




10-21-2011

Managing the Sacred Lands of Native America

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Recommended Citation

Ornelas, R. T. (2011). Managing the Sacred Lands of Native America. *The International Indigenous Policy Journal*, 2(4) . Retrieved from: <http://ir.lib.uwo.ca/iipj/vol2/iss4/6>

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Managing the Sacred Lands of Native America

Abstract

This research paper is a review of ten years of sacred lands management and policy in the United States. The author reports from the unique position of having been involved in national and international meetings with communities of indigenous peoples and intergovernmental stakeholders during this time. Discussion includes an historical overview of such topics as environmental justice and the 2001 Native American Sacred Lands Forum, one of the first national meetings in the United States to specifically address the sacred lands of Native Americans. Further discussion draws attention to the adoption of the United Nations Declaration on the Rights of Indigenous Peoples in 2007 as a gateway to better sacred lands management and policy for Native Americans in the future.

Keywords

environmental justice, freedom of religious expression, human rights, indigenous peoples, Native American, policy, sacred lands

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“The Grandmothers tell us that in the beginning, there was only one Creator—one divine intelligence—and so all things created since the beginning of time are suffused with the same sacred essence. Thus, our very existence on Earth implies a profound spiritual connection to the Earth, to all nature, and to the Spirit World, as everything is a part of the one divine intelligence inherent in all of Creation. An invisible bond exists among all humanity and to all of our ancestors, a continuous thread running through space and time.”
~ *Grandmothers Counsel the World* (Schaeffer, 2006, pp.146-147)

Introduction

On February 11, 1994, then-President Clinton signed Executive Order (EO) 12898. The intent of the order was to focus on “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (USEPA, 2010). This was a monumental signing as the EO would instruct all federal governmental agencies in the United States to address the issue of environmental justice within their policies and regulations. Environmental justice is a term used to describe the disproportionate number of minority populations, low income and indigenous peoples, who are at a higher risk of toxic exposure to environmental pollution and subsequent poor health due to degraded environments where they live, work, and play (Adamson, Evans, & Stein, 2002; Bullard, 2000 [1990]; Cole & Foster, 2001; Rechtschaffen & Gauna, 2002). The EO was in answer to grassroots movements that grew out of the early 1980s in the United States that claimed “environmental racism” was at the root of what many saw as disparate treatment when marginalized minority groups were compared to white communities (Rechtschaffe & Gauna, 2002). This point was highlighted in the 1987 United Church of Christ’s, Commission for Racial Justice’s report “Toxic Wastes and Race in the United States.” This was the first report to illustrate that race is often one of the determining factors for industries deciding where toxic waste facilities are eventually located (Bullard, 2000 [1990]).

Two years after signing EO 12898, on May 24, 1996, President Clinton signed EO 13007. This EO was a directly specific governmental mandate regarding “Indian Sacred Sites” (ACHP, 2010). This EO was signed “in order to protect and preserve Indian religious practices.” The EO instructed all federal agencies to

- (1) Accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners, and
- (2) Avoid adversely affecting the physical integrity of such sacred sites. Where appropriate, agencies shall maintain the confidentiality of sacred sites (ACHP, 2010, Sec. I).

While both EO 12898 and EO 13007 seemed to address important concerns for indigenous peoples in terms of recognizing issues relating to social and environmental justice, historically, the true “management” of sacred lands policy has generally been disregarded by the United States government. In my experience, and from conversations I have had with them, tribes often feel disregarded by governmental entities when they speak out for the protection of sacred lands that they believe to be threatened and require protection for their community’s ongoing spiritual and cultural well-being.

On January 31, 2001, the Federal Interagency Working Group issued their final report on the American Indian & Alaskan Native Environmental Justice Roundtable Meeting (AIANEJR) that was held in Albuquerque, New Mexico on August 3-4, 2000 (Rivers & Constable, 2001, p. vii). The AIANEJR was convened to address the interpretation and meaning of environmental justice for indigenous

communities, as it was described in EO 12898. Most importantly, indigenous peoples in the contiguous United States and Alaska were “concerned about the interpretation of ‘Environmental Justice communities’ by the U.S. Federal Government in relation to tribes” (Rivers & Constable, 2001, p. vii). In the EO 12898, tribes had been included under the definition of what entails a minority group without regard to their unique status. The EO did not

1. Recognize tribes’ sovereign nation-state status,
2. Identify the federal trust responsibility to tribes,
3. Promote economic and social development,
4. Protect the treaty and statutory rights of American Indians and Alaskan Natives. (Rivers & Constable, 2001, p. vii)

In response to tribal concerns about the EO, the AIANEJR Planning Committee found that there were five prominent issues that emerged to be discussed at the AIANEJR meeting in New Mexico. The issues were outlined as follows

Issue 1: What is the Federal Government’s responsibility for Environmental Justice in Indian Country?

