenous Peoples*,” available at <http://www.state.gov/documents/organization/153223.pdf> (last visited June 14, 2013).

³⁴ See USA Fourth Report, *supra* note 1, at 6.

³⁵ *Id.*

lands, territories and resources, but the terminology “consultation” limits the Navajo Nation and its people concerns of the negative impact because the current consultation policy mandated by Executive Orders 13007 and 13175 does not provide for consent. Providing the Navajo Nation and Navajo people with information about a proposed decision and gathering and taking into account their points of view is not sufficient in the context of their sacred places, forced relocation, and the development and use of lands, territories and resources.

The on-going assault, whether voluntary or involuntary, on the Navajo Nation and Navajo people continues today when the United States allows for proposed developments by domestic and international companies on or near sacred places without the consent of the Navajo Nation. For instead, the Commission and [Navajo] Medicine Men’s Association, Inc. strongly oppose the proposed development of uranium mining on and near the sacred mountain Mount Taylor located near Grants, New Mexico known as the La Jara Mesa Mine Project³⁶ and Roca Honda Mine Project.³⁷ Both proposed uranium mining must seek the permission and approval from the Forest Service before any development begins. The Navajo Nation and its people have opposed the United States’ claim to its traditional homeland, which included Mount Taylor, and remains opposed to the desecration of this sacred place for the vital continuance of the Navajo Life Way. Furthermore, the on-going development of these sacred places prevents the Navajo Nation and Navajo people from exercising the right to consent in matters that directly affect Navajo interests. In September 2011, the United Nations Special Rapporteur on the Rights of Indigenous Peoples, Professor S. James Anaya, transmitted these sentiments to the United Nations Human Rights Council.³⁸

The Special Rapporteur’s report, entitled *Report by the Special Rapporteur on the [R]ights of [I]ndigenous [P]eoples*, states that stake holders’ human rights to free, prior and informed consent have been violated regarding the desecration of the Peaks because the United States did not comply with the requirements under the Covenant and the International Convention on the Elimination of All Forms of Racial Discrimination, which the United States is a party. In addition, the Special Rapporteur reported 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 (the context of free, prior and informed consent).”³⁹ Consultation must occur through procedures of dialogue aimed at arriving at a consensus. Under the same premise, the United States has not complied with the requirements under the Covenant or the Declaration’s standard of free, prior and informed consent for the protection of Mount Taylor, a sacred mountain.

³⁶ Resolution of the Navajo Nation Human Rights Commission of the Navajo Nation, NNHRCJULY-23-12 (07/09/2012) (Opposing the Continuing Desecration of Mount Taylor near Grants, New Mexico for Economic Exploitation).

³⁷ Letter from Henry Barber, President, Diné Medicine Men’s Association, Inc. to Cibola National Forest (May 13, 2013) (on file with author).

³⁸ *Report by the Special Rapporteur on the rights of indigenous peoples*, Rep. of Human Rights Council, 18th Sess., Aug. 22, 2011, U.N. Doc. A/HRC/18/35/Add.1; UN. GAOR, 65th Sess., (Sept. 14, 2011).

³⁹ *Id.* at 48.

The Navajo Nation and Commission finds it difficult that the United States have failed to abide by international treaties to which it has declared a commitment to, including the Covenant, but also has failed to abide by its own laws, policies, regulations and rules. Case in point, Mount Taylor has been designated as a Traditional Cultural Property (“Cultural Property”) under the United State government guidelines and in 2008, it was determined that the sacred mountain is eligible for listing on the National Register of Historic Places (“Historic Places”). Mount Taylor meets the criteria of the Cultural Property because its significance is derived from its role in the traditionally rooted beliefs, customs and practices of the Navajo people.

