

RESOLUTION OF THE SUMMIT LAKE PAIUTE COUNCIL
SUMMIT LAKE PAIUTE TRIBE OF NEVADA
OF THE
SUMMIT LAKE PAIUTE RESERVATION

RESOLUTION NO.: SL - 01 - 2010

TITLE: REMINDING FEDERAL OFFICIALS THAT THE PEOPLE OF THE SUMMIT LAKE PAIUTE TRIBE HAVE, SINCE TIME IMMEMORIAL, CONSIDERED ALL ARCHAEOLOGICAL SITES AND ITEMS WITHIN ITS TERRITORY ARE SACRED, AND THAT OWNERSHIP AND CONTROL OF ALL SACRED OBJECTS WITHIN THE TRIBE'S TERRITORY, NOT JUST THE RESERVATION, WHEREVER FEDERAL OFFICIALS AND OTHERS MAY HAVE PLACED THEM, ARE OWNED AND CONTROLLED BY THE SUMMIT LAKE PAIUTE TRIBE

WHEREAS, the Summit Lake Paiute Tribe, is a modern entity of the Northern Paiute People known, in English, as Lake Trout and Wild Onion Eaters who, for thousands of years, controlled at least 2,800 square miles of land in and around Summit Lake as a tribe with sovereign, unlimited, powers and laws (customs, traditions, usages, etc.); and,

WHEREAS, since time immemorial our People (Agai Panina Ticutta) have considered all archaeological sites and archaeological objects, including what non-members only call lithic scatter and lithic scatter sites, cultural material scatter and cultural material scatter sites, flakes, arrowheads, etc., left on the ground by our ancestors, within this Tribe's traditional use territory, sacred; and,

WHEREAS, in 1964, and after much consideration, the members of the Lake Trout and Wild Onion Eaters organized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended, adopting, for certain sovereign purposes, the name "Summit Lake Paiute Tribe" with a tribal constitution titled "Articles of Association," the latter which was approved by the Secretary of the U.S. Department of the Interior on January 8, 1965; and,

WHEREAS, the Summit Lake Paiute Tribe was a party to, and for limited purposes of being compensated only for the taking of the Tribe's land for a public purpose in violation of the U.S. Constitution's Taking Clause, its traditional territory was subject to a final judgment of the Indian Claims Commission in Northern Paiute Nation, et al. v. The United States of America with the Findings of Fact, Opinions and Orders posted on the *Newsletter/Research Page* of the Tribe's web site (www.summitlaketribe.org); and,

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WHEREAS, the final judgment of the Indian Claims Commission never compensated the Summit Lake Paiute Tribe and its members for the taking of their rights, at all usual and accustomed places, to hunt, fish, gather traditional foods, medicine and resources, and practice spiritual and religious like ceremonies because it was never a part of the cause of action in Northern Paiute Nation, et al. v. The United States of America; and,

WHEREAS, the Summit Lake Paiute Tribe’s Articles of Association grant to the Summit Lake Paiute Council (see Article II, Section 1) certain sovereign powers, including the power to negotiate with federal agencies like the U.S. Department of Interior and others and their respective departments and agencies to improve the welfare of tribal members (see Article II, Section 1 (b)) to manage and otherwise deal with tribal assets (see Article II, Section 1 (c)); and to take such actions as are necessary to carry into effect any of the Council’s sovereign powers (see Article II, Section 1 (k)); and,

WHEREAS, since the People of this Tribe who drafted the Articles of Association from drafts provided by the federal government did not have a good understanding of the English language, this Tribe has always interpreted the word “Territory,” in Article I of the Articles of Association as extending outside the Summit Lake Reservation because the People believed they would recover (add) more of their traditional territory stolen from them to the Reservation boundaries; and,

WHEREAS, in 2000, the President issued Executive Order 13175 which recognized that:

Indian tribes exercise inherent sovereign powers over their members and territory.

