APPENDIX FOR PEAKS

**APPENDIX A SCIENTIFIC APPROACH**

Studies on wastewater were coming up with similar results in other areas of the country and all over the world. Endocrine disruptors and estrogen, found in creams, cosmetics and medications that mixed with wastewater, were affecting fish and wildlife all over the world. However, all the scientific studies that were presented by external scientists were rejected in the EIS because they were not yet “peer reviewed” or not local to the specific area of the proposal. The scientists argued that science takes time and that in matters of unknown impacts to human health and delicate ecosystems, the cautionary principle is preferred. Tests and peer review can take several years. And many scientists would look at similar studies done in other areas as supportive of a hypothesis. Even the untested areas gave pause. Antibiotics had been found in the water too, and under the bright mountain sun, some like triclosan and triclocarban could break down into dreaded dioxin. Steroids, pharmaceuticals, cosmetics, and caffeine were also found in wastewater. The reclaimed water is not tested for any of these nor does the Environmental Protection Agency have authority to set levels for such chemicals because they were left out of the Clean Water Act. Yet some of these substances have the capacity of not only altering our personal physiology, but that of generations to come.

Compelling questions arise around water and climate change in this case that were left out of the policy decision processes on the San Francisco Peaks. And yet it seemed that science might be a unifying factor in developing alternatives. One set of scientific questions revolves around climate, hydrology and questions about recharging the aquifer and conserving drinking water. Was it prudent to remove the wastewater from its current function of recharging the aquifer and passing through another natural system of purification as it seeped back into the ground. Another set of questions arises around contaminants found in wastewater. If the cautionary principle was applied in this instance of potential negative effects to human and ecosystem health, what would a vision of the San Francisco Peaks look like? Finally, if all the findings were assessed in the context of possible amplification due to climate change, what would alternatives look like when issues were broadened to include the increasing instance of devastating wildfires in Arizona.

The issue of great interest was the existence of chemicals in the effluent water to be used in making artificial snow. The following article contains an important literature review on the subject as a resource to assess the credibility of science as it bears on this issue.

RESOURCES ON HYDROLOGY:

USGS Water Science Center (online)

USGS Water Resource of Arizona: 2002-2006 study by Catherine Propper  
Report Groundwater Flow Model : Science Inv. Report 2010-5180

Arizona Water Science Center: Realtime streamflow models  
State of Arizona: regulations on use of A+ recycled wastewater.   
Final Environmental impact statement for Arizona Snowbowl facilities improvements proposal, Coconino National Forest, Southwest Region, 2005. (search fs.fed.us.gov or use draft copy in Appendix E.)

Comments on Final Environmental Impact Statement. Websites for Save the Peaks Coalition or Indigenous Action Network

RESOURCES ON CLIMATE CHANGE IMPACTS  
Hansen, James, “Global Warming: Beyond the Tipping Point” [www.scientificamerican.com/article.cfm?id=globall-warming-beyond-the-co2](http://www.scientificamerican.com/article.cfm?id=globall-warming-beyond-the-co2) 11/5/2010

Parker, Kathleen,”Super fires here: new tools needed” Santa Fe New Mexican,  
Sunday July 17, 2011, p. B-3.

“Facing the Storm: Indian Tribes, Climate-Induced Weather Extremes, and the  
 Future for Indian Country,” National Wildlife Federation, 2011.

“A Guide for Tribal Leaders on U.W. Climate Change Programs´, USFS and University of Oregon, (<Http://tribalclimate,uoregon.edu> updated June 2011)

**APPENDIX B THE LAWYERS APPROACH**

The protection of sacred sites has proved to be a conumdrum for federal agencies who manage the lands where they are located. The legal history has been complex and generally damaging to the protection of sacred sites. The following document is based on a conversation between Sam Deloria and Linda Moon Stumpff in Albuquerque, July 2011: it highlights some of the key areas of the controversy.

A Legal Dilemma: The Problem of Defining Religions Other Than Western Religions

A problem arises when a religious definition includes everything and where it is cultural. The cultural focus can be pervasive: “What is means to be a Navajo.” Both broader perspectives differ from the Western way of organizing the world where religion has specific meaning and is embedded in a structured, defined institutions. Other things of a spiritual and cultural nature for American Indians are not measurable in this way. Native spiritual beliefs and practices are religious-like in some ways and not in others (vision quest, blessings, special relationship to springs, bodies of water, animals). Still, is it possible to separate ritual practices and the spiritual tie leading to the need to access certain geological features and bodies of water unimpaired as sacred sites as distinct from the aspects that permeate the routine of everyday life? What is the religious or cultural right of access with regard to springs, clean cool water, and natural snow?

What does compelling interest really mean?

How does the centrality principle work?

Can you dismantle the ideas from the policy end and then from the spiritual end to get at the answers in ways the system can accommodate—like developing a set of standads and regulations?

**CENTRALITY**  
The current test is built around the idea of centrality: that a practice or place is so essential, that removal of access or denying a practice would result in extinction of a religion or a practice. A new standard and test of centrality is needed. More must be done beyond testifying to general sacredness. The idea of integrity, of an “unimpaired condition,” leads to the idea that “infringement can be understood as a forced or undesired change in the practice of a religion.” (Walker. Deward, Jr. 1991 in Weaver, pp. 226-7). This position is more amenable to fact finding. Walker asks:

1. Is the affected practice held by members of the group an essential part of the religion?   
   ---this implies an understanding of the function of the practice in the religion  
   ---this implies that practices may be prioritized
2. Are there alternatives to the practice (or place) acceptable to members of the group?  
   ---events connected to place that imbue it with special qualities? (shrine at the  
    place where the Virgin of Guadalupe appeared is not different than where the  
    Gan appeared is the same kind of shrine. Where Dukabesh shed tears of joy in  
    the high elevations of the Olympics that froze in ice and snow and became  
    cool, clear water for the Skokomish people is the same type of connection of  
    place to ritual practice requiring restraints from polluting its integrity.

Would removal or alteration of the practice impair or prevent other essential   
practice of the religion?  
  
---Prevention--inability to gather vegetation on a specific mountain in a pure state  
 could lead to lack of healing medicines and religious offerings to conduct a  
 ceremony, thus preventing the ceremony.  
 Is this different than banning the use of wine in Kansas, a dry state? If in a  
 religion, the wine becomes the Blood of Christ and is essential to the religion,  
 then how is it different than not being able to gather specific vegetation?   
---Impairment. If snow-making impairs the natural system of drainages and  
 recharging systems that conduct the flow of clean, drinkable water, then isn’t  
 the compelling interest, both for human health and Indian religion, joined in  
 this instance? If there was a test of centrality based in the concepts of   
 the indispensable and unimpaired, then you have to go to the Tribes for  
 the information. Anthropologists can’t answer this, any more than they  
 could answer the limits of impairment of using beverages other than wine  
 for communion.  
---The concept of integrity joins with ecological science in a review the facts. It   
 was alleged that the Snow bowl expansion only affected 1 per cent of the  
 Peaks. Yet it spreads the melting snow effluent over a much larger area of the  
 mountain and changes the existing quantity of recharge to the aquifers at the  
 base of the mountain, impairing the ecological integrity of those areas.

**Avenues for formulating new standards and agency policy guidelines**

1. The Sacred Sites Policy Review by the Forest Service.

2. Formulate a blanket list of similar actions as is done under the National Historic

Preservation Act. They sign off with Forest Service on a certain list of guidelines as to

how the FS will treat historic sites over a larger area, like California. Could the Forest

Service work to set up such an agreement with multiple Tribes across broad areas to

guide how sacred sites are treated?

3. Does the Council on Environmental Quality, which provides guidance to all federal

agencies and to Tribes on implementing the National Environmental Policy Act, need

to review its guidelines with regard to UNDRIP?(lms)

**ALTERNATIVES FOR THE SAN FRANCISCO PEAKS**

Several legal alternatives exist. Evaluate the following alternatives to develop a legal strategy.

ALTERNATIVE I. Since the permit has already been let, it is hard to undo because it is like a contract between the Forest Service and the developers of the Snow Bowl. The likelihood of an agency revisiting a decision in a way that would look like they were acting outside the law and appear that they spontaneously decided to break an existing contract-like permit, while humiliating the staff professionals and the line officers that prepared it, is poor. They followed their own policy guidelines and reflected on current case law. Then how could the administrative decision be re-opened and reviewed under UNDRIP? In that case, the President through the Secretary of Agriculture could order the decision revisited.

ALTERNATIVE II. A strong argument could be made that the Snow-bowl expansion area damages the wilderness values of the two adjacent areas established under the Wilderness Act and should be designated as wilderness. This would require coordination with the environmental organizations, wilderness advocates and Tribes. The process would be lengthy, perhaps 10-20 years, requiring Congressional legislation. Nevertheless, it could result in a new definition of wilderness areas that would be inclusive of the religious, spiritual, health and subsistence needs of Tribes. This could have broad implications benefitting Tribes in future wilderness legislation. Any area set aside as wilderness under the Act cannot be subject to development proposals. (added, lms, 8/26/11). Wilderness designation could include a proposal to remove the Snowbowl and essentially buy back the installation from its developers at market value. One might note the infamous Go-Road that brought the Native American Religious Freedom Act to the ground for the Klamath was later halted by wilderness designation of that area.

Alternative III. Sue the City of Flagstaff and the State of Arizona for violations of their own treated wastewater regulations.

Further thoughts: What does the current sacred sites policy review by the Forest Service mean? The full policy review is available on the Forest Service website. Could it be the basis for reversing the permit decision. Even then, to legitimize a course of action like revisiting the permit decision at the San Francisco Peaks, some process would be needed. If so, and the decision is revisited, the investors would likely open a tort claim, under which Snow bowl owners could get fair market value. Since the Snow bowl has been a losing proposition as a basis, this would reduce the amount of the claim. “You have a losing proposition; we will help you not to lose more.” Could a consortium of Tribes agree to reimburse the tort claim if it occurred? The claim itself could be paid from a pool of money held by the Treasury for that purpose that is often not use. Since the Forest Service at one point was willing to spend millions to require the purchase of drinking water instead of effluent, this might be cheaper. A syndicate could also purchase the Snow Bowl development and its permit, but the price would be inflated.

The situation resembles “Mission Impossible” from the 1960s, where the whole show depended on one technical expert. We need that guy. Who could coordinate a tribal effort? It would need participation of multiple Tribes--Navajo and Hopi, Toho’ona’od’ham, Yavapai Apache.

The following section is taken from the Executive Summary of the Forest Service’s Draft Report on Sacred Sites, 2011:

“What did we hear?

Three broad but distinctive themes emerged from these listening sessions:

I. People: The need for effective communications and relationships. Partnering with Tribes to manage Sacred Sites is critical to their protection. Although we heard many

success stories about successful partnering and communication between Tribes and the agency, we also heard about inconsistencies in Forest Service consultative/collaborative processes. Forest Service attempts at consultation are ineffective when done in ways that Tribes do not consider meaningful.

