

RESOLUTION OF THE
NAVAJO NATION COUNCIL

21st NAVAJO NATION COUNCIL - Third Year, 2009

AN ACTION

RELATING TO AN EMERGENCY; AFFIRMING THE NAVAJO NATION'S OPPOSITION TO THE DESECRATION OF DOOK'O'OOSLIÍD (SAN FRANCISCO PEAKS) AND URGING ACTIVE PARTICIPATION BY THE ADMINISTRATION OF PRESIDENT OBAMA TO FULFILL PRESIDENT OBAMA'S COMMITMENTS AND THE UNITED STATES' OBLIGATIONS TO THE NAVAJO NATION AND ALL FIRST AMERICANS

BE IT ENACTED:

1. The Navajo Nation hereby finds that the proposed desecration of Dook'o'oosliíd (San Francisco Peaks) and the en banc opinion in Navajo Nation, et al. v. United States Forest Service, et al., 535 F.3d 1058 (9th Cir. 2008), constitute an emergency matter which directly threatens the sovereignty of the Navajo Nation.

2. The government of the United States, through the U.S. Forest Service, approved, inter alia, the use of 100% reclaimed sewer water to make snow at a privately run ski area on federal land.

3. The ski area, known as Arizona Snowbowl, is located on the San Francisco Peaks, which are environmentally sensitive and well documented as sacred to thirteen of the Native American tribes in the southwestern United States, including the Navajo Nation.

4. The San Francisco Peaks, which in Navajo are called Dook'o'oosliíd, are one of the four sacred mountains of the Navajo people. As recognized by the U.S. Forest Service, "Dook'o'oosliíd in general, and Mount Humphrey in particular (where the Snowbowl ski area is located), are sacred to members of the Navajo Tribe of Indians. Dook'o'oosliíd has a unique religious significance on their daily lives; it has complete bearing on their daily personal lives and the longevity of existence for these members of the tribe, and has

complete connection with daily songs and prayers to their super-natural beings."

5. The U.S. government approval and defense of the anticipated clearing, grading, and the use of reclaimed sewer water to make snow on Dook'o'osliíd is a direct and knowing assault on the sovereignty, the culture, the beliefs, and the lives of the Navajo people.

6. The Navajo Nation, the Hopi Tribe, the Havasupai Tribe, the White Mountain Apache Tribe, the Yavapai-Apache Nation, the Hualapai Tribe and others filed suit in federal court to stop this government sponsored desecration of a well documented sacred and holy site, and that suit is now pending on a Petition for Certiorari, filed by the Navajo Nation and others, to the United States Supreme Court, S.Ct. No 08-846, with a response by the Solicitor General due on or about May 8, 2009.

7. The United States Supreme Court has previously withdrawn/denied First Amendment rights to the Tribes and Native peoples when it comes to, what the government calls, federal land management decisions; the pending litigation was brought pursuant to the Religious Freedom Restoration Act, 42 U.S.C. §§ 2000bb-2000bb-4 ("RFRA") - which now represents the last chance for the Navajo Nation and Native American Tribes across the country to protect their sovereignty, practice their religions, and to survive as a people.

8. The United States of America ("United States"), as a member of the Organization of American States, has stated in the preamble of the American Declaration of the Rights and Duties of Man (adopted by the Ninth International Conference of American States, 1948) that "[s]ince culture is the highest social and historical expression of that spiritual development, it is the duty of man to preserve, practice and foster culture by every means within his power." Under Article III of the American Declaration of the Rights and Duties of Man, the United States has stated that "[e]very person has the right freely to profess a religious faith, and to manifest and practice it both in public and in private."

9. On June 1, 1977, the United States signed onto the American Convention on Human Rights in which, at Article 12 Freedom of Conscience and Religion, states: "1) Everyone has the right to freedom of conscience and of religion. This right includes freedom to maintain or to change one's religion or beliefs, and freedom to profess or disseminate one's religion or beliefs, either individually or together with others, in public or in private; 2) No one shall be subject to restrictions that might impair his freedom to maintain or to change his religion or beliefs; 3) Freedom to manifest one's religion and beliefs may be subject only to the limitations prescribed by law that are necessary to protect public safety, order, health, or morals, or the rights and freedoms of others; and 4) Parents or guardians, as the case may be, have the right to provide for the religious and moral education of their children or wards that is accord with their own convictions."

10. On June 8, 1992, the United States ratified the International Covenant on Civil and Political Rights in which, at Article 27, the United States has agreed that "[i]n those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."

11. On September 13, 2007, the United Nations adopted Resolution 61/295, Declaration on the Rights of Indigenous Peoples ("Declaration"), by which the international community has made the effort to strengthen partnerships with States, indigenous peoples, and civil society as a whole. These developments provide a framework for strengthened engagement on indigenous peoples' issues at the country level. The Declaration recognizes that the "[i]ndigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard." Disappointingly, the United States was one of four States that voted against the Declaration. Without such commitment by the United States to protect the rights of its indigenous peoples, sadly the protection of holy and sacred sites such as Dook'o'oosliid will continue to yield to commercial interests.

12. President Obama has committed to honoring the government-to-government relationship between Native American tribes and the federal government and ensuring that treaty obligations are met.

13. President Obama has committed to treating Native American tribes with dignity, respect, fairness and honesty and has given assurances that Native American tribes will have a voice in Washington.

14. The Navajo Nation hereby affirms the Navajo Nation's opposition to the desecration of Dook'o'osliíd, as previously set forth in Navajo nation Council resolutions CJY-48-98 and CAP-32-05.

15. The Navajo Nation hereby requests that representative(s) of the Administration of President Obama, who possess the authority to make decisions impacting this matter, meet with counsel and representatives of the Navajo Nation (and other Tribes) to work out a way to stop the desecration and destruction of Dook'o'osliíd and other sites that are holy and sacred to the Navajo Nation and other Native American tribes across the country.

16. The Navajo Nation requests that this meeting take place on an expedited basis, if possible prior to May 8, 2009, which is the date that the Solicitor General's response Brief on Certiorari is due to the Supreme Court.

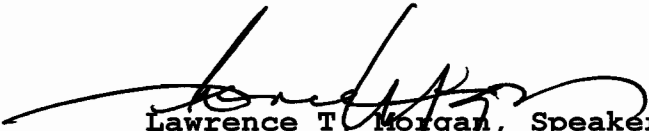
17. The Navajo nation, in the alternative, request that the Obama Administration aggressively champion passage of legislation that protects Dook'o'osliíd and other sites that are holy and sacred to the Navajo Nation and other Native American tribes across the country and that the Administration work with the Navajo Nation and other tribes to that end.

18. The Navajo Nation, also formally requests that President Obama, on behalf of the United States and its indigenous peoples, sign onto the Declaration without delay and stands firm with its commitment to protecting and preserving holy and sacred sites of indigenous peoples within the United States.

19. The Navajo Nation hereby authorizes the Navajo Nation President, Speaker of the Navajo Nation Council, and their designees, to advocate for the Navajo people and the inherent sovereignty of the Navajo Nation that is embodied in the protection and preservation of Dook'o'osliid.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 60 in favor and 2 opposed, this 22nd day of April, 2009.


Lawrence T. Morgan, Speaker
Navajo Nation Council
24 Apr 09
Date

Motion: Jonathan Nez
Second: Idah Nelson