Vol. 65, No. 218, Federal Register 67249, 67249 (Thursday, November 9, 2000); and,

WHEREAS, in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3002, the ownership or control of Native American cultural items which are excavated or discovered on federally managed lands shall be, among others, in the Indian tribe which has the closest cultural affiliation with such remains or objects (25 U.S.C. 3002(a)(2)(B)) or if the cultural affiliation of the objects cannot be reasonably ascertained and if the objects were discovered on federally managed public land where the now federally managed land was recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims as the aboriginal land of some Indian tribe—in the Indian tribe that is recognized as aboriginally occupying the area in which the objects were discovered (25 U.S.C. 3002(a)(C)(1)); and,

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WHEREAS, the governing body of the Summit Lake Paiute Tribe has never expressly relinquished ownership and control over any Native American human remains, or title to or control over any funerary objects, or sacred objects (see NAGPRA, 25 U.S.C. 3002(e)) found or observed within the territory of the Summit Lake Paiute Tribe; and,

WHEREAS, in 2003-2004, the Council considered adopting an Ordinance, Number 9, titled “Cultural Historical Preservation Ordinance,” which declared:

SECTION 1.

Statement of Purpose

With this document, the Summit Lake Paiute Tribe commits its resources and full authority as a sovereign nation to the protection of cultural and historical resources on and off the reservation. We recognize a history rich in Tribal and family values and respectfully pledge to strengthen the spiritual, ideological and social foundations established by our forefathers.

The policies, procedures and requirements herein established will honor contributions from those who have passed, respect the rights of the living and enhance the lives of those who will follow by building an ancestral bridge to the future. These guidelines shall serve only and always to protect our heritage and our culture above all else.

SECTION 2

Scope of Purpose

These policies, procedures and requirements herein established shall apply equally and in full force to Tribal or non-Tribe individuals, on or off the reservation. . . .

Cultural Historical Preservation Ordinance at page 1 (emphasis added).

WHEREAS, this Council has always protected its sacred sites and items; and,

WHEREAS, as an example of protecting its sacred items, in August-September of 2009, this Tribe complained to the U.S. Department of the Interior, Bureau of Land Management, Nevada State Office, about a subcontractor of Ruby Pipeline LLC, namely Pacific Legacy, in violation of federal law, tagging, bagging and removing from the Tribe’s sacred sites many sacred objects (archaeological resources), which could include funerary objects and human remains, from the traditional territory of this Tribe, as recognized by final judgments of the Indian Claims Commission; and,

WHEREAS, during a Bureau of Land Management, Nevada State Office (BLM), called meeting with Ruby (natural gas) Pipeline Project affected Tribes in Winnemucca, Nevada, on October 8, 2009, BLM official Tom Burke admitted that BLM had violated the federal Archaeological Resources Protection Act (ARPA), by issuing Pacific Legacy a cultural resources collection permit without consulting with any Ruby Pipeline Project affected Tribe in Nevada; and,

WHEREAS, contrary to NAGPRA, given that many of the objects collected by Ruby Pipeline subcontractor Pacific Legacy were not only discovered on federally managed public land where the now federally managed land was recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims as the aboriginal land of some Indian tribe—in the Indian tribe that is recognized as aboriginally occupying the area in which the objects were discovered (25 U.S.C. 3002(a)(C)(1))—but were taken from this Tribe’s sacred sites, BLM official Tom Burke on October 8, 2009, declared all items collected by Pacific Legacy as the property of the United States; and,

WHEREAS, NAGPRA prohibits the intentional removal from or excavation of Native American cultural items from federally managed lands for purposes of discovery, study, or removal unless (see 25 U.S.C. 3002(c)) (1) such items are excavated or removed pursuant to a permit issued under section 470cc of title 16 [United States Code] which shall be consistent with this chapter; (2) such items are excavated or removed after consultation with the appropriate Indian tribe; (3) the ownership and right of control of the disposition of such items shall be as provided in 25 U.S.C. (a) and (b); and, (4) proof of consultation or consent under paragraph (2) is shown; and,

WHEREAS, the Archaeological Resources Protection Act (ARPA), 6 U.S.C. 470cc, consistent with NAGPRA, 25 U.S.C. 3002(c)(1), requires, by use of the mandatory word “shall,” notification to Indian tribes of possible harm or destruction of sites having religious or cultural importance “before issuing such permit” (see ARPA, 16 U.S.C. 470cc(c)); and,