II. Law/Policy: The use of authorities and tools available to the Forest Service

We heard that land managers sometimes do not use discretion available to them in current laws and policies for the benefit of the Tribes. Listening session participants and Forest Service employees told us Sacred Site issues are not always weighed equally to competing “multiple uses” of the NFS. Tribes and agency employees expressed serious concerns with Executive Order 13007 and the 1872 Mining Law.

III. Actions/Land Management: Application of authorities and tools through agency

management activities In some instances, the Forest Service has recognized and protected Sacred Sites using currently available legal tools. Some NFS land management decisions and actions, and the activities of third parties, however, have led to damage, destruction, and desecration of Native American Sacred Sites. The consistent on-the-ground application of currently available tools could begin to reverse past harms to Sacred Sites.

**What else did we learn?**

The listening sessions and employee survey revealed that Native Americans and Forest Service managers share many of the same concerns about Sacred Sites protection. The broad themes developed from the listening sessions are consistent with the Forest Service employee survey. Forest Service managers would benefit from more explicit policy language to protect Sacred Sites. It is within the discretion of the agency under current law, regulation, and policy to provide for greater protection of Sacred Sites.

Some Tribes are grateful that their Sacred Sites are within NFS boundaries rather than owned by private individuals, companies, or other ownerships that might not value their cultural traditions.

**What recommendations did we make?**

Most of the recommendations made in this report are within the scope of the current authorities available to the Forest Service to implement, but are contingent on the availability of funding.”

Who speaks for the peaks? Political and Procedural Considerations**.**

The opinion of one Forest Service anthropologist determined that the Snow bowl expansion and artificial snow-making would have no significant effect on American Indian religious practice. This brings forth a procedural point about ineffective consultation and a political point about voice. What did the 13 Tribes who joined to protest against the Snow Bowl say about the religious function of the San Francisco Peaks? What opportunity did they have to speak? Was it early enough in the proposal process before the NEPA analysis began and the trajectory leading to signing the permit was already in place? Did the Forest Service follow adequate consultation processes with Tribes? Did they follow not only government to government consultation processes, but also consultation processes outlined under specific laws that required multiple consultations with elders and culture bearers besides consulting with tribal governments? Did they document these consultations and use them in making the decision? Did this meet the approach of the RFRA that suggests balancing “the centrality or indispensability of a practice or site to a Native religious tradition, as interpreted by the Natives themselves, against the claimed state interest opposing it” (Weaver, p. 227). (Note: important areas of RFRA were struck down as unconstitutional in 1997).

In some cases, like Mt. Shasta, that was a similar story of the Forest Service entertaining a proposal to enlarge a ski area on a mountain sacred to California Indian Tribes. The Tribes won after a battle of many years, using the Civil Rights Act rather than laws protecting Indian Religion.

**Key questions that need to be answered**.

1. What is the standard on protection for Indian religions?
2. How do we produce this into something that goes into the agency policy handbook on these issues?
3. The Treaty Rights Argument Court decisions lack an understanding or a definition of the “sacred.” It does not appear in the laws. Can you translate an Indian concept into non-Indian categories? This was done in the Boldt Decision. Based on treaty rights, Northwest Tribes were able to maintain their traditional and accustomed fishing grounds. Fishing provided a direct connection to a religious and spiritual practice given to the Tribes embedded in their religious beliefs and cultural practices. The court came to understand this. Shouldn’t treaty rights also protect American Indian religious freedom?  
     
     
   Cases of note:  
     
   1973 Richard and Jean Wilson file suit against Coconino County Board of Supervisors, the Coconino County Planning and Zoning Commission and Summit Properties/Post Company (to repeal zoning changes approved in Jan. 1970 to allow a massive resort development on private lands on Hart Prairie. County holds public forum and rejects rezoning requests.  
     
     
   Bruce Leadbetter, President of the Post Company, after defeat in the public  
   forum, files suit in behalf of Summit Properties against citizens Richard and Jean Wilson and others, the USFS, Coconino County Supervisor, the Museum of Northern Arizona and the Tuba City School District. Dropped lawsuit in 1977 when FS purchased lands  
     
   New lawsuit filed against further expansion efforts. Richard F Wilson against Secretary of Agriculture Block. (Hopi Tribe, Navajo Medicinemen’s Association, Jean Wilson. )  
     
     
     
   1978 new expansion proposals. Lawsuit by opponents. Judge Charles Richey grants a stay of implementation in March 1979.  
     
   1979 in federal courts in Washington DC: suits against Sec. of Ag John Block by the Hopi and Navajo, Navajo Medicine Man Association and the Wilsons. Richey rules plaintiffs have not met their burden of proof and denied motions for further review. May 14, 1982, he lifted stay of implementation.  
     
     
   1982 708F.2d 735  
   Appealed US Court of Appeals, DC Circuit-708 F2d 735 Argued Oct. 15, 1982  
   Decided May 20, 1983. (http://law.jurtis.com/cases/federal/appellate-courts/F2708735330037/  
     
     
   2005 New Lawsuit. Hopie Navajo, Yasvapai-Apache, White Mountain Apache, Havasupai and Hualapi filed suit on desecreation on one of the best documented Native American sites on Record. Joined by individuals and organizations: Sierra Club, Center for Biological diversity, etc.  
     
     
   2007 Appeal to 9th Circuit: 3 judge panel decides unanimously for plaintiffs. discussion of the risks posed by possible human ingestion….”  
     
   2008 En banc decision of panel of 9 Ninth Circuit judges overturns appeal ruling on a technicality but does not deal with issues surrounding the completeness of the FEIS 8/3 split along party lines. Fletcher dissents based on failure to analyze impacts of effluents. The majority wrote: “Use of reclaimed sewer water to make snow on a sacred site posed “no substantial burden” on the Plaintiff’s exercise of religion. The “only effect of the proposed upgrades is on the Plaintiffs’ subjective emotional religious experience.….diminishment of spiritual fulfillment-serious as it may be—is not a substantial burden on the free exerciser of religion.” Merely “damaged spiritual feelings.” Two of the three dissenting judges mentioned the RFRA and one wrote “religious exercise…involves a “subjective spiritual experience…the majority misunderstood the nature of religious beliefs and exercise…is an excuse for refusing to accept the Indians’ religion as worthy of protection….”. Shankar, representing the plaintiffs say court has taken on role as arbiter of religion.”  
     
   2010 New lawsuit Save the Peaks Coalition, et al vs USFS filed suit under the NEPA, challenging on failure to analyze impacts. Meanwhile, FS and Skibowl getting plans underway for clearcutting and pipelines, announce they expect to begin in summer 2010 despite lawsuit..   
     
   Dec.1 2010 Judge Mary H. Murguia (an Obama appointment) rules against plaintiffs request for an injunction to stop tree cutting and construction. . Judge claims plaintiffs barred from bringing this action by the doctrine of latches largely because of the near completion of the project (the project was not started yet. just the FEIS????). Murguia also rules FS adequately considered health impacts of effluent (controverting the decision of the 3 judge panel of the 9th Circuit that the FS had not considered this---no discussion of impacts in FEIS). She says they should have joined eith the Navajo Nation when it sued over religious freedom in 2005.  
     
   Appeal to 9th Circuit Court for an emergency injunction. stay of execution. Also failed..   
     
      
     
   APPENDIX C The Forest Service and the National Environmental Policy Act

If the Forest Service’s policy was changed with regard to sacred sites, it is possible that an administrative solution for protecting sacred sites is possible. It would be likely today that such a solution would need strong backing from the President and cooperation, if not legislative blessing, from Congress. Once in place, such a policy could assist the Forest Service in decision-making on sacred sites.

The full Draft Report on Sacred Sites is germane here. The following is taken from the Executive Summary of the Forest Service’s Draft Report on Sacred Sites, 2011:

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**What recommendations did we make?**

Most of the recommendations made in this report are within the scope of the current authorities available to the Forest Service to implement, but are contingent on the availability of funding.”

The Council on Environmental Quality could also greatly assist the agencies like the Forest Service by giving clear directions and standards for weighing the importance of considering the needs and requirements of American Indian religious use in its instructions for implementing NEPA.

Other strategies for resolution exist within a combined legal and administrative sphere.

**ALTERNATIVES FOR THE SAN FRANCISCO PEAKS**

ALTERNATIVE I. Since the permit has already been let, it is hard to undo because it is like a contract between the Forest Service and the developers of the Snow Bowl. The likelihood of an agency revisiting a decision in a way that would look like they were acting outside the law and appear that they spontaneously decided to break an existing contract-like permit, while humiliating the staff professionals and the line officers that prepared it, is poor. They followed their own policy guidelines and reflected on current case law. Then how could the administrative decision be re-opened and reviewed under UNDRIP? In that case, the President through the Secretary of Agriculture could order the decision revisited.

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APPENDIX C The Tribes and their coalitions

The tribal position has been based in culture, but it always evolved in connection with other elements including concerns for public health and clean water. Multiple concerns have attracted other partners like environmental groups to the coalition. The following interview with Dr. Ishii sets for some of the ideas from a hopi perspective.

INTERVIEW WITH DR. LOMAYUMTEWA ISHII 7/7/11

PROLOGUE. The Hopi and other Tribes in the Southwest have long been fighting for their water rights. Water is life and a cultural water right is of primary concern for health and sustainability through the practice of traditional farming, ceremonies, and to meet spiritual needs. In 1908, the Supreme Court made a ruling stating that an Indian Reservation may reserve water for future use in an amount necessary to fulfill the purpose of the reservation, with a priority dating from the treaty that established the reservation. For the Hopi, that date is 1882. The statement of those rights is called the Winters Doctrine. In recent years, courts and federal policy makers have added many conditions and restrictions to the Winters Doctrine, tending towards settlements with “stakeholders” and other interests. Recently, Hopi Tribal Chairman Leroy N. Shingoitewa testified before the Senate Committee on Indian Affairs Roundtable on Examining the Future of Water in Indian Country and decried diminishments of the Winter’s Doctrine, citing the impropriety of “new” interpretations that suggest:

“ --- That purposes need to be limited to a small amount of water available

--- That the Tribes have to compete with one another for that small portion

--- That the rights provided should be the most junior and the least secure

--- That projects to deliver the water can be postponed indefinitely

--- That it is OK for Tribes to have unhealthy amounts of uranium and  
 arsenic in their water.” (Navajo Times, 7/6/11 p. 3.)