Issue 2: What are the tribal governments’ responsibilities in addressing Environmental Justice in Indian Country?

Issue 3: What are the state governments’ responsibilities in address [sic] Environmental Justice in Indian Country?

Issue 4: What are the implications of Environmental Justice for industrial development in Indian Country?

Issue 5: How should and are tribal, federal and state governments collaborating to address human health and Environmental Justice in Indian Country? (Rivers & Constable, 2001, p. v)

Invitations to the AIANEJR were sent out to elected tribal officials and governments, federal and state agency representatives, national and state tribal organizations, universities and tribal community based organizations from all parts of the United States. The invitation described the five issues to be addressed and the organizing committee requested additional input from the various groups.

Over the two days that the AIANEJR took place, participants identified eight other issues of concern that arose. The open forum, with invited speakers and break out sessions, created an atmosphere of productive collaboration. Critical attention was placed on the true meaning of what environmental justice meant for the tribes. Interestingly, the most pressing issue that surfaced at the top of the list in importance was the very first one, describing the following

American Indian and Alaskan Natives value the environment differently than non-natives. American Indian and Alaskan Natives use and manage the environment holistically; everything is living and has a spirit. Thus, many federal and state environmental laws and regulations designed to protect the environment do not address the needs and concerns of American Indian and Alaskan Natives. Land-based resources are the most important assets to tribes spiritually, culturally and economically. (Rivers & Constable, 2001, p. vii)

This was a significant result considering that the other issues were also extremely important and deemed critical to the health and welfare of tribes. Other important issues included: cultural awareness and respect, the federal trust responsibility, environmental laws and regulations needing to be enforced, capacity building for health, sustainability, sustainable development, self-determination, consultation

being essential for building relationships with trust and cultural understanding, and finally, that all actions need to be taken in consideration of “the seven generations to follow” (Rivers & Constable, 2001, p. vii).

While working as a post graduate research assistant¹ with the U.S. Environmental Protection Agency’s (USEPA) Office of Environmental Justice (OEJ), Tribal Affairs, in June 2001, I was involved initially in sacred lands discussions when the impact and the potential of the AIANEJR results were being reviewed. I was invited to meetings about the report and I became a member of the Native American Sacred Lands Forum Planning Committee. The Committee began work on planning for what would result in the October 2001 Native American Sacred Lands Forum (NASLF) in Denver, Colorado.

Based on the issues that had evolved at the AIANEJR in New Mexico, it was clear that the main issue of sacred lands protection was of paramount concern among the various tribes that had participated in the roundtable discussions in New Mexico. Guided by the format and findings contained within the ALANEJR report, planning for the NASLF evolved with a specific focus on what and how sacred lands are defined among the various tribes. It is from these early beginnings of my historic work on what became sacred lands policy development in the United States that this paper is structured.

In this paper I will to some extent describe and review definitions of Native American sacred lands. Discussion will include an overview of consultation and other processes related to the NASLF, and other national laws and policies relating to the management and regulation of Native American religious practice, including providing narrative examples of ongoing struggles that continue today for the protection of Native American sacred lands in the United States.

The Native American Sacred Lands Forum

In the report that followed the NASLF October 9-10, 2001 meeting, the purpose of the meeting was described as follows

Sacred landscapes, large and small, are a central concern to Native American nations, communities, spiritual leaders and activists. Sacred places embody values, beliefs, spirits, history, ceremonies, relationships and secrets. Sacred sites are at the core of cultural identity and health. Their protection and care is an ancient mandate and life-giving covenant . . . The Native American Sacred Lands Forum was called because of a voiced need by Native Americans to find solutions to the very serious lack of protection given to sites and issues considered sacred by tribes. (Sherman, 2003, p. ix)

Included in the October NASLF program were two early screenings of the film *In the Light of Reverence* (McLeod, 2002). The film highlights the struggles of three indigenous communities in the United States working to protect the sacred lands of the Lakota on the Great Plains, the Hopi of the Four Corners region in the Southwest and the Winnemem Wintu of Northern California. Showing the film was an important part of the NASLF since it brought another level of awareness to some of the real life concerns that tribes have about their sacred lands by allowing the audience to observe the reality of ongoing struggles.