WHEREAS, the Tribe has reason to believe that despite this Tribe demanding ARPA and other Government-to-Government Consultation, the U.S. Department of the Interior, U.S. Fish and Wildlife Service, Lakeview, Oregon, which manages the Sheldon Wildlife Refuge, also issued Ruby Pipeline subcontractor Pacific Legacy cultural resource collection permits without consulting with this Tribe as required by ARPA. The Tribe’s requests for information have gone unanswered; and,

WHEREAS, the governing body of the Summit Lake Paiute Council was never consulted with prior to the issuance of the collection permits and has never approved the taking (collection) of any archaeological resource (using federal law terms) or any funeral or sacred objects (using Tribe terms); and,

WHEREAS, it seems to the Council that unless the Federal land manager, as used in 16 U.S.C. 470cc(c), meaning the BLM State Office, District and Field Office personnel, knew every inch of this Tribe's traditional territory which was recognized by the final judgment of the Indian Claims Commission as the aboriginal land of this Tribe—in which the objects taken by Pacific Legacy were discovered (25 U.S.C. 3002(a)(C)(1)), such Federal land manager could not have reasonably known that their issuance of the collection permit would not result in harm to, or destruction of, any religious or cultural site before issuing such permit; and,

WHEREAS, it seems to the Council that the Federal land manager has also violated the Federal government's trust responsibility to this and other Tribes whose territorial or aboriginal lands were recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims (25 U.S.C. 3002(a)(C)(1)) by the issuance of the collection permits since said Federal land managers could not have known every inch of the Tribes' traditional territory and thus could not have reasonably known that their issuance of the collection permit would not result in harm to, or destruction of, any religious or cultural site before issuing such permit; and,

WHEREAS, the Council believes that there has been an application for a Right-of-Way (ROW) for a Natural Gas Transmission Line known as the Ruby Pipeline across Nevada BLM managed lands and, in accordance by the final judgment of the Indian Claims Commission or Court of Claims, are a part of Traditional Territory or Aboriginal Lands of the Summit Lake Paiute Tribe and other Indian Tribes, and,

WHEREAS, the Nevada BLM has certain statutory, treaty and trust obligations, legal obligations by ARPA and other federal laws, and directives from Presidents by Executive Order 13175, and Memorandums of Presidents, including that of President Obama on November 5, 2009, to this Tribe, which includes government-to-government consultation and coordination prior to making any land management decision regarding the above-described lands it manages; and,

WHEREAS, as admitted by BLM Federal land managers on October 8, 2009, at the BLM meeting with Ruby Pipeline affected Tribes, the Nevada BLM has not followed its consultation and coordination mandate with some Tribes with traditional territory or aboriginal lands in Nevada that were subject to final judgments of the Indian Claims Commission or Court of Claims for this proposed undertaking and action, including illegally authorizing the collection and curation of artifacts from Traditional Cultural Properties and sacred sites (TCP's) on public lands, reportedly numbering nearly 7,000 artifacts; and,

WHEREAS, it appears to the Council that Nevada BLM has not ensured that the subcontractor of Ruby Pipeline who made the permit application has properly and professionally secured, protected and curated such artifacts, by allowing them to be held without assurances normally required under chain of custody standards in the field of archaeology; and,

WHEREAS, because it is this Tribe's TCPs, sacred objects, sacred sites, etc., at risk of pollution and other risks the Council has but one choice,

THEREFORE BE IT RESOLVED, that the Summit Lake Paiute Council, again, hereby declares to all, including Federal Officials, that all archaeological sites and archaeological objects, including what non-members only call lithic scatter and lithic scatter sites, cultural material scatter and cultural material scatter sites, flakes, arrowheads, etc., left on the ground by our ancestors, within this Tribe's traditional use territory, are sacred.

CERTIFICATION

I, JERRI LYNN BARLESE, Secretary/Treasurer of the Summit Lake Paiute Council, hereby certify that the above Resolution, No. SL - 01 - 2010, was brought before the Summit Lake Paiute Council at a duly held meeting on the 30th day of January, 2010, with a quorum present, with the following votes to enact the Resolution: 3 FOR, 0 AGAINST; and 0 ABSTAINING, with the Council Chairman presiding and not voting, and that this Resolution has not been rescinded, revoked or amended.

January 30, 2010
Date



Jerri Lynn Barlese, Secretary/Treasurer
Summit Lake Paiute Council