Mount Taylor is more than a sacred site; it’s a sacred place encompassing the adjacent mesas and plateaus. Furthermore, Mount Taylor is eligible for addition in the “Historic Places because of its significant association with traditional cultural uses” and “its association with spiritual beings” that’s important in “oral traditions” of the Navajo people according to the National Register Bulletin 38:1.⁴⁰ According to the Cultural Property, a Cultural Property is eligible for the Historic Places “because of its association with cultural practices or beliefs of a living community that are (a) rooted in the community’s history and (b) are important in maintaining the continuing cultural identity of the community.”⁴¹ The La Jara Mesa and Roca Honda Mining Projects reflect the failure of the United States to intervene on behalf of the Navajo Nation who expect the United States to live up to its trust responsibility; such failure to act on behalf of the Navajo Nation and its people ignores the human rights of Native Americans as they pertain to their innate relationships with their traditional lands, territories, sacred sites and environment. Moreover, these proposed uranium mining projects represent another effort to ignore the international human rights standards that the United States must secure the free, prior and informed consent of indigenous peoples when proposed decisions affecting indigenous peoples’ religion, culture, lands, territories and resources are entertained by the United States government.

V. CONCLUSION

During the 2008 United States Presidential Election, then-Senator Barack H. Obama called for religious freedom, cultural rights and sacred places protection for Native Americans as part of his policy platform. Then-Senator Obama said, “Native American sacred places and site-specific ceremonies are under threat from development, pollution, and vandalism. Barack Obama supports legal protections for sacred places and cultural traditions, including Native ancestors’ burial grounds and churches.”⁴² For this reason, many indigenous leaders and nations endorsed and voted for President Obama in 2008 and 2012. However, the United States’ report to the Committee does not reflect the United States commitment on protecting indigenous peoples’

⁴⁰ U.S. Dep’t Agric., MB-R3-03-17, Draft Environmental Impact Statement for the La Jara Mesa Mine Project: Mt. Taylor Ranger District, Cibola National Forest, Cibola County, New Mexico (March 2012), at 154.

⁴¹ *Id.*

⁴² National Congress of American Indians, *Barack Obama’s Principles For Stronger Tribal Communities*, <http://www.ncai.org/consultations/Barack%20Obama%27s%20Principles%20for%20Stronger%20Tribal%20Communities.pdf> (last visited on April 5, 2012).

sacred places and obtaining Native Americans' free, prior and informed consent on matters that directly affect their interest. In fact, this Report provided specific examples where the United States' laws and policies contradict the United States report to the Committee concerning the Covenant.

Navajo Natural Law states and teaches that all life, including Mother Earth, is sacred and recognizes the obligation Navajos have "to respect, preserve and protect" all that was provided by the Holy People.⁴³ Navajo Natural Law expresses that the rights and freedoms of the people to use the sacred elements of life, the land and sacred sites must be used with the proper protocol of respect and offering, and that such practices must be protected and preserved since it serves as the foundation of religious ceremonies and the Navajo Life Ways.⁴⁴ Moreover, Navajo Natural Law states, "it is the duty and responsibility of the [Navajo people] to protect and preserve the beauty of the natural world for future generations."⁴⁵ And that is what the Commission is tasked to do for the Navajo people and preservation of the Navajo Life Way.

In 2010, President Obama at the second White House Tribal Nations Conference said, "I want to be clear: What matters far more than words -- what matters far more than any resolution or declaration -- are actions to match those words."⁴⁶ The Navajo Nation and Commission encourages the Committee to remind the President Obama and United States to uphold its commitments and trust responsibilities to protect indigenous peoples' sacred places and start embracing the Declaration's standard of free, prior and informed consent, especially as it relates to indigenous peoples' sacred places. More importantly, the Commission encourages the Committee to reference this Report in questioning the United States on measures not taken to guarantee the protection of indigenous peoples' sacred places and how indigenous peoples are not consulted by means of "free, prior and informed consent" on matters that directly affect their interest.

⁴³ Resolution of the Navajo Nation Council, CN-69-02 (11/08/2002) §5(A) (amending Title 1 of the Navajo Nation Code to recognize the Fundamental Laws of the Dine).

⁴⁴ *Id.* at §5(B).

⁴⁵ *Id.* at §5(G).

⁴⁶ President Barack H. Obama, Remarks by the President at the White House Tribal Nations Conference (December 16, 2010).