Over the two days of the NASLF, panelists and attendees spoke of their concern about the loss of sacred lands and the impact this was having on the spiritual life and cultural well-being of many tribes

¹ I worked in this post graduate research position throughout the year following the completion of my Masters degree in 2001 and before entering my Ph.D. program in the fall of 2002.

within the United States. Panelists included Native American leaders, legal and academic scholars and various governmental representatives.

The daily sessions were designed as open forums with panelists offering their expertise and experience followed by open discussion, similar to the ALANEJR structure. At other times participants would break out into groups to discuss strategies for the future and to tell their personal stories. Tribal Elders listened attentively or participated in many of the discussions as invited speakers. They talked about why the protection of sacred lands is essentially an environmental justice and human rights issue and important to the future welfare of their tribes. In addition, Elder Elaine Quiver of the Grey Eagle Society suggested that we all keep in mind that some adults living on reservations only have a third grade education. While they might not be able to read and write above that grade level, their life experience is a valuable asset not to be overlooked (Sherman, 2003, p. 52). Such Elders have been privy to great environmental, social, and political change over their lifetimes. The wisdom and experience they shared was viewed as an important contribution to the discussions. As one unidentified participant observed

We are the people of the knowledge of this earth. Our strength is in this knowledge. It is the gift that we have for non-Natives. Our elders are caretakers of that knowledge, and because of their wealth of knowledge and their values as educators, in Euro-American terms our elders should all have Ph.D.'s. (Sherman, 2003, p. xiii)

These words would come back to speak to me during the time that I worked on my own Ph.D. and on through today as a university professor who teaches a course about understanding the sacred lands of indigenous peoples. It is ultimately through the voices of the Elders that my comprehension has grown to find new ways of perceiving the beliefs and different knowledge systems of indigenous peoples and their concern for the protection of their sacred lands.

Native American Sacred Lands and Environmental Justice

The religious practices and spiritualities of indigenous peoples are quite often shrouded in mystery and misunderstanding by many non-indigenous peoples. This misunderstanding has been compounded by the appropriation of various indigenous religious practices by New Age practitioners and others who have romanticized and misused indigenous ceremonial practices. Many do not fully understand the deeper spiritual and cultural values that are associated with legitimate indigenous ceremonial observance. The spirituality of Native Americans in many instances, for example, is tied directly to the places where they live and where the stories and the histories of their peoples have evolved. Native American religious and spiritual practice is not just about "playing Indian," as New Age practitioners often demonstrate in exoticized reenactments of indigenous ceremonies. The result of their misconstrued prognostications might also prove deadly for those who are not properly trained and initiated as indigenous spiritual leaders, as the infamous 2009 sweat lodge deaths in the state of Arizona demonstrated. The sweat lodge participants were being led by a non-indigenous self help guru, James Arthur Ray. Ray has since been convicted of negligent homicide for those deaths (Lacey, 2011).

In 1978, with the passage of the American Indian Religious Freedom Act (AIRFA), the federal government formally and legally recognized the religious freedom of tribes in the United States to practice their religions without interference or hindrance. AIRFA was initially viewed as a significant protection for indigenous peoples to practice their religions freely. However, since that time, AIRFA has proven to be ineffective in protecting the sacred lands of indigenous peoples to which their religious freedom is integrally associated and an important part of their freedom to religious expression. And

when it comes to understanding the importance of the right of indigenous peoples to have free access to their sacred lands, peoples from other faiths, such as Christians, Jews, and Muslims might try to imagine what life would be like if there were suddenly restrictions in place preventing them from attending their places of worship. The difference being that the indigenous person's "church" might likely be a mountain or a river.

Within the United States, the federal and state park systems have management protections for historic architecture, including places of worship. For example, there are the famed Old North Church in Boston, Massachusetts and the Mission San Diego de Alcalá in San Diego, California. It would never occur to governmental managers to allow bulldozers to plow them under for access to gravel, as has been done in the Southwest of Hopi prayer shrines (Beggs & McLeod, 2003). Nor will they allow rock climbers to hook and scale the face of George Washington on Mount Rushmore in the Black Hills of South Dakota; but the National Park Service will allow groups of rock climbers to scale Mato Tipila (aka Devils Tower National Monument) despite knowing it is a sacred site for prayer and vision quest among many tribes living on the Great Plains of North America. This double standard of sacred land management practice needs to be revised in order to guarantee the freedom of religious expression for Native America. This issue is at the center of the debate about sacred lands protections. It is a cultural clash that continues unresolved at all levels of government within the United States.

