INTRODUCTION

The Western Bands of the Shoshone Nation of Indians\(^1\) is a government *de jure* recognized and treated with by the United States in 1863 expressing an inherent right to self-determination in exercising our thousands years-old custom internally, and externally in foreign relations and recognized with boundaries acknowledged in the Treaty of Ruby\(^2\) accepted as law by Newe (Shoshone) people in 1863.

Principal Man Ian Zabarte, a descendant of Chief Kawich, brings this submission on behalf of the Western Bands of the Shoshone Nation of Indians under Newe (Shoshone) custom. Only Newe form the self-determined government for the Western Bands of the Shoshone Nation of Indians. Newe assert a right of freedom to non-interference by any nation or state in the exercise of internal civil, legal and political affairs and do not consent to the inclusion of any part of Newe property\(^3\) defined by the Treaty of Ruby Valley into the boundaries or jurisdiction of any state or territory. Newe assert a right of self-determined government and do not diminish our international sovereign personality under US domestic law rooted in Christian supremacy enshrined by the US Supreme Court Doctrine\(^4\) that, the Doctrine of Discovery\(^5\) gave European Christians immediately and automatically indigenous property and diminished indigenous sovereignty.\(^6\) US law provides too little protection, creates chaos and impairs the integrity and stability of Newe to govern under the yoke of US human rights abuse and environmental ruin.

IMPACTS/DETAIL/ACTION/RESPONSE

The US has created chaos by placing Newe on isolated reservations too small to be sustainable based on indigenous living life-ways; employing religious bias imposing Christianity\(^