

**United Nations Permanent Forum on Indigenous Issues Tenth Session
New York, 16 – 27 May, 2011**

**Agenda item 6: Half day discussion of the Right to Water for Indigenous Peoples
Joint Intervention by the International Indian Treaty Council, Ermineskin Cree Nation,
International Organization of Indigenous Resource Development, Assembly of First
Nations, First Nations Summit, Unidad de la Fuerza Indigena y Campesina, Indigenous
World Association, American Indian Law Alliance and the Seventh Generation Fund for
Indian Development**

Presented by Andrea Carmen, International Indian Treaty Council

Thank you Madame Chair.

The sacredness of water is the foundation of life, health, cultural practices, survival and life. Indigenous Peoples have identified a number of policies and practices by states and corporations which negatively impact their right to water. These include:

1. The privatization, commodification and wide-spread appropriation of water without the free prior informed consent of the Indigenous Peoples affected;
2. The imposition of non-sustainable development projects by States and private companies. These include mining and other extractive industries, damming, deforestation, industrial agriculture, high-pesticide use and toxic waste dumping, resulting in contamination, diversion and depletion of clean natural water sources as well as desertification, drought and climate change;
3. State policies and legal systems that favor private and or/industrial use of water over subsistence and ceremonial use by Indigenous Peoples, and which limit access and control to traditional lands, territories and natural resources including water, often in violation of Treaties, Agreements and Constructive Arrangements which affirm that the Right to Water is a Treaty Right.

These policies and practices result in violation of a wide range of internationally-recognized Human Rights including the Rights of the Child under the Convention Article 24, the Rights to Health, Food Sovereignty, Development, Life, Physical Integrity, Permanent Sovereignty over Land and Natural Resources, Treaty Rights, Free Prior Informed Consent, Self-determination, Cultural Rights, Religious Freedom and the Right of Peoples not to be Deprived of their own Means of Subsistence.

In 2007, our organizations made submissions to the landmark study conducted by the Office of the UN High Commissioner on Human Right, focusing on the Cultural and Treaty rights to water which were included in the final report as submitted to the Human Rights Council in August 2007 [A/HRC/6/3, 16 August 2007].

In March 2011, the United Nations Rapporteur on the Human Right to Safe Drinking Water and Sanitation visited the United States for the first time. During her country visit, Indigenous Peoples from New Mexico, North and South Dakota, Alaska and California presented

submissions regarding resource extraction including coal and uranium mining, oil drilling and geothermal development threatening water used for subsistence and ceremonial purposes, as well as sacred sites and Treaty rights. Her conclusion and final report will also make an important contribution to this theme.

In addition, submissions were also made by Indigenous Peoples from Canada, US, Guatemala and Mexico addressing impacts of mineral extraction by Canadian-based mining companies as well as the export of banned pesticides by US corporations which resulted in landmark recommendations by the CERD in 2007 and 2008 addressing the reports of the US and Canada. The CERD agreed that these States, and by implication other States parties to the ICERD, were responsible for monitoring the human rights compliance of corporations that they license whose activities impact the lands, waters and rights of Indigenous Peoples. CERD further recommended the implementation of administrative and legislative measures by the US to prevent such violations.

We therefore recommend that the Permanent Forum implement a process to assess, evaluate and, as needed, propose measures, mechanisms and indicators for States to monitor such compliance by corporations impacting the human right of Indigenous Peoples to clean water. These could incorporate appropriate indicators developed by the UNPFII for the well-being of Indigenous Peoples as well as the Cultural Indicators for Food Sovereignty specifically addressing access to clean water and other resources, free prior and informed consent and the Treaty Right to Water.

The Treaty Right to Water can also be a key element in the comprehensive discussion of Indigenous Peoples' understanding and interpretation of Treaties, Agreements and Constructive Arrangements between Indigenous Peoples and States as already proposed by the North American Region for the future work of the Permanent Forum at this session.

Thank you.