When we consider the intention of EO 12898 as a means to specifically address environmental justice concerns in the United States, clearly the unique circumstances of Native Americans were not fully considered when President Clinton signed it. The destruction of the integrity and sanctity of sacred lands was overlooked as disproportionate risk on a minority group. An example of disproportionate risk to exposure to toxic waste can be found in the pollution left behind by irresponsible uranium, silver and gold mining practices on Western Shoshone tribal lands. We find that the people living there are suffering from the compound effects of documented related health challenges as well as emotional and spiritual trauma suffered due to the loss of their sacred lands (UAWS, 2008).

Much has been reported in the news in the United States in recent years about the government's interest in storing radioactive waste in the Yucca Mountains. These mountains are sacred to the Western Shoshone and other tribes in this region of the southwestern United States. However, in response to decades of protests by the Western Shoshone Defense Project and others, the plan to store radioactive waste in the mountains has been halted by the Obama Administration (Bedard, 2009). But there remains tremendous concern about the toxic and ruined environment that is already being suffered on a daily basis by the tribes who are living there. This case demonstrates the complicated nature of addressing the need to protect Native American sacred lands as an extension of an environmental justice concern. In Native America, there can be no separating of the two issues.

Research Methods

Over more than a decade, I have been in the unique position of having been involved in some of the first national intergovernmental meetings and processes conducted to address the nature and definition of what indigenous sacred lands are in the United States, as well as globally. I have had the opportunity to be a participant not only in formal intergovernmental meetings, but I have been invited also to participate in indigenous religious ceremonies that have made a profound impact on me personally, as well as professionally. Unquestionably, my early post-graduate work with the U.S. Environmental Protection Agency's division of Tribal Affairs influenced my decision to continue into a Ph.D. program with a research emphasis in indigenous geographies and sacred lands.

Through the course of my professional work, I have found that there continues to be a great divide among policymakers and various other stakeholders, including the general public, regarding their

understanding or misunderstanding about what sacred lands are. Time and experience have shown me that an inclusive intertribal and intergovernmental management and decision-making process, with a focus on sacred lands, is of critical importance for the preservation of the spiritual, cultural, and social values of the many indigenous tribes living in the United States, and globally. The land is at the core of tribal identity. It is a part of who they are. These places are where many are able to freely observe and honor their religious and spiritual life. There is no question that the sacred lands of Native America and other jurisdictions must be better protected, often with better laws and policies. This has to be done with the active involvement and the voices of indigenous peoples the world over, who can speak their truth about their own experience and values. They need to be invited to contribute in collaborative meetings about land management decisions that may impact their future quality of life.

In my attempt to understand and to bring meaning to the different epistemologies and ontologies of indigenous peoples regarding their sacred lands in the United States, I have grappled with theoretical and epistemological concepts of feminist theory and adaptive management techniques to expand my understanding of the consultation process within the public sector. As a person with an indigenous identity, I have broadened my comprehension of the belief systems and earth knowledges in which indigenous peoples engage, through personal observation and experience. There is a quality and sense of reverence that cannot necessarily be expressed through words when one is in a place that is identified as a sacred site. It is this sense of reverence that is the most difficult to communicate to non-indigenous peoples who may not be willing to open up their minds to the possibility that there is something there to be honored and protected; that not everything we do in life requires a Cartesian explanation. For many, such acceptance is a difficult bridge to cross. People want “proof.” And proving something that is not tangible can be complicated and inherently problematic, especially when its cultural expression is unfamiliar.

By listening to the voices of the many Elders and spiritual leaders who have spoken out at the meetings I have attended over the years, I have had exceptional opportunities to learn firsthand of the depth of concern for, and the critical importance of, Native American sacred lands and their significance in the lives and well-being of indigenous peoples. I have come to understand the essence of the power that sacred lands hold by actually walking or sleeping on those lands known to be sacred. By trying to experience the sacredness of a place, I have gained a greater understanding and allowed myself to consider the possibility that there is something more there. And, based on my personal experience, I can state with certainty that there is an inexplicable energy present in those sacred lands I have visited. The quality is not something that should require any more proof or explanation by tribes, if they believe that those sacred lands exist. In general, most people accept the fact that churches, synagogues and mosques are sacred places for those who practice their religions and spirituality in them. We accept that they hold special meaning. We do not ask for proof. So, why, then, do we continue to press for proof from indigenous peoples regarding the management and protection of their sacred lands? Are not those sacred lands the equivalent of churches, synagogues and mosques?

