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Good morning Mr. Chairperson. This is the first time the Navajo Nation Human Rights Commission is taking the floor and I congratulate you on your selection to Chair the 12th session of the Permanent Forum on Indigenous Issues. Good morning to representatives of nation-states and indigenous peoples attending this important session. The intervention by the Commission is to offer general recommendations of studies by the permanent forum based on experiences gained over the past several years protecting the San Francisco Peaks as a sacred place for the Navajo people and other indigenous peoples. The recommendations are also based on efforts to work with United States in recent years.

The Commission is an entity within the Navajo Nation government and has expressed both in writing and verbally that the United States, especially its departments and offices, to adopt as their minimum standard the U.N. Declaration on the Rights of Indigenous Peoples and incorporate the Declaration into all policies affecting indigenous human rights. By doing so, the United States will follow through on its commitments to protect the rights of indigenous nations and peoples, especially as it relates to protecting sacred places. It is essential the United States fulfills its obligations and implement laws and policies that support the rights of indigenous nations and peoples. The protection of our human rights is fundamental to our current and future existence.

Furthermore, the Commission has expressed that the United States' department and offices abandon the terminology "consultation" and replace it with the international standard of "free, prior and informed consent." The Commission understands and agrees that communication is important component in developing a strong partnership to protect sacred places, but "consultation" limits indigenous nations and peoples because the current consultation policy mandated by executive order does not provide for consent. Providing indigenous nations and peoples with information about a proposed decision and gathering and taking into account their points of view is not sufficient in the context of sacred places. The Commission expects the United States to ensure that "free, prior and informed consent" is the new standard, not "consultation," for securing input from indigenous nations and peoples.

"Free, prior and informed consent" is the global standard to which an indigenous nation has the right to give or withhold its consent to proposed projects which affect lands that are customarily and aboriginally owned, occupied or otherwise used regardless of whether those lands are now located on federal public land, state land, or privately held land. "Free, prior and informed consent" calls for prior notice, in non-coercive direct negotiations between companies or governments and indigenous peoples and nations. The right to "free, prior and informed consent" allows for indigenous peoples and nations to gain full understanding and make a decision based on shared comprehensive information, which has been given freely and prior to development of customarily, owned, occupied or otherwise used lands.

Though the United States possesses a general trust responsibility towards indigenous peoples, the United States has not protected one of the fundamental cultural properties, the Peaks, important to the Navajo and other indigenous peoples. In fact, the United States frequently allows for the desecration and economic exploitation of indigenous peoples' sacred places for the benefit of non-indigenous peoples business owners and non-indigenous peoples public to the detriment of the Navajo people and other indigenous peoples. For the Declaration to impact indigenous peoples, it necessarily requires the United States to evaluate and change the law and policy towards Native Americans. Implementation of the Declaration will ensure the United

States clarifies and strengthens its positions to the human rights of Native Americans and promote uniformity in the law and policy.

While the Commission recognizes that implementing the Declaration creates a challenge, the United States need not continue to tell Native Americans what is sacred or important to us. The United States must consider the human rights of Native American and balance them with its own interest. The balancing must not discriminate against Native Americans nor perpetuate injustice. The United States must respect and abide by the international law regarding Native Americans human rights, specifically those that address sacred sites.

RECOMMENDATIONS

1. *Prioritize Self-Determination, Lands, Territories and Resources:* the United Nations, under the former Commission on Human Rights, studied permanent sovereignty over resoruces. Special Rapporteur Erica-Irene A. Daes noted in her reports that “meaningful political and economic self-determination of indigenous peoples will never be possible without indigenous peoples’ having the legal authority to exercise control over their lands and territories.” The Commission implores the permanent forum to further the work started by Professor Daes to encompass self-determination, lands, territories and resources.
2. *Effective Measures to Implement the Declaration:* while there is attention given by the United States to examine indigenous issues through its acceptance of recommendations under the Universal Period Review process, it has been five years since the United States announced to the world community that it reversed its position on the Declaration. However, the United States’ departments and agencies are still unaware that President Obama supported the Declaration in December 2010. There is strong need for effective mechanism to be instituted to ensure full implementation of Declaration in the United States. Therefore, effective mechanisms need to be studied and recommended by the permanent forum to ensure meaningful and effective implementation of the Declaration by nation-states.

3. *Formal participation by Indigenous Nations:* nation-states recognize indigenous peoples have governments and decision making institutions yet the United Nations systems do not recognize the indigenous nations by providing a seat at the table and meaningful participation. Many indigenous peoples elect their representatives in a democratic process much the same as nation-states. Therefore, the Commission recommends that the permanent forum study ways indigenous nations become a permanent member of the UN systems.

Thank you.