Threats to access to clean free flowing water other than the Central Arizona Project and water allocation adjudication are present in the Hopi region. In the interview below, Loma discusses the current problem at the San Francisco Peaks with the Snowbowl expansion and the use of piped in treated sewage water for artificial snow-making from the Hopi perspective. The San Francisco Peaks are a holy area to at least 13 Tribes: full participatory consultation with each of the Tribes would be needed to understand the impacts. The Peaks have significant wilderness areas that protect the watershed. However, sandwiched in-between them is a small ski area known as the Arizona Snowbowl, whose economic viability became questionable due to climate change, drought and predictions of less available snow.

Currently, a major expansion of the Snowbowl is in progress and work is underway to make artificial snow from water piped up from Flagstaff’s sewage water reclamation plant, despite ongoing litigation. This project will pollute and disrupt the water systems of the Peaks, and the larger relationships to drainages and underground water sources important to Tribes and to the plants and animals that are part of their culture. Herbaceous plants are particularly sensitive to changes in hydrology. Significant clearcutting and deep trenching as part of the project has further disrupted the system. Logging is related to increased fire risk in Southwest ponderosa forests. This is a case study of how fragmentation and the lack of contiguous wilderness protection led to damage of the cultural water rights and religious practices of Tribes. Since the wilderness system encompasses significant areas at higher elevations, there is a relationship between these areas as a source of clean, free-flowing water that feeds natural and cultural systems at lower elevations.

In addition, potential impacts to sustainable traditional agriculture are linked to wilderness and watershed protection. These traditional agricultural practices and technologies, including climate resistant and dry farming seed, have important roles in protecting indigenous cultures during periods of climate change. Daniel Wildcat reminds us that:  
  
“ a good number of American Indians and Alaska Natives have maintained thousand- and hundred-years-old relationships with specific landscapes and seascapes. The knowledges embodied in theses deep spatial relationships to homelands have served indigenous peoples well.” (Wildcat, 2007 p.3)

To lose the bodies of knowledge and the practices and technologies that emerged from them would be a serious loss at this time. If indigenous knowledge is embedded in the land and the ecological contexts in which each group participates, observes and records information through cultural means, then forced migrations due to human actions may represent losses in restorative relationships that may require centuries to recreate in new landscapes. The very usefulness and potential loss of traditional phonological knowledge as described by Turner and Clifton (2009) under conditions of climate change uncertainties may interfere with this cyclic knowledge.

This interview suggests that prehistorically, migration and dispersal of civilizations were reactions to major shifts in climate combined with human conflict over water and they continued into historic times. Some of the concepts presented here parallel Carl Fagan’s work on climate change. While Fagan agrees that migrations and dispersal were often the result of changes in climate, he suggests that cultural landscapes can be redefined as homelands under adaptive management. (GWS, March 2011). Under this definition, more needs to be learned about living sustainably with the land and water.

(Linda)

INTERVIEW WITH DR. LOMAYUMTEWA ISHI 7/7/11 Flagstaff, Arizona

Interviewer, Linda Moon Stumpff

Dr. Lomayumtewa Ishii is Chair of the Applied Indigenous Studies Program at Northern Arizona University and the author of important journal articles. He is a Hopi Priest and he is Butterfly Clan.

Water is a cultural reference with different meanings. The Hopi view of water is holistic. Humans return to the clouds as moisture rises. Water is tied to sacred sites: water is life. Water in the indigenous world has a spiritual side. Water is also tied to the life cycles of plants, animals, and mountains.

The problem occurs when water is not viewed as part of community or life existence by the dominant culture. Water is viewed as money. Loss of clean free-flowing water leads to major impacts. There is a lack of understanding because discriminatory stereotypes are present, and the Flagstaff area has the reservation border-effect syndrome. Because of stereotypes, they fail to recognize that tribal members own businesses and are active community members in the towns off the reservation and play an important role in the economy.

Where does indigenous historicity exist? How is native history manifested? How does that manifest through the development of the Arizona Snowbowl at the San Francisco Peaks? How do we understand how things are now and what happened?

The Hopi have clans related to water. Water clans are present in tribal society: Hopi snow, water, and frog clans have histories and migration stories. Many tribal societies have clans. The San Francisco Peaks issue brings many together. There is a story that the clouds went out to Hopi… bringing out the clans. Key areas like the Peaks bring together many Tribes. Origin stories.

Interconnectedness means that complicated relationships exist. It is better for the water to return to communities through natural systems to carry out daily life projects. (i.e. return treated water to the ground so it goes through the natural system of purification)

Natural waterways exist through Oak Creek to Grand Canyon and into the Little Colorado: it was all part of a system. Tribes in Sedona knew it came from the Peaks. The Havasupai see their origin from the water in the Peaks.

Fir boughs are used by the Hopi Kachinas because the firs live higher and they need water: clouds live on the boughs of these trees. By using the fir boughs in ceremonies, prayers will return to the Kachinas on the peaks. They return as rain.   
  
Developments like the Snowbowl on public lands are big threats.  
The whole system needs to be protected: purity is important for spiritual and natural cycles. Some say that reclaimed water is more pure than the snow you that you could eat now. Not so. Reclaimed water is associated with death: because you can’t see real or spiritual pollution doesn’t mean it doesn’t exist. Plants and animals don’t have the choice: bad water affects them. Who speaks for them? What about the food chain?  
  
Gathering medicinal herbs. Medicinal herbs are gathered and used: the mountain is like a pharmacy. Plants are adapted to the natural weather and water system that provides pure water at specific times and quantities. Religious uses of plants are important like gathering of pine needles for the kiva: need for pure and unpolluted sources of material. Impure water can have a bearing on spiritual practice. Biggest threats: the artificial snow-making practice created a threat with or without reclaimed water: may have long-term effects on natural systems. Threats to spiritual practice exist: one cannot assume threat is same to all Tribes, since they have different practices. Threats to health undocumented from reclaimed water: it is widely agreed that estrogens such as those found in reclaimed water feminize fish.

Threats can expand from not measuring everything. Proper tests and knowledge about the effects of reclaimed water have not been brought in: it can eventually turn to dioxin. Biggest threats: snow-making practice threat and reclaimed water threat have long term effects, threats to spiritual practice. One can’t assume Tribe to Tribe impacts are the same. Vernon Masayevsa of the Black Mesa Trust talks about threats from Snowbowls in other areas in the film “Paatuwaqatsi: Water, Land and Life” including Mt Shasta, and a shrine near Holbrook.

There is a cycle of life and a cycle of water: we die to become katchinas and return back as rain. We are in the cycle of water and weather itself. We are intermediaries between the physical and spiritual worlds where it becomes rain.

The water cycle includes water from springs to re-nourish integral components of life. We practice dry-farming, and can live here because we can make it rain. Knowing where people fit has enabled us to survive in this area.

What interferes with these cycles when unknown effects occur? We have the stories of drought from Chaco Canyon. What happened there? What got out of balance when the water and animals went away? A spiritual disconnection of some kind occurred. This approach is guided by an indigenous way of thinking, acting, and the ceremonial cycles. We look at things through time: versus the now thing. How people were in cycle in the past and how they will be in the future are tied. What will happen…not what happens? The world we used to know.

This is contrasted with how authorities are used as experts and used in negotiation: from planning, to Environmental Impact Statements and courts in decisions. What is presented in this defined circle is authoritative. Sometimes this is renegotiated and then new information admitted. Who is the arbitrator? You can manipulate it if you know how things go. Look at who were the tribal liaisons during the Snowbowl Decision. Who was the anthropologist who interpreted tribal impacts? Are Tribes allowed in the circle as authoritative experts on their needs and the impacts to them?

Traditions, roles and rules in the community assured the protection of waters from pollution or loss of quality. Knowledge is clan-oriented. Water is life-sustaining but also dangerous. Taboos exist around it, especially oceanic waters that have entities more powerful than humans. Traditions are enforced by the family, practices and history, directions from the clans.

Cultural narratives are important and connected to ceremony. Hopi tradition has a snake brought from New Mexico and put in spring: water serpents came from the south. Entities have power in water and even in our bodily fluids. There is great respect for it. Bad things have happened to people. The frivolous recreational use of the life-sustaining water is dangerous. There is a story of a village destroyed because of people not acting the right way. A serpent was involved in a ceremony, surrounded by water. Female and male imbalance is serious, can be destructive. Ice caves with waters are associated with the feminine. The people got shell from a woman as told in many Southwest cultures. Balance is important. Follow the cycles in order to avoid destructive results. The way to do it is known and accepted because it works.

Echohawk McClarkey, an academic, is teaching Hopi without gender aspect. Things happen to people who violate traditional ways and rules.

Flash floods are part of cycle in contrast to western concepts of control through dams, mechanically managed view that water is a freebie that can be mechanically managed, measured, exploited, and commodified for us.

Traditional knowledge provides a basis for predicting, protecting, adapting and responding to changes in water resources. This can be tribal-specific. Hopi teachings and practices prepare you for an imperfect world….the imbalance of reality. The power of prayer helps you survive on one level or another, talking to water, talking to plants. From a Hopi perspective: you don’t have to be involved in everything…no one is involved with everything, but if you do what you are supposed to, everything works. Water, Kachina, and Rabbit clans are all involved with cycle. They represent clans and history: they are authorities to be followed. The historical legacy of those authorities is so great, the authorities can’t be unpacked. Speaking in federal court in Prescott, Emory Sepqequewa, who wrote the first Hopi dictionary, used song in his testimony as part of historical evidence explaining dimension of the Peaks in relation to cultural sustainability and religious practice. For the court, this may be out of context. Traditional people don’t necessarily share everything: some things are not created to share in a court. The misuse of water on the Peaks is a desecration. Traditional ecological knowledge can be misused too and knowledge can be desecrated. The system may react with major snowstorms: it might just snow and snow, creating major problems. There are repercussions for that, for disruption the system.…karmic repercussions.   
  
  
The Peaks are connected to weather events and thus to the water system. They are a calendar for solstices, seasonal times to visit shrines, movements of sun, moon and stars. They are landmarks to gauge planting seasons, ceremonial dates, and characteristics of animals.

Responses to floods and droughts sometimes involve risks. Agricultural plots are often low-lying in order to collect alluvial components because soil the natural soil is sandy. Water can wash down, but also wash out crops. Sometimes beans and melons are planted in washes, but the risk is higher. Changing where one plants may incur risk. The water table is important: if it falls, it can harm dry-farming.

Traditionally, fields are further from home. Running and walking was done with- out much issue of distance, since running was a part of our culture. You go to where the moisture is. From a Hopi perspective, a rigid work ethic exists and a need for activity to fulfill human potential. Improve us, not the environment. Go to it, rather than bring it in. But this may not work if water table or weather changes due to human actions. Tolerance is important in the culture. Some think it best to just let it go, they will learn. Clowns are most respected. Connectedness is key.

Some people now dry farm nearer their homes. You can ruin dry-farming seed if you water it.