Based on my participant observer placement within my research, this paper is an important snap shot in time that I want to share. Not only is this paper a contribution to the field of indigenous studies with regard to the management of sacred lands, this paper contributes to the disciplines of geography, public policy and others. There is a lack of scholarship that specifically addresses sacred lands as an environmental justice issue. Ultimately, it is a subject that needs to be understood to help guarantee the recognition of human rights for Native Americans on a broader scale. Unless we broaden the discussion to learn more information about the sacred lands of indigenous peoples, how will we ever be moved to protect them with better policies and land management practices?

Sacred Lands and Human Rights

The management of the sacred lands of Native Americans is a complex matter for federal and state land managers and others. The definition of what constitutes sacred lands can usually be described depending on the context or tribal nation. Generally speaking, the sacred lands of Native Americans can be described as “isolated sanctuaries to pray, receive guidance from the Spirits, and train younger people in the ceremonies that constitute the spiritual life of the tribal community” (Deloria, 2003). The geographies of sacred lands are as varied as is the landscape of the United States from coast to coast, including mountains and rivers, and every other type of land feature in-between. For the purposes of the federal government, EO 13007 describes sacred sites as

[any] specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site. (ACHP, 2010, Sec. I (b) (iii))

One of the more thorny issues regarding sacred lands is the fact that many of the lands under the “management” of the federal government are located on public lands or in national parks. Additionally, over the centuries, as tribes in the United States have been displaced and relocated away from their historic homelands, areas known to be sacred lands have become dispersed and fragmented over time.

It is important to note that not only landforms are considered sacred lands or sites. Sacred lands can constitute historic homelands, graves or architectural structures, such as an altar for prayer. Thus, when a tribe’s gravesite is discovered during an excavation, for example, it is necessary that tribal leaders be notified in order to handle the remains according to tribal custom and tradition. This was a topic that was discussed with great emotion and concern at the NASLF. According to many who spoke there, and at other meetings over the years, these sacred sites are not to be disturbed at all. For example, Pemina Yellow Bird, a Native American Graves Protection and Repatriation Act (NAGPRA) and Cultural Resources Consultant for the Mandan, Hidatsa, Arikara Nation in North Dakota, stated that

Our sacred sites belong to us . . . We Indigenous Peoples are the only ones, the only ones, who can claim association with those sites. Our elders, our spiritual leaders, our teachers are the only ones who know the true facts about those sites. Not archaeologists, not anthropologists, not historians. (Sherman, 2003, p. 4)

In personal conversations I have had with Yellow Bird, she has talked about the pain that grave desecration has caused her personally, as well as to her tribe. Beginning in the mid-1980s, when she discovered that hundreds of boxes of her ancestor’s bones and sacred objects from burial sites were kept in vaults at the State Historical Society of North Dakota, she was catapulted into action to have them reburied on her reservation. By the early 1990s, most of the remains had been returned to her tribe and reburied (Bammer, 1994). Yellow Bird’s work ultimately led to a change in state handling procedures for indigenous remains found in North Dakota.

With the passage of the NAGPRA in 1990, Native American burial sites were recognized and safeguarded under federal law. Included in the description of burial sites, there are other criteria described as having protected status. These include items known to have cultural affiliation, unassociated funerary objects, sacred objects and cultural patrimony (NPS, 2010).

On September 13, 2007, the General Assembly of the United Nations voted to adopt the Declaration on the Rights of Indigenous Peoples (UN, 2008), hereafter “the Declaration.” At the time of the vote, 143 countries voted to endorse the resolution, 11 abstained and 4 countries voted against it. The United States was one of the four countries to vote against adoption of the Declaration, including the countries of Australia, Canada and New Zealand. In the years since 2007, the 4 countries have made public statements proclaiming their support of the Declaration. The United States was the last to endorse it when President Obama announced on December 16, 2010 that the United States would now support the Declaration (USDOS, 2011a). In his comments of support, President Obama said that

