

REPORT SUBMITTED TO THE UNITED NATIONS HUMAN RIGHTS COUNCIL
In regard to the
UNIVERSAL PERIODIC REVIEW CONCERNING THE UNITED STATES OF AMERICA
Second Cycle-22nd Session
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Submitted by Indigenous World Association (IWA) an ECOSOC NGO and the Laguna Acoma Coalition for a Safe Environment

This Report is submitted by the Indigenous World Association (IWA), an ECOSOC accredited NGO, together with the Laguna-Acoma Coalition for a Safe Environment (LACSE). LACSE, an organization of Laguna Pueblo and Acoma Pueblo residents, in New Mexico, USA, is committed to addressing uranium mining legacy issues, including protection of sacred areas, affecting both indigenous nations, and is a member of the Multicultural Alliance for a Safe Environment (MASE, masecoalition.org)., which addresses issues of environmental justice related to uranium mining in the Grants uranium belt in Northwestern New Mexico.

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Summary

Despite the 2010 statement in support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) by the United States, the United States has failed to provide meaningful implementation of the rights contained in the UNDRIP. Perhaps in response to the calls by this body in the last UPR cycle in March 2010, as well as that of other UN Human bodies, the United States issued a statement in support of the UNDRIP in December 2010. However the United States continues to insist that the UNDRIP is “a non-binding, aspirational document” and renders the UNDRIP ineffective through federal, state and local actions that deny indigenous peoples the exercise of rights contained in the ICCPR, the ICERD, and the UNDRIP.

This report addresses the United States’ failure to provide substantive protection for sacred areas and landscapes, in the face of recommendations by the Human Rights Committee in the 2014 ICCPR review, by the CERD committee in the 2014 CERD Review, and by several UN special rapporteurs. Related to these rights are those impacted by extractive activities that impact

sacred areas and discriminatorily deprive indigenous communities of essential human rights such as the right to free prior and informed consent and rights related to religion and culture.

1. Mt. Taylor (“Kaaweesthiimaa” in the Acoma language, “Tsibiinaa” in the Laguna language), a sacred landscape and area to Acoma, Laguna, and other Indigenous Nations in the region, is under threat of irreparable harm should proposed uranium mining by Roca Honda Resources, LLC, and others proceed in the area. Despite the recognition of this area as a traditional cultural property under federal and state law, the United States Forest Service, an agency of the United States government, has taken actions which substantively disregard United States obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), especially rights with regard to property, health, and participation in cultural activities provided in Article 5 of the ICERD. Despite the Recommendation of the Committee on the Elimination of Racial Discrimination (hereinafter “CERD”) in 2008, to ensure that activities carried out in areas of spiritual and cultural significance to Native Americans do not have a negative impact on the enjoyment of their rights under the Convention, the United States has failed to observe its human rights obligations in this situation.
2. Current federal law purporting to provide protection for cultural rights, and policy on consultation in cases affecting protection of cultural rights, including Executive Orders, have provided no substantive protection for cultural rights. Both the federal and state governments are responsible permitting agencies for mining activities. However, the United States has not taken sufficient steps to establish appropriate mechanisms to ensure a coordinated approach towards the implementation of the Convention at the federal, state and local levels, which are all implicated in the case of Mt. Taylor.
3. The United States Environmental Protection Agency and the New Mexico Environment Department have failed to clean up 97 abandoned uranium mines and 5 former mills in the Grants Mining District in New Mexico after 30 plus years.¹ This includes the Homestake-Barrick Gold mill site now a U.S. Superfund site.²
4. The United States Department of Agriculture, and its subsidiary the United States Forest Service, is seeking to permit new uranium mining which will irreparably impact the Mt. Taylor Traditional Cultural Property.³ The free prior and informed consent of

¹ Assessment of Health and Environmental Health Impacts of Uranium Mining and Milling, Five-Year Plan—Grants Mining District, New Mexico (December 2011).

² Newsletter of the Bluewater Valley Downstream Alliance. See: <http://www.bvdownstreamalliance.com> (April 2013).

³ Draft Environmental Impact Statement (DEIS) for Roca Honda Mine, Sections 9, 10, and 16, Township 13 North, Range 8 West, New Mexico Principal Meridian, Cibola National Forest, McKinley and Cibola County, New Mexico. The DEIS can be seen at http://www.fs.fed.us/nepa/nepa_project_exp.php?project=18431

indigenous peoples impacted, including Laguna Pueblo, Acoma Pueblo, Zuni Tribe and Navajo Nation has not been fully obtained for new proposed uranium mining at Mt. Taylor, which is within the aboriginal lands of these indigenous peoples in New Mexico. obtained.

5. Human rights violations of affected indigenous people in New Mexico have been presented in reports to the Human Rights Committee in the United States Review under the International Covenant on Civil and Political Rights (ICCPR) and to the CERD Committee as part of the United States review under the Convention on the Elimination of All Forms of Racial Discrimination (CERD) during 2014. In both reviews, the United Nations monitoring committees issued conclusions and recommendations regarding protection of sacred places and the need to provide free, prior and informed consent especially in cases regarding extractive activities.
6. The United States has failed to implement existing laws in a manner that fully implements the rights contained in the UNDRIP, including access to sacred sites and cultural rights. These laws include the American Indian Religious Freedom Act (42 U.S.C. 1996), the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.), the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000 bbl), and the National Historic Preservation Act (16 U.S.C. 470 et seq.) It also violates Executive Order 13007, which directs federal agencies to “accommodate access to and ceremonial use of Indian sacred sites by Indian religious practioners.”
7. The United is ignoring established federal laws and policies protecting indigenous sacred sites when it permits new extractive mining. Specifically it ignores Cite: See Shadow Reports referenced herein and submitted to ICCPR and CERD. See also, Letter of Multicultural Alliance for a Safe Environment, dated June 13, 2013, at <https://cara.ecosystem-management.org/Public/Letter/183109?project=18431>, pp. 5-7.
8. The United States continues to apply discriminatory laws, such as the General Mining Act of 1872, the 1897 Organic Act, and the 1955 Multiple Use Mining Act, all of which preference mining activities over cultural practices on public land.
9. The United States has so far failed to educate federal agencies, state agencies, and local governments on the United Nations Declaration on the Rights of Indigenous Peoples, the International Covenant on Civil and Political Rights, and the Convention on the Elimination of All Forms of Racial Discrimination. The UPR Working Group, in the first UPR cycle for the United States, urged the United States to incorporate human rights training and education in their public policies.⁴

⁴ Report of the Group on the Universal Periodic Review of the United States of America. A/HRC/16/11 (4 January 2011), pt. 92-87.

RECOMMENDATIONS:

1. That the United States follow the recommendation of several human rights bodies and establish a National Human Rights institution.
2. That the United States fully implement the UNDRIP.
3. That the United States undertake a comprehensive review of domestic laws and policies, which some U.S. and state agencies interpret to privilege extractive activities over the rights of indigenous peoples, and bring them into compliance with international human rights standards.
4. That the United States adopt effective measures to protect cultural landscapes and sacred areas of indigenous peoples against desecration, contamination and destruction and ensure that consultations are held with the communities that might be adversely affected by State party's development projects and exploitation of natural resources with a view to obtaining their free, prior and informed consent for the potential project activities.
5. Recommend that the United States take steps to establish appropriate mechanisms to ensure a coordinated approach towards the implementation of the Convention at the federal, state and local levels."