Water is part of the whole system: the whole system works together. Water in the natural system is good water. Drinking water is important. Natural springs occur and that water is usually sweet. Now some have dried up. Why does it happen? Something became imbalanced. Peabody Coal was using vast amounts of water to slurry…lowering the water table. But tribes were leasing water to Peabody…vicious circle of side effects.

Water from the San Francisco Peaks may not have instantaneous effects, but it is connected. We are on top of a vast underwater lake. But if its hydrology changes over time, it affects our life. To gain a better understanding one could put western science and Hopi knowledge together to show relationships according to Vernon Masayevsa.

Water is life…key to health, spiritual life, foods, medicinal plants, drinking.  
We are water ourselves.

Better protection of the natural and free-flowing waters would have benefits for cultural and natural systems in this area. The physical landscape has been manipulated with water reclamation projects. Big rivers are damned and changed. But can the genie go back in the bottle, at least for these areas that have been changed? People adapt to some change…and projects change everything about relationships to water, animals and plants. The question is: How much did you alter it? How much is adaptable versus changes that are catastrophic. Does it destroy an entire species or just change them? What is survivable is connected to levels of change. If change is too great, would a spiritual community move elsewhere or would it vanish? How great are the changes in the Columbia Gorge? Thinning and logging forests affects the water system. Old growth is gone now: you can’t go back, you have to deal with it.

Problems with protection policy occur where changes have happened. Fire, forests and water are connected. The bark beetle did tremendous damage to forests in the Southwest. It depends on climate conditions. What are relationships between that situation to particular environments and sacred sites?

The eastside of the San Francisco Peaks had bad fires last year, rains and then flash floods. This year, the first rains came last Saturday and flooded out again. Big changes may damage sacred sites (fires in Los Alamos this year damaged many Santa Clara sacred sites through fire and flood). Even when pristine, it changes over time, new invasive plants arrive, humans interact with environment. But there are just places you should stay out of. Clear cutting reduces the watershed’s capacity to absorb rainfall. Then water runs off rather than replenishing the local aquifer. Piping treated sewage water up to the Snowbowl rather than allowing it to recharge the system may create future problems, dry up wells.

Disease can be what comes out of a changing environment. The aquifers change: small lakes are fed from the San Francisco Peaks. One lake near Mars hill (where telescope is located) is a place where kids fish. With the reclaimed water and feminimized fish, what is the risk to kids?

National parks and national monuments and public lands generally place recreation over protection. The Snowbowl was started in the 1930s. In the 1980’s they began updating it and people sabotaged and sawed up lifts. Today the public lands stand between two organizations--Save the Peaks and Pave the Peaks.

What is the underlying aesthetic in this for public policy? Muir’s works and Aldo Leopold’s works speak to that. But the Southwest became the final frontier for tourism in western systems. It was romanticized and advertised, and became internationalized by the 30s. This area holds the largest standing ponderosa pine forest on earth and the Grand Canyon.

Cultural places associated with land areas near water may be sensitive to changes in water. (Fishing areas, wildlife, collecting plants, basket materials, animal trails, human trails, camping and use areas). Shrine systems are important and could be threatened.

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The collection of plants that exist only in certain areas will be influenced by changes to the water system from the ski expansion. Pine needles, wood for bows, and spruce tree boughs are gathered. Medicine plants are gathered. As you gather, you form relationships, carry out rituals in an area. The practice is done in a way to benefit the plant and has restorative effects. If this relationship is disrupted by changes in the water system, you can lose the restorative benefits. Relationships might have to be restarted in different places, or a plant might be lost altogether.

Climate change leads to changes in water quality, quantity and access for tribal needs? Increased fires. Change can be understood in different ways. The Mayan calendar is an example: the idea of prophecy and cycles and what people do, the desecration they carry out, commodifying each other, disrespecting the earth and water. And now a worldwide indigenous phenomenon occurs with the recognition that something is off balance. Something needs to be reconciled and the original instructions need to be remembered.

On the idea of change, the Hopi have the fifth world. The end result is renewal. We need to be prepared. If climate change floods the village, what is the chain reaction? I plant: but we use corn only for traditional foods. It’s important to keep the sense of cultural persistence. It is time-proven. You prepare for imperfect world…if climate change is drastic, that is reality. If the water system changes, we may have to move. Migrations and moves were historic and prehistoric. Moving away from regimes is part of human experience. We move with water.

Predictions suggest that the Flagstaff/Hopi area will be out of water in 2050. No water, no economy either. We as Hopi work on different time scales and predictions. It is possible that the monsoons do not come. Big snows can be destructive and snowpack can vary widely in the Southwest. Cycles come and go. Hopi prophecies were shared in the 1950’s as a result of a Hopi conscientious objector suit against military service for religious reasons.

On the use of reclaimed water, many were writing about responding to the Forest Service about the Snowbowl and describing the situation. The Hopi Tribal Chairman wrote a response to Flagstaff about reclaimed water. He asked “What about our water aquifer?” Flagstaff got complaints from citizens too.

The scientific component is a major part of the puzzle about water, but more is needed. The decision to expand the Snowbowl with reclaimed water for artificial snow rested on the idea that it would only affect 1 percent of the canyons. But what meaning does that percentage have in the full system. How can you use a statistical model that compounds risk to decide on the level of purity? How can it affect one percent if water is in fact fluid and mobile and runs throughout the system.

Reactions to changing knowledge are happening all over. We tend to go to “burning witches” when we can’t handle new information. A good source for understanding different ways of knowing and change is James Burke. 1980’s. video…On the Day the Universe Changed” Vol. 10 on changing knowledge, changing reality.

The interview above reflects tribal values around the Peaks. A number of Arizona Tribes are working together to try to protect the Peaks to preserve their religious values and cultural practices. Arizona Department of Water: regulations on use of A+ recycled wastewater.   
Final Environmental impact statement for Arizona Snowbowl facilities improvements proposal, Coconino National Forest, Southwest Region, 2005. (search fs.fed.us.gov)

Comments on Final Environmental Impact Statement. Find on websites: Save the Peaks Coalition or Indigenous Action Network

**APPENDIX D: THE INTERNATIONALISTS**

Failing to find recourse in the U.S. Courts, some observers and tribal members feel that better chances to protect American Indian religious freedom exist outside the country in International Forums. The task here will be to determine motivating factors that would cause the U.S. to comply with a positive interpretation of various international agreements and treaties as a basis for protecting indigenous religions. Foremost among them is the recently signed UN Declaration on the Rights of Indigenous Peoples.

Specific information about UNDRIP is available through United Nations websites and news releases The following is some basic information taken from the UN website referenced:

\_ What is the Declaration on the Rights of Indigenous Peoples?

The Declaration is a comprehensive statement addressing the human rights of indigenous peoples. It was drafted and formally debated for over twenty years prior to being adopted by the General Assembly on 13 September 2007. The document emphasizes the rights of indigenous peoples to live in dignity, to maintain and strengthen their own

institutions, cultures and traditions and to pursue their self-determined development, in keeping with their own needs and aspirations. Other U.N. bodies address indigenous rights through Conventions such as the International Labour Organization’s Convention No.169 and the Convention on Biological Diversity (Article 8j).

\_ What rights are ensured by the Declaration?

The Declaration addresses both individual and collective rights, cultural rights and identity, rights to education, health, employment, language, and others. The text says indigenous peoples have the right to fully enjoy as a collective or as individuals, all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and the rest of international human rights law. Indigenous

peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity. Indigenous peoples have the right to self-determination. By that right they can freely determine their political status and pursue their economic, social and cultural development. They have the right to maintain and

strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their rights to participate fully, if they choose to, in the political, economic, social and cultural life of the state.

\_ How was the Declaration adopted?

The Declaration was adopted by a majority of the General Assembly in New York on 13 September 2007, with 144 countries voting in support, 4 voting against and 11 abstaining.

\_ Why did the Declaration take over two decades to move forward?

The process moved slowly while States and indigenous peoples engaged in a fruitful UN-facilitated dialogue over the years. Issues such as group rights and individual rights, lands and resources were subject to intense debate. \_ In 1982 the United Nations Economic and Social Council established the Working Group on Indigenous

Populations, to develop, among other things, human rights standards that would protect indigenous peoples.

\_ In 1985, the Working Group began preparing the draft Declaration on the Rights of Indigenous Peoples.\_ In 1993, the Working Group agreed on a final text for the draft Declaration and submitted it to the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, which approved it in 1994.The draft was subsequently sent to the then U.N. Commission on Human Rights, which established the

Working Group on the draft Declaration on the Rights of Indigenous Peoples.

\_ The 2005 World Summit and the 2006 Fifth Session of the UN Permanent Forum on Indigenous Issues (UNPFII) called for the adoption of the Declaration as soon as possible.

\_ Finally, the Human Rights Council adopted the Declaration in June 2006, followed by the General Assembly in September 2007.

\_ Some highlights of the Declaration

\_ Seventeen of the forty-five articles of the Declaration deal with indigenous culture and how to protect and promote it, by respecting the direct input of indigenous peoples in decision-making, and allowing for resources, such as those for education in indigenous languages and other areas.

\_ Fifteen of the forty-six articles of the Declaration are about indigenous peoples’ participation in all decisions that will affect their lives, including meaningful participation in a democratic polity.

\_ The Declaration confirms the right of indigenous peoples to self-determination and recognizes subsistence rights and rights to lands, territories and resources.

\_ The Declaration recognizes that indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

\_ Essentially, the Declaration outlaws discrimination against indigenous peoples, promotes their full and effective participation in all matters that concern them, as well as their right to remain distinct and to pursue their own visions of economic and social development.

\_ What is the significance of the Declaration?

Many of the rights in the Declaration require new approaches to global issues, such as development, decentralization and multicultural democracy. In order to achieve full respect for diversity, countries will need to adopt participatory approaches to indigenous issues, which will require effective consultations and the building of partnerships with indigenous peoples.

\_ Is the Declaration legally binding?

UN Declarations are generally not legally binding; however, they represent the dynamic development of international legal norms and reflect the commitment of states to move in certain directions, abiding by certain principles. The Declaration, however, is widely viewed as not creating new rights. Rather, it provides a detailing or interpretation of the human rights enshrined in other international human rights instruments of universal resonance as these apply to indigenous peoples and indigenous individuals. It is in that sense that the Declaration has a binding effect for the promotion, respect and fulfillment of the rights of indigenous peoples worldwide. The Declaration is a significant tool towards eliminating human rights violations against the over 370 million indigenous people worldwide and assisting them and States in combating discrimination and marginalization.

For more information on the Declaration, please visit: <http://www.un.org/esa/socdev/unpfii/en/declaration.html>

Although it is recognized as nonbinding, it is unclear what connections it has to other binding treaties and agreements. Some argue that it is purely aspirational. Others have said it has a connection to “customary international law” like the “Law of the Sea: because of its connections to international covenants, agreements and treaties regarding human rights. However it lacks the affirmative statutory status of “The Law of the Sea.” It is generally agreed that it provides principles that describe a standard of behavior and understanding. It may set the framework for adopting a new standard of practice.

On July 9, a congressional hearing was held on the UN Declaration on the Rights of Indigenous Peoples. Following is the testimony of Duane Yazzie, from the Office of the Navajo Nation Human Rights Commission, to Congress at the Senate Hearing on the UN Declaration on the Rights of Indigenous Peoples to determine its policy implications for domestic policy. Additional international sources for information are also included.

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Testimony by Chairperson Duane H. Yazzie before the U.S. Senate Committee on Indian Affairs on “Setting the Standard: Domestic Policy Implications of the United Nations Declaration on the Rights of Indigenous Peoples”

**Thursday, June 9, 2011**

On behalf of the Navajo Nation Human Rights Commission (“Commission”) and the Navajo Nation, we thank you for the opportunity to speak about how the United Nations Declaration on the Rights of Indigenous Peoples (“Declaration”) will improve current U.S. legislation that concern Native Americans.

The Declaration sets the standard to guarantee Native American the rights to sacred sites. The Declaration fills the gaps where U.S. domestic law and policy fail to protect sacred sites. Navajos consider the San Francisco Peaks (“Peaks”), located in Flagstaff, Arizona, sacred.

Since 2004, the Navajo Nation litigated for the protection of the Peaks pursuant to the American Indian Religious Freedom Act, the National Historic Preservation Act, the National Environmental Policy Act, and the Religious Freedom Restoration Act (“Acts”). Although Navajos revere the Peaks as a sacred single living entity, the Acts failed to protect the Peaks from desecration and economic exploitation.

In 2009, the U.S. Supreme Court denied certiorari to the 9th Circuit en banc decision upholding the Coconino National Forest permit authorizing the Arizona Snowbowl Ski Resort (“Snowbowl”) to use reclaimed wastewater (“wastewater”) to produce artificial snow for economic and recreational purposes.

On May 24, 2011, the Snowbowl began construction to install a water pipeline for manufacturing artificial snow. The Navajo Nation continues opposition of the Snowbowl efforts because the use of wastewater poses great concerns for Navajos. The use of wastewater will contaminate the soil and medicinal vegetation needed to perform ceremonies and prayers. The use of wastewater will prevent a Navajo traditional medicine person from effectively treating his or her patient.

**Th**e implementation of the UN Declaration on Indigenous Rights will hold the U.S. accountable to its responsibility toward Native Americans. The Declaration recognizes Native Americans posses’ distinct rights to sacred sites since time immemorial, whereas the U.S. recognizes a few rights post-colonization.  
  
The Declaration’s article 11 and 12 acknowledge the indigenous peoples’ rights to protect and access past, present and future cultural and religious sites. Also, the Declaration recognizes the right to practice tradition, custom and ceremonies. The Peaks constitute one of four main sacred sites to Navajos. Four sacred mountains surround the Navajo Nation. The cultural integrity rests on the four sacred mountains remaining pure. If one mountain is contaminated it negatively impacts the quality of Navajo life.

Furthermore, the Declaration’s article 24 and 25 recognizes the right to the traditional medicines and medicinal vegetation; and the right to maintain and strengthen the distinctive spiritual relationship with the land. Navajos gather traditional medicine on the Peaks; however, the same vegetation may not exist in the future due to the contamination.

The Commission and the Navajo Nation advocate for the implementation of the Declaration and identified three (3) methods in which the U.S. can implement the Declaration:

1. Ratify the Declaration;

2. Integrate the Declaration into existing law and policy; and

3. Legislatively address Indian law jurisprudence

Ratifying the Declaration will mandate the U.S. to change its laws and policies towards Native Americans. Integrating the Declaration into existing law will focus substantively on the value of sacred sites instead of placing an undue burden on procedure. Also, the Declaration will emphasize international policy instead of relying on domestic policy alone. Legislatively addressing Indian law jurisprudence will repair the dispossession of Native American rights to sacred sites.

While implementing the Declaration creates a challenge, the U.S. must balance its own interest with the rights of Native Americans. The U.S. must respect and abide by international law regarding indigenous human rights, specifically those that address sacred sites. What kind of norms and standards might be drawn as the US implements domestic policy towards indigenous peoples now that UNDRIP is signed? Could the San Francisco Peaks be the first major test of UNDRIP? UNDRIP and more information about how the declaration was intended to work can be found on the UN website. The following material was submitted during Congressional hearing on implementing domestic policy under UNDRIP.

**World Parliament of Indigenous Peoples**

First Round Table

**07 – 10 January 2011**

**Booshakthi Kendra, Tumkur, India**

We, 39 Indigenous delegates from 10 countries who attended the First round Table of the World Parliament of Indigenous Peoples from 07 to 10 January 2011 at the first ever Dalit Ashram, Booshakthi Kendra (1), Tumkur in India, make the following Statements.

**Preamble**

Today the world is in need of Indigenous Peoples to ensure its survival into the future. The Indigenous Peoples of the world have sustained life with vibrancy, despite thousands of years of assault on their dignity and life-ways by dominant and colonial powers. The inclusive worldviews of the Indigenous Peoples have inherent capacity of providing the critical values and ethics, understandings, processes and protocols of respect and reciprocity, which unfold in ways that include relationship with all of life, ensuring that everyone is valued for their own unique gifts and contributions, which is the essence of real leadership and governance.

The unrelenting assault on the cultures, histories and dignity of the Indigenous Peoples and the living Universe must be understood and responded to creatively by Indigenous Peoples themselves. The First Round Table of the World Parliament of Indigenous Peoples asserts that while we recognize our cultural differences, we simultaneously and synergistically gather together our common cultural ethics and ancestral understandings toward the fulfilment of our self-assertion, self-actualization, self-determination, sovereignty and ultimately, our transformation. These at once ancient and contemporary strengths will enable us to move within the formation of nation-states within which we find ourselves, transforming them in ways that embody Indigenous ethics of respect, relationship and reciprocity for Indigenous communities, along with all other peoples, particularly marginalised and/or excluded communities. The historic First Round Table in Tumkur, India has been held with the purpose of forming a World Parliament of Indigenous Peoples, which will provide an alternative model of leadership, protocols and understandings, envisioning and expanding into a future in which all the world’s children have the possibility of living healthy, happy and fulfilled lives, secure in their identity, strong in their culture, proud of who they are, and able to carry themselves with honour, respect and dignity into our collective future.

**Statements** Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 12 of 29

1. Humanity has the opportunity to benefit and grow from the collective spiritual strengths that arise in the global spirit of Indigenous Peoples and have been honed in their struggles.

2. The mindless exploitation of the cosmos in its totality poses a serious problem to the Indigenous Peoples, as we consider Earth as our Mother and we have lived in harmony with nature for millennia. Any threat to the Earth and other planets is a simultaneous and inseparable threat to the existence of Indigenous Peoples. Our suffering has been inextricably intertwined with the sufferings of the cosmos. The World Parliament of Indigenous Peoples, when it becomes a reality in world history will become a veritable mouthpiece of the peoples of the world.

3. The adoption of the United Nations Declaration on the Rights of Indigenous Peoples signals a commitment to Indigenous Peoples that has not been much demonstrated to this point.

4. Further, this adoption shows that the time has come for Indigenous Peoples to unite in collective action aimed at creating benefits for Indigenous communities and the world at large.

5. The formation of indigenous parliaments and indigenous political entities will facilitate this unity, as well as facilitate collaboration, discussion, decision making, monitoring roles and support for Indigenous communities and individuals.

6. We see merit in developing closer ties among the political entities of Indigenous Peoples. We are confident that our knowledge, experience, and worldviews can be valuable resources in addressing common challenges for human beings, animals and plants and in assuring our survival. We see these possibilities as both opportunity and responsibility.

7. In anticipation and preparation for the United Nations World Conference on Indigenous Peoples in 2014, we invite indigenous parliaments, governments, and other indigenous political entities to join the efforts in recognizing our full and just participation in the global political arena.

8. The role of the World Parliament will also be to raise awareness in the dominant world about the true nature and value of indigeneity. The world will then realize that Indigenous Peoples have the answer to most problems that beset the world that is groping in darkness today.

The following delegates took part in the historic First Round Table of the World Parliament of Indigenous Peoples in Tumkur, India.

1. Ms. Ang Dawa Sherpa Nepal

2. Ms. Shanti Jirel Nepal Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 13 of 29

3. Mr. Walter Hahn Germany

4. Ms. Heidi Oline Salmi Sapmi, Norway

5. Mr. Jarle Jonassen Sapmi, Norway

6. Ms. Maria Therese Aslaksen Sapmi, Norway

7. Mr. Rune Fjellheim Sapmi, Norway

8. Ms. Kirsten Anne Guttorm Sapmi, Norway

9. Ms. Silja Somby Sapmi, Norway

10. Ms. Donna Ngaronoa Gardiner New Zealand

11. Mr. Tiopira Porutu Keith McDowell New Zealand

12. Mr. Charles Royal New Zealand

13. Ms. Trish Johnston New Zealand

14. Ms. Monica Royal New Zealand

15. Mr. Kerry Laiana Wong Hawaii

16. Ms. Eomailani Kukahiko Hawaii

17. Ms. Margaret Jane Maaka Hawaii

18. Ms. Darlene Hoskins McKenzie Australia

19. Ms. Debrah Ann Hocking Australia

20. Mr. Lenzerini Federico Italy

21. Mr. D Thangaraj IAS India

22. Ms. Rose Mary Nagaland, India

23. Mr. Anil Gaikwad India

24. Dr. Ruth Manorama India

25. Dr. Nara Singh Manipur, India

26. Mr. Jon Ross Alaska

27. Ms. Leanndra Ross Alaska

28. Ms. Jessica Ross Alaska

29. Ms. Ruby Shannon Vail USA

30. Mr. John Vail USA

31. Ms. Amanda Holmes N. America

32. Ms. June Lorenzo N. America

33. Mr. Frank David Ettawageshik N. America

34. Ms. Rosalie Little Thunder N. America

35. Mr. Tupac Enrique N. America

36. Mr. V B Rawat India

37. Ms. Jyothi India

38. Mr. M C Raj India

39. Ms. Arul Kani India

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1. Booshakthi Kendra is the first ever Dalit Ashram in India initiated by Jyothi and Raj in Tumkur, India. It means Mother Earth Centre. It has the avowed purpose of being the springboard of learning, indigenous spirituality, indigenous philosophy and through these learning also generate liberative action for indigenous and other excluded peoples of the world. Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 14 of 29

Dear Friends,

It is a great honor to share the “*Message of the Living Spirit of the Convening of Indigenous Peoples for the Healing of Mother Earth*,” the outcome of the Convening that took place in the Cultural Territory of the Maya in Palenque, Chiapas, Mexico on March 10-13, 2008. At the direction of the participants at this gathering, this message is a Call To Action to Indigenous peoples, and to all peoples of the world.

The *Convening for the Protection of Mother Earth* was planned by and for Indigenous peoples from North America to bring together Indigenous leaders, including spiritual and traditional healers, elders, wisdom keepers, and practitioners, to address the need for immediate intervention and action, based upon our original teachings, in order to ensure a healthy future for coming generations. We recognize that our current and future actions must not be based upon the same worldview that has brought such global destruction to Mother Earth. We must reclaim and revitalize the wisdom passed on to us from our Ancestors about how to be responsible to each other and to the Natural World.

This Message was created through ceremony and prayer, but it is up to each of us to find ways to give this Message life and meaning as we all take steps to protect the Natural World. It is intended to be a Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 15 of 29

living document that serves as a source of inspiration to Indigenous peoples, governments, and civil society, to take our responsibilities to protect Mother Earth seriously, and to provide some guidance for moving forward.

Finally, we wish to acknowledge the participation and deliberations of the Indigenous peoples, representing Indigenous nations and communities from throughout North America, and gratefully thank the following organizations for their generous contributions and support including: U.S. Environmental Protection Agency, Health Canada, The Mexican Secretariat of Environment and Natural Resources, The Mexican National Commission for the Development of Indigenous Peoples, and the Commission for Environmental Cooperation.

Please visit the *Convening for the Protection of Mother Earth* website for further information at: www.indigenousconvening.com.

Message of the Living Spirit of the *Convening of Indigenous Peoples for the Protection of Mother Earth* - March 13, 2008 - Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 16 of 29

**Message of the Living Spirit of the *Convening of Indigenous Peoples for the Healing of Mother Earth* at the Cultural Territory of the Maya**

March 10-13, 2008

Palenque, Chiapas, Mexico

**INTRODUCTION**

Having been welcomed to convene in ceremony at the sacred site of Palenque (*Cerco de Estacas*) to heed the call of Mother Earth and honor the sacred elements of water, air, earth and fire in unity as Indigenous Peoples of Lak Ñá Lum upon the traditional territory of the Maya People on the 10 -13 of March 2008, we commit in unity to the Message of the Living Spirit.

We the Indigenous Nations, Peoples, tribes, pueblos, communities, villages, situated within the geopolitical boundaries claimed by the nation-states of Mexico, Canada, and the United States hereby make this declaration and urgent message to the world on the basis of our spirituality and the natural biological Laws of Life on Mother Earth, the Sacred Life-Giver. It is our inherent birthright and responsibility as the original free and independent Peoples of Turtle Island to care for Mother Earth in keeping with our Original Instructions from Creation.

These natural laws are inclusive of Honor, Respect, Love, Compassion, Peace, and Friendship. It is in keeping with these natural laws and Indigenous values that the traditional knowledge and wisdom bequeathed to us by our ancestors, and carried today by our Elders, teaches us how to live in balance with the Four Sacred Elements of Life: Earth, Water, Air, and Fire. We are the guardians of these elements of Life.

Fire is meant to ignite and unite the spirit of humanity. Water is the life blood of all living things. Air is the sacred breath of life. Earth is the Mother that nurtures us all. Beyond the tangible aspect of our relationships with all the sacred elements, there is intangible interaction. The role of the sacred elements is central in our customs, traditions, stories, songs, and dances.

The Indigenous prophecies foretell the urgent environmental crisis we face today. The Indigenous Peoples have the responsibility to provide our traditional knowledge to the world. The ancestral ways of Indigenous peoples have the power to heal our Mother Earth. We demand that the nation-state and state governments stop the destruction and violations against the four elements of Life.

Western legal and religious histories, philosophies and laws have totally disrupted our ways of life. Our traditional spiritual ways and knowledge systems honor the interconnections and interrelationships of the Web of Life, and sustain, not destroy Mother Earth. Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 17 of 29

**VISION**

As caretakers of Mother Earth, speaking with one spirit, one mind, one heart and as one family, utilizing the original teachings given to human beings by the Creator, we will restore balance and harmony to Mother Earth and all her children.

Guided by the wisdom and vision of our ancestors in the spirit world, elders, spiritual leaders and traditional and Indigenous community leaders, we understand the Natural Law given to us by the Creator guides our traditional way of life in harmony with all creation upon the land and waters of Mother Earth.

**THE PAIN OF MOTHER EARTH**

As the peoples of the land, we are the first to hear, see, feel, taste and spiritually sense the pain of Mother Earth. She is dying and we hear her cry. Her heart is wounded and her pain is our pain, her illness is our illness, our survival is dependent upon her survival.

As Indigenous peoples, we have a spiritual and familial relationship to the sacred elements of water, air, earth and fire, and understand their holistic and inseparable relationship with each other. Through the western claim of asserting ownership over these sacred elements their spiritual interdependence is being destroyed.

**Water**

*Minan ja*' *Minan kuxtal.*

*Without water, there is no life.*

The water represents the life-blood and the sustenance of all life. The purity and natural flow of water is necessary for maintaining the interdependent balance between all forms of life. Our sacred birthright includes the rivers, streams, natural springs, hot waters, lakes, underground aquifers, seas, bays, inlets, oceans, ice, snow, rain and all forms of and bodies of water.

Deforestation and the removal of flora and fauna have resulted in the destruction of water sources. Organic and inorganic waste, refuse, and industrial wastewater are dumped directly into rivers and water sources that people need for drinking. As a result of toxins and pollutants, and industrial wastes many sources of water are unfit to drink and lead to serious and deadly health problems for humans and other forms of life. Indigenous peoples are often in the situation of having to choose between thirst and the possibility of serious illness or death from drinking polluted and contaminated water.

Dams and hydroelectric projects pose a massive problem for the integrity of ecosystems and the ability of Indigenous Peoples to maintain their traditional ways of life, hunting, fishing, trapping, and harvesting. As a result of diversion and depletion of pristine water sources, many Indigenous Peoples do not have access to water. Regulatory frameworks also infringe upon Indigenous peoples’ rights to, use of, and access to water. The privatization and commodification of water is a critical issue. No one owns water. Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 18 of 29

**Air**

The air is the Messenger that announces the rains, it is a voice of our ancestors, and it is the central element for the preservation of cultures. The main causes of air pollution are industrialization, militarization, electricity generation, energy generation from nonrenewable sources, means of transport and inadequate management of toxic wastes. This situation threatens the health of our ecosystems, putting life at risk. Air pollution caused by automobile exhaust, has great impacts on the respiratory health of all peoples, particularly in urban areas. The pollution carried by the wind from coal-fire plants emit toxins negatively impact peoples at great distances. The burning of oil, gas, and coal ("fossil fuels") causing the global warming is the primary source of human-induced climate change.

**Earth**

Our sacred lands are under siege. The Western world improperly asserts that they have a right to extract the natural resources from our lands and territories without regard for our rights. This extraction has left in its wake a legacy of contamination, waste and loss of life. Indigenous peoples are facing the negative impacts of pollution, mining, deforestation, logging, oil prospecting, dumping of toxic waste, genetic engineering, fertilizers and pesticides, and soil erosion, all of which contribute to a severe loss of biodiversity. All of these threaten food security, subsistence lifestyles, human health and our ability to sustain our peoples. Our peoples are suffering from high rates of cancers, diabetes, heart disease and other serious diseases previously unknown to our peoples. In the name of conservation of biodiversity, Indigenous Peoples have been displaced from our territories designated as protected areas. There is a direct correlation between the health of the land and the holistic health and well-being of the people. This has particular and significant impact on Indigenous Women - the rape and desecration of Mother Earth is reflected in what has happened to Indigenous Women.

**Fire**

The fire that sparks life is being disrespected by technology of the industrialized world that allows it to take life such as the fire in the coal-fired powered plants, the toxic waste incinerators, the fossil-fuel combustion engine and other polluting technologies that add to greenhouse gases, a primary cause of climate change. The abuse of the sacred element of fire conflicts with Indigenous knowledge and practices. Human beings are using fire in an exploitive, manipulative, destructive and deadly manner. The culturally inappropriate use of fire is manifested in the atomic bomb, military weaponry and warfare, nuclear power and radioactive waste, the extractive energy industries of coal, oil and gas, and the burning of forests and grasslands that result in the extinction of flora and fauna within our ancestral territories.

**THE HEALING OF MOTHER EARTH**

Based on our inherent sovereignty and consistent with our inherent birthright to self-determination in international law, including the United Nations Declaration on the Rights of Indigenous Peoples, we affirm our responsibility to protect water, air, earth and fire. Because of our relationship with our lands, waters and natural surroundings since time immemorial, we carry the knowledge, ideas and solutions that the world needs today. We know how to live with Mother Earth because we are her children. We commit to sharing certain teachings of our peoples to all humanity so that they can find their original, sacred relationship to Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 19 of 29

Mother Earth, Father Sky, and all Creation. It is our responsibility given to us by the Creator to speak for the plants, for the animals, and all life to bring their message to all of peoples and nations of the world.

Traditional knowledge can aid in providing accurate ecological baselines embedded in and carried in Indigenous languages, including in traditional names of places, stories and oral narratives that reveal the original roles of natural habitats as given to us by the Creator. These baselines are critical for societal adaptation to environmental change, land use change and climate change, as well as indigenous cultural survival in the face of these detrimental changes in the world we live in today.

**Call to Action to Indigenous Peoples**

Based on our inherent sovereignty and consistent with our right of self-determination in international law, we affirm our inherent birthright to water, air, earth and fire. We call upon our Indigenous brothers and sisters to fulfill our responsibilities bequeathed by our ancestors to secure a healthy environment for present and future generations. We know how to live with Mother Earth because we are her children. We are a powerful spiritual people. It is this spiritual connection to Mother Earth, Father Sky, and all Creation that the rest of the World must respect. Our extended family includes our Mother Earth, Father Sky, and our brothers and sisters, the animal and plant life, therefore, it is the responsibility given to us by the Creator to speak for the plants, for the animals, for the rest of Creation, for the future of all the children, for the future of Mother Earth and Father Sky. We commit to continue our traditional practices for the environment based on standards consistent with the Natural Laws of the Creator for the benefit of future generations.

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We call upon all Indigenous Peoples to:

Honor and defend all the sacred elements by conducting their traditional ceremonies and prayers revitalizing and perpetuating traditional values and knowledge systems and applying them to today’s realities. We the Indigenous Peoples at this Convening, offer to share the following gifts of knowledge through our own skills that have been developed and through proven best practices/successful indigenous practices or knowledge that have been successful:

• Develop recycling capabilities for plastic, paper, glass and metals in our own communities, ending the use of plastic;

• Exercise traditional ways of growing crops; and

• Plant more trees to clean the air and water, a holistic reforestation with endemic plants.

o Educate Indigenous Peoples and non-Indigenous people beginning with our children and including individuals, communities, governments, institutions and the media about the role of these sacred elements in our world and our livelihoods. Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 20 of 29

o Create and develop an Indigenous education circle without borders, based on traditional knowledge using appropriate tools of science to protect our sacred elements. This network can include traditional practices, research experience, development of curriculum for our children, and a library of knowledge that can be shared with all of our Peoples.

o Collaborate and organize events, gatherings and conferences for the protection of the sacred elements.

o Acknowledge the ancestral time in uniting “All Nations, All Faiths, One Prayer” on June 21st to pray for united healing.

o Assert and exercise our inherent, prior and collective rights to manage, maintain and protect our lands and territories.

o Express our full support for the existing Indigenous organizations and associations which are currently advocating for the protection, stewardship and sustainability of water as a resource and as a part of Indigenous identity, spirituality, culture and nationhood.

o There are numerous documents, resources, tools, instruments, treaties, agreements and other constructive arrangements that have been created by or in partnership with Indigenous Peoples. We encourage more Indigenous Peoples to create such tools in accordance with their respective customs, protocols and laws, to articulate, implement or enforce our inherent rights and in exercising self determination. We also urge Indigenous Peoples to share such tools, skills, knowledge and resources with each other.

o Exercise the right of free, prior and informed consent to any actions that may affect their lands and territories.

**Call to Action to the Global Community**

Acknowledging the dignity of all life, peoples and nations, we call upon the global community to unite with Indigenous Peoples to learn the teachings and wisdom as bestowed to us by the Creator in order to heal Mother Earth. The realization of this Call to Action will only occur with the full, active and collaborative partnership of all peoples and nations. We call upon Leaders of all Nations of the World at all levels of decision making, to accept responsibility for the welfare of future generations. Living by the traditional principles and values of Honor, Respect, Love, Compassion, Peace and Friendship, we call upon the Global Community:

International

o Fully implement the United Nations Declaration on the Rights of Indigenous Peoples.

o Protect Indigenous peoples from the negative impacts of trade agreements. Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 21 of 29

o Recognize the rights of Indigenous Peoples consistent with the United Nations Declaration on the Rights of Indigenous Peoples and other international law, in the implementation of international treaties, conventions and agreements relevant to the environment, trade, and human rights including:

• Convention on Biological Diversity, including Articles 8(j) and 10.

• United Nations Framework Convention on Climate Change (UNFCC) and the Kyoto Protocol

• International Labour Organization Convention (ILO) 107 and 169

• Organization of American States

• OAS Proposed Declaration on the Rights of Indigenous Peoples

• Universal Declaration of Human Rights

• International Convention on the Elimination of All Forms of Racial Discrimination

• International Covenant on Economic, Social and Cultural Rights

• International Covenant on Civil and Political Rights

• Declaration on the Granting of Independence to Colonial Countries and Peoples

• General Assembly resolution 1803 (XVII) of 14 December 1962, “Permanent sovereignty over natural resources”

• Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

National

o Commit to the full implementation at the domestic level of the United Nations Declaration on the Rights of Indigenous Peoples.

o That all levels of nation-state and state governments live up to their commitments to Indigenous Peoples by recognizing our inherent rights, cultural rights and rights held pursuant to treaties, agreements and other constructive arrangements. Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 22 of 29

o Implement a system of legislation, regulation, fines or taxation for excessive use or abuse of any of the four sacred elements.

o Enter into a collaborative, and active partnership with Indigenous Peoples to protect, sustain and maintain sacred sites of Indigenous Peoples.

o Governments should guarantee the restructuring and repair of the damage done to the cultural patrimony and territory of Indigenous Peoples.

Non-Governmental and Civil Society

o Civil society and non-governmental organizations to involve and support Indigenous Peoples in the protection of our lands, territories and rights. This includes advocacy concerning any activity impacting the four sacred elements.

o Encourage civil society, and non-governmental organizations to respect and honor the roles and responsibilities of Indigenous Peoples in carrying out their mandates and roles;

Private Sector and State Corporations

o Indigenous laws governing the four sacred elements must be respected by the private sector, in addition to relevant international, and national laws that are consistent with the United Nations Declaration on the Rights of Indigenous Peoples in carrying out their business or projects.

o Ensure the free, prior and informed consent of Indigenous Peoples prior to commencing any undertaking which impacts the four sacred elements, including assessments or exploration, and involving the participation of governments if necessary.

**DECLARATION**

We, the Convening of Indigenous Peoples for the Healing of Mother Earth, support the spirit and intent of this message and send it out to all Indigenous peoples and to the World as a living document. Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 23 of 29

**THE MYSTIC LAKE DECLARATION**

**From the Native Peoples Native Homelands Climate Change Workshop II:**

***Indigenous Perspectives and Solutions***

**At Mystic Lake on the Homelands of the Shakopee Mdewakanton Sioux Community, Prior Lake, Minnesota**

***November 21, 2009***

As community members, youth and elders, spiritual and traditional leaders, Native organizations and supporters of our Indigenous Nations, we have gathered on November 18-21, 2009 at Mystic Lake in the traditional homelands of the Shakopee Mdewakanton Dakota Oyate. This Second Native Peoples Native Homelands Climate Workshop builds upon the Albuquerque Declaration and work done at the 1998 Native Peoples Native Homelands Climate Change Workshop held in Albuquerque, New Mexico. We choose to work together to fulfill our sacred duties, listening to the teachings of our elders and the voices of our youth, to act wisely to carry out our responsibilities to enhance the health and respect the sacredness of Mother Earth, and to demand Climate Justice now.

We acknowledge that to deal effectively with global climate change and global warming issues all sovereigns must work together to adapt and take action on real solutions that will ensure our collective existence.

We hereby declare, affirm, and assert our inalienable rights as well as responsibilities as members of sovereign Native Nations. In doing so, we expect to be active participants with full representation in United States and international legally binding treaty agreements regarding climate, energy, biodiversity, food sovereignty, water and sustainable development policies affecting our peoples and our respective Homelands on Turtle Island (North America) and Pacific Islands.

We are of the Earth. The Earth is the source of life to be protected, not merely a resource to be exploited. Our ancestors’ remains lie within her. Water is her lifeblood. We are dependent upon her for our shelter and our sustenance. Our lifeways are the original “green economies.” We have our place and our responsibilities within Creation’s sacred order. We feel the sustaining joy as things occur in harmony. We feel the pain of disharmony when we witness the dishonor of the natural order of Creation and the degradation of Mother Earth and her companion Moon.

We need to stop the disturbance of the sacred sites on Mother Earth so that she may heal and restore the balance in Creation. We ask the world community to join with the Indigenous Peoples to pray on summer solstice for the healing of all the sacred sites on Mother Earth.

The well-being of the natural environment predicts the physical, mental, emotional and spiritual longevity of our Peoples and the Circle of Life. Mother Earth’s health and that of our Indigenous Peoples are intrinsically intertwined. Unless our homelands are in a state of good health our Peoples will not be truly healthy. This inseparable relationship must Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 24 of 29

be respected for the sake of our future generations. In this Declaration, we invite humanity to join with us to improve our collective human behavior so that we may develop a more sustainable world – a world where the inextricable relationship of biological, and environmental diversity, and cultural diversity is affirmed and protected.

We have the power and responsibility to change. We can preserve, protect, and fulfill our sacred duties to live with respect in this wonderful Creation. However, we can also forget our responsibilities, disrespect Creation, cause disharmony and imperil our future and the future of others.

At Mystic Lake, we reviewed the reports of indigenous science, traditional knowledge and cultural scholarship in cooperation with non-native scientists and scholars. We shared our fears, concerns and insights. If current trends continue, native trees will no longer find habitable locations in our forests, fish will no longer find their streams livable, and humanity will find their homelands flooded or drought-stricken due to the changing weather. Our Native Nations have already disproportionately suffered the negative compounding effects of global warming and a changing climate.

The United States and other industrialized countries have an addiction to the high consumption of energy. Mother Earth and her natural resources cannot sustain the consumption and production needs of this modern industrialized society and its dominant economic paradigm, which places value on the rapid economic growth, the quest for corporate and individual accumulation of wealth, and a race to exploit natural resources. The non-regenerative production system creates too much waste and toxic pollutions. We recognize the need for the United States and other industrialized countries to focus on new economies, governed by the absolute limits and boundaries of ecological sustainability, the carrying capacities of the Mother Earth, a more equitable sharing of global and local resources, encouragement and support of self sustaining communities, and respect and support for the rights of Mother Earth and her companion Moon.

In recognizing the root causes of climate change, participants call upon the industrialized countries and the world to work towards decreasing dependency on fossil fuels. We call for a moratorium on all new exploration for oil, gas, coal and uranium as a first step towards the full phase-out of fossil fuels, without nuclear power, with a just transition to sustainable jobs, energy and environment. We take this position and make this recommendation based on our concern over the disproportionate social, cultural, spiritual, environmental and climate impacts on Indigenous Peoples, who are the first and the worst affected by the disruption of intact habitats, and the least responsible for such impacts.

Indigenous peoples must call for the most stringent and binding emission reduction targets. Carbon emissions for developed countries must be reduced by no less than 40%, preferably 49% below 1990 levels by 2020 and 95% by 2050. We call for national and global actions to stabilize CO2 concentrations below 350 parts per million (ppm) and limiting temperature increases to below 1.5ºc.

We challenge climate mitigation solutions to abandon false solutions to climate change that negatively impact Indigenous Peoples’ rights, lands, air, oceans, forests, territories Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 25 of 29

and waters. These include nuclear energy, large-scale dams, geo-engineering techniques, clean coal technologies, carbon capture and sequestration, bio-fuels, tree plantations, and international market-based mechanisms such as carbon trading and offsets, the Clean Development Mechanisms and Flexible Mechanisms under the Kyoto Protocol and forest offsets. The only real offsets are those renewable energy developments that actually displace fossil fuel-generated energy. We recommend the United States sign on to the Kyoto Protocol and to the United Nations Declaration of the Rights of Indigenous Peoples.

We are concerned with how international carbon markets set up a framework for dealing with greenhouse gases that secure the property rights of heavy Northern fossil fuel users over the world’s carbon-absorbing capacity while creating new opportunities for corporate profit through trade. The system starts by translating existing pollution into a tradable commodity, the rights to which are allocated in accordance with a limit set by States or intergovernmental agencies. In establishing property rights over the world's carbon dump, the largest number of rights is granted (mostly for free) to those who have been most responsible for pollution in the first place. At UN COP15, the conservation of forests is being brought into a property right issue concerning trees and carbon. With some indigenous communities it is difficult and sometimes impossible to reconcile with traditional spiritual beliefs the participation in climate mitigation that commodifies the sacredness of air (carbon), trees and life. Climate change mitigation and sustainable forest management must be based on different mindsets with full respect for nature, and not solely on market-based mechanisms**.**

We recognize the link between climate change and food security that affects Indigenous traditional food systems. We declare our Native Nations and our communities, waters, air, forests, oceans, sea ice, traditional lands and territories to be “Food Sovereignty Areas,” defined and directed by Indigenous Peoples according to our customary laws, free from extractive industries, unsustainable energy development, deforestation, and free from using food crops and agricultural lands for large scale bio-fuels.

We encourage our communities to exchange information related to the sustainable and regenerative use of land, water, sea ice, traditional agriculture, forest management, ancestral seeds, food plants, animals and medicines that are essential in developing climate change adaptation and mitigation strategies, and will restore our food sovereignty, food independence, and strengthen our Indigenous families and Native Nations.

We reject the assertion of intellectual property rights over the genetic resources and traditional knowledge of Indigenous peoples which results in the alienation and commodification of those things that are sacred and essential to our lives and cultures. We reject industrial modes of food production that promote the use of chemical substances, genetically engineered seeds and organisms. Therefore, we affirm our right to possess, control, protect and pass on the indigenous seeds, medicinal plants, traditional knowledge originating from our lands and territories for the benefit of our future generations. Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 26 of 29

We can make changes in our lives and actions as individuals and as Nations that will lessen our contribution to the problems. In order for reality to shift, in order for solutions to major problems to be found and realized, we must transition away from the patterns of an industrialized mindset, thought and behavior that created those problems. It is time to exercise desperately needed Indigenous ingenuity – *Indigenuity* – inspired by our ancient intergenerational knowledge and wisdom given to us by our natural relatives.

We recognize and support the position of the International Indigenous Peoples Forum on Climate Change (IIPFCC), operating as the Indigenous Caucus within the United Nations Framework Convention on Climate Change (UNFCCC), that is requesting language within the overarching principles of the outcomes of the Copenhagen UNFCCC 15th Session of the Conference of the Parties (COP15) and beyond Copenhagen, that would ensure respect for the knowledge and rights of indigenous peoples, including their rights to lands, territories, forests and resources to ensure their full and effective participation including free, prior and informed consent. It is crucial that the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is entered into all appropriate negotiating texts for it is recognized as the minimum international standard for the protection of rights, survival, protection and well-being of Indigenous Peoples, particularly with regard to health, subsistence, sustainable housing and infrastructure, and clean energy development.

As Native Nations and Indigenous Peoples living within the occupied territories of the United States, we acknowledge with concern, the refusal of the United States to support negotiating text that would recognize applicable universal human rights instruments and agreements, including the UNDRIP, and further safeguard principles that would ensure their full and effective participation including free, prior and informed consent. We will do everything humanly possible by exercising our sovereign government-to-government relationship with the U.S. to seek justice on this issue.

Our Indian languages are encoded with accumulated ecological knowledge and wisdom that extends back through oral history to the beginning of time. Our ancestors created land and water relationship systems premised upon the understanding that all life forms are relatives – not resources. We understand that we as human beings have a sacred and ceremonial responsibility to care for and maintain, through our original instructions, the health and well-being of all life within our traditional territories and Native Homelands.

We will encourage our leadership and assume our role in supporting a just transition into a green economy, freeing ourselves from dependence on a carbon-based fossil fuel economy. This transition will be based upon development of an indigenous agricultural economy comprised of traditional food systems, sustainable buildings and infrastructure, clean energy and energy efficiency, and natural resource management systems based upon indigenous science and traditional knowledge. We are committed to development of economic systems that enable life-enhancement as a core component. We thus dedicate ourselves to the restoration of true wealth for all Peoples. In keeping with our traditional knowledge, this wealth is based not on monetary riches but rather on healthy relationships, relationships with each other, and relationships with all of the other natural elements and beings of creation. Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 27 of 29

In order to provide leadership in the development of green economies of life-enhancement, we must end the chronic underfunding of our Native educational institutions and ensure adequate funding sources are maintained. We recognize the important role of our Native K-12 schools and tribal colleges and universities that serve as education and training centers that can influence and nurture a much needed *Indigenuity* towards understanding climate change, nurturing clean renewable energy technologies, seeking solutions and building sustainable communities.

The world needs to understand that the Earth is a living female organism – our Mother and our Grandmother. We are kin. As such, she needs to be loved and protected. We need to give back what we take from her in respectful mutuality. We need to walk gently. These Original Instructions are the natural spiritual laws, which are supreme. Science can urgently work with traditional knowledge keepers to restore the health and well-being of our Mother and Grandmother Earth.

As we conclude this meeting we, the participating spiritual and traditional leaders, members and supporters of our Indigenous Nations, declare our intention to continue to fulfill our sacred responsibilities, to redouble our efforts to enable sustainable life-enhancing economies, to walk gently on our Mother Earth, and to demand that we be a part of the decision-making and negotiations that impact our inherent and treaty-defined rights. Achievement of this vision for the future, guided by our traditional knowledge and teachings, will benefit all Peoples on the Earth.

Approved by Acclamation and Individual Sign-ons. Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 28 of 29 Attachments, Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 29 of 29

**Climate Change**

The traditional knowledge held by the indigenous peoples of the world, and within the United States, is a vast reservoir of teachings and lore that contains within it much that is needed as we collectively face an uncertain future, filled with a rapidly changing climate, rising sea levels, and cataclysmic natural disasters. This uncertainty is having, and will continue to have, significant effects within individuals, families, communities, nations and across the entire world.

Indigenous Peoples from around the world have been preparing for dealing with these changes. In 2008, in Palenque, Mexico, the Convening of Indigenous Peoples for the Healing of Mother Earth was held with nearly 150 representatives from all across North America. Using our traditional knowledge and teachings a document was drafted outlining the imbalance that Indigenous People feel in the Earth today and issuing a warning of the dire consequences humankind is facing because of this imbalance *(copy attached).*

In 2009, at Prior Lake, Minnesota, the Native Peoples Native Homelands Climate Change Workshop II was held. The result was the Mystic Lake Declaration the intent of which was to inform the discussions at the 2009 Copenhagen Climate Summit. In this Declaration Native Peoples stated

*“We hereby declare, affirm, and assert our inalienable rights as well as responsibilities as members of sovereign Native Nations. In doing so, we* Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 6 of 29

*expect to be active participants with full representation in United States and international legally binding treaty agreements regarding climate, energy, biodiversity, food sovereignty, water and sustainable development policies affecting our peoples and our respective Homelands on Turtle Island (North America) and Pacific Islands.*

*We are of the Earth. The Earth is the source of life to be protected, not merely a resource to be exploited. Our ancestors’ remains lie within her. Water is her lifeblood. We are dependent upon her for our shelter and our sustenance. Our lifeways are the original “green economies.” We have our place and our responsibilities within Creation’s sacred order. We feel the sustaining joy as things occur in harmony. We feel the pain of disharmony when we witness the dishonor of the natural order of Creation and the degradation of Mother Earth and her companion Moon.” (see attached copy)*

**Testimony of Frank Ettawageshik**

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**Before**

**The Senate Committee on Indian Affairs**

**June 9, 2011**

**Setting the Standards: The Domestic Policy**

**Implications of the United Nations Declaration on**

**The Rights of Indigenous Peoples**

Climate Change

The North American tribal nations who reside within the territory of the United States are among the first in the US to directly feel the impacts of the changing climate just as around the world, indigenous peoples are today and will continue to be the earliest and most severely impacted. In the arctic whole seaside native villages are threatened as erosion from rising waters and melting permafrost combine in a relentless process that is causing them to be destroyed. The Indian Tribal Nations along the coast of the Gulf of Mexico have suffered loss of land, resources, heritage sites, and have suffered severe economic hardship due to storm erosion and rising ocean levels.

Across the whole United States tribal nations’ physical, social, emotional and spiritual environments are under attack by outside pressures which now include the changing climate which is adjusting the habitat around us. In the past when the climate changed we were free to move with the changes, but today we are for the most part fixed in place. This will cause our cultures to have to adapt in ways that we have never before had to face.

Tribal Nations need to have access to adequate resources to work with each other and with the US and state governments to help mitigate the negative impacts being caused by this changing climate. There are two ways that this can be accomplished. One is to remove restrictions on Tribal Nations that make it difficult for us to help ourselves. Better access to capital and economic development opportunities is needed. The ability to Frank Ettawageshik Testimony, June 9, 2011 Senate Committee on Indian Affairs, UN Declaration on the Rights of Indigenous Peoples Page 7 of 29

exercise our sovereign rights to regulate and develop our own lands without excessive US government oversight and regulation is long overdue.

The second way to help Tribal Nations is to adequately fund existing programs that are used by tribes to prepare for the climate challenges that we are facing. Equity in funding opportunities to create and coordinate climate planning amongst our tribal nations and with other governments around us is essential.

In some areas of the country several steps have already been taken. In Michigan for example, I was appointed to represent tribal interests on the Michigan Climate Action Council. The resulting Climate Action Plan that the Council presented to Michigan’s governor contained several tribally specific recommendations including the negotiation of a Tribal State Climate Accord. This has been completed and adopted *(see attached copy).*

Through the provisions of this accord, twice yearly staff level meetings among state and tribal officials are held to discuss common issues in dealing with the changing climate. In at least one other state, tribal interests were recognized in the adoption of a Climate Action Plan.

**Conclusion**

To guide the implementation of the Declaration’s provisions a comprehensive review of existing United States laws and relationships with Tribal Nations needs to be begun. This needs to be done carefully and thoughtfully including all parties which are affected. Land uses, regulatory systems, territorial jurisdiction, agricultural development, and disaster preparedness and relief are just a few of the areas for review. A special joint commission of the US and Tribal Nations should be created and charged with this review creating a record that will inform the process of implementation.

Indigenous Peoples traditional teachings guide us in our relationship with our Mother the Earth. We know that we must respect the forces of nature, we must seek balance in our lives and communities and nations, we must consider the consequences of our actions through the coming seven generations. We have gifts, knowledge, traditions and a way of life that has been handed down from the preceding generations. These gifts not only benefit our own peoples, they also enrich and provide guidance for the preservation of all humankind. We seek the strength and wisdom to do our part to continue this sacred responsibility.

APPENDIX E: Forest Service Approach: NEPA and the 2005 EIS

The EIS for the San Francisco Peaks is posted on the USDA Forest Service website. The document contains the full analysis of the impacts of the expansion proposal and the comments from its critics. It is to extensive to post here, but it is easily available on the Forest Service website or it can be easily found using Google.

Final Environmental impact statement for Arizona Snowbowl facilities improvements proposal, Coconino National Forest, Southwest Region, 2005. (search fs.fed.us.gov)

Comments on Final Environmental Impact Statement. Find on websites: Save the Peaks Coalition or Indigenous Action Network