The aspirations it affirms – including the respect for the institutions and rich cultures of Native peoples – are one we must always seek to fulfill . . . What matters far more than words – what matters far more than any resolution or declaration – are actions to match those words. (USDOS, 2011b)

The principle concept of human rights was broadly defined for the international community at the United Nations following World War II, through the issuance of the Universal Declaration on Human Rights on December 10, 1948 (Glendon, 2001). It describes human rights as “the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world” (HRRC, no date). The recently adopted Declaration lists 46 articles that describe the specific requirements that are needed to achieve and guarantee the human rights of indigenous peoples globally. Included among the articles in the Declaration are several that discuss land and spirituality. For example, Article 12 states “Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites” (UN, 2008). Article 25 expands on the right to access sacred lands by describing that “Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources” (UN, 2008). Some indigenous leaders believe that the adoption of the Declaration adds another layer of support in their quest to protect sacred lands. And it lays out a basic framework from which to launch future protections for sacred lands in the United States. Time will certainly tell if this, in fact, will lead to a positive result.

Native American Sacred Lands and Conflict

Debates surrounding the recognition and the protection of Native American sacred lands in the United States continue to rage on in virtual silence without the benefit of media attention. Most of the population in the United States has never heard of the San Francisco Peaks in Arizona, where tribes have been battling the Arizona Snowbowl ski resort for decades. Over 13 tribes, including the Apache, Hopi and Navajo, have objected to plans for large scale development and expansion of the resort that indigenous spiritual leaders claim will impact the sanctity of these sacred mountains (STPC, 2010). But more importantly, since the early 2000s, the resort has presented their expansion plans that include a proposal to use reclaimed sewage water for snowmaking. The tribes are strongly opposed to this, as they believe this is another desecration of these sacred lands. And, their opposition is also based on the unknown potential environmental risks that the reclaimed sewage water may pose over time.

In South Dakota, the battle for Mato Paha (Bear Butte) continues in and around Sturgis, the location of the annual world-famed Bike Rally. Tribes in the region continue to be opposed to a campsite and bar that has been given permission to build near the base of Mato Paha. Additionally, the state has recently granted a license to Nakota Energy, LLC to allow oil drilling in the area. According to a Native

American website “Protect Bear Butte,” opposing tribes are urgently calling for the public to contact the State Department of Natural Resources in South Dakota to oppose oil drilling in the area because

Bear Butte is a sacred site located in the Black Hills and has been subjected to continual development and encroachment which violates the sacredness of the mountain. Exploitation of Mother Earth it’s minerals, oil and other natural resources is another violation of encroachment against Bear Butte. (PBB, 2011)

These examples are but a few of such infringements taking place at or near the sacred lands of indigenous peoples globally. Other sites include the Bighorn Medicine Wheel in Wyoming, the Lands of the Penan in Malaysia, the Holy Island of Lindisfarne in the United Kingdom and others (SLFP, 2011). Many of the sites are being compromised by development and natural resource extraction efforts without regard to the significance that these places hold for indigenous populations.

In a recent interview with Charlotte Loonsfoot (Keweenaw Bay Chippewa) her frustration was palpable, as she described her struggle to protect Eagle Rock (Migiziwasin), an Anishinaabe (Ojibwa) sacred site in the Upper Peninsula region of Michigan. She and others in the region are protesting against the Rio Tinto Mining/Kennecott Eagle Minerals Company that is planning to destroy the site to expand their mining efforts there. The company plans to demolish and level the sacred stream that pours from the rock promontory in order to expand nickel and copper mining in the area. According to Loonsfoot, this sacred site and its waters is a place where both women and men go to conduct ceremonies and prayer. But despite the protests surrounding the now fenced-off site, and at the time of this writing in late August, Loonsfoot and her fellow protestors are continuing to be ignored by the mining operators who are moving forward with their plans to demolish the site on September 14, 2011. It appears that President Obama’s promise for the government to have “respect for the institutions and rich cultures of Native peoples” still leaves the sacred lands of Native Americans unprotected.

The devastating effects of the lost history that many tribes have already experienced, through the colonizing of their historic homelands by non-indigenous settlers, are what compel many indigenous communities to fight for their future. They hope to continue to protect the spiritual and cultural welfare of their communities by fighting for what is environmentally just. And, they will continue to fight for what is at the core of it all, their basic human rights and dignity.

Into the Future

In my participation at the International Indigenous Treaty Council Conference that was held on the Florida Independent Seminole Nation Reservation in February 2006, I had an opportunity to help in the drafting of the “Resolution of the Protection of Indigenous Sacred Places, Burial and Spiritual Rights” as a member of the Commission on the Protection of Sacred Places, Burial, Cultural and Spiritual Rights. The resolution resolved to

[S]upport the adoption of Indigenous regional, national, and international legislation designed to strengthen and/or enforce laws for the absolute protection and preservation of sacred places, sites, burials, cultural property and spiritual rights in perpetuity so that all sacred places will be further protected and preserved for Indigenous Peoples and their descendents. (IITC, 2006)

Today, on August 27, 2011, there have been some successes but far too many failures in the battle to protect the sacred lands of indigenous peoples in the United States. Too many conflicts continue in

places that are vitally important to the religious freedom of tribes. For the moment, the State of South Dakota has decided to limit the number of licenses to drill for oil and gas near Mato Paha. The fact that the licenses have been granted at all shines a blinding light on the fact that the federal and state governments in the United States do not value or respect the religious freedom of its indigenous peoples. One voice in opposition should be enough to halt what many tribes describe as a desecration of a sacred site.

It is clear that the protection and holistic management of sacred lands is integrally linked to the long-term survival and well-being of tribes in this country. With the recent announcement made by the National Trust for Historic Preservation, which listed Mato Paha as one of 11 threatened historic sites in the United States (NTHP, 2011), there is a glimmer of hope that there eventually will be some type of change in law that will offer protections to the sacred lands of Native America.

In the foreword to the NASLF report (2003), Editor Marlon Sherman of the Indian Dispute Resolution Services wrote

If we are to be truly successful in any effort to change legislation and policy, we must change the way we perceive and react to cultures other than our own. We must learn how and why each culture believes and acts in a certain way and we must make room for (or accommodate, as some would say) the differences by crafting laws that allow for the different beliefs, avoiding harmful impacts on groups most likely to be affected—in this case, Native Peoples, and our sacred places. Protecting the sacred from harm requires education, thoughtfulness and constant vigilance to be sure that we are accurate in our assumptions, and appropriate in our actions (p. iiv).

At the same meeting, Dean Suagee of the First Nations Law Clinic stated that “The voices of tribal storytellers have power which can be used to make federal agency officials do the right thing” (Sherman, 2003, p.xv). But the hopes and aspirations of many of those who attended the 2001 Native American Sacred Lands Forum have faded over time. The best strategy for managing the sacred lands of Native America is for Congress to once and for all pass legislation that will require federal, state and local governments to enact and implement policies that will guarantee protections for Native American sacred lands. This almost happened in 2002 during the 107th Congress when the bill H.R. 5155 was submitted to Congress as the “Native American Sacred Lands Act” (govtrack, 2011a). The bill languished in committee and eventually landed “dead on arrival” at the 108th Congress the following year (govtrack, 2011b). As of now there is no major law in the United States designed to effectively protect the sacred lands of Native Americans and, as such, there are no legal safeguards to protect their freedom of religious expression. Might a first step toward sacred lands protection in the United States be a reconsideration and possible integration of both EO 12898 and EO 13007 as a starting point? By using the Declaration as a framework to a new beginning to this reconsideration, there is a lot more information on the table to work with than what was available in 2001 at the NASLF.

I have listened to hundreds of stories from Elders and others in public meetings about the need to protect their sacred lands in the United States. It appears that nothing has changed much in the past decade. Is it ignorance or entrenched racism that continues to hinder progress? Is it greed for the natural resources that beckon or simply a complete lack of consideration for the human rights of indigenous peoples? After all, most large populations of indigenous peoples in the United States are out of sight and out of the minds of most Americans, so why should we care about them? Some may think that there are more important concerns like the slowly recovering global economy and the continuing wars in the Middle East. Even so, I made a promise to an Elder indigenous grandmother some years ago, now deceased, who asked me to “Tell them about us.” And, it is through this telling that I aspire to bring greater understanding of and attention to the many different ways of viewing the world that

policymakers need to consider and envision in order to develop a broader scheme of environmental justice in their policy and decision-making processes. A mountain may be just a mountain to some. But that mountain may be a place of reverence and prayer to others. It is time to move beyond business as usual and to forego what divides us by opening up ourselves to the possibility of more, so much more. To grandmother, I told them. And I will continue to tell them about you.

United States Bill of Rights~Amendment I

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof” (USNARA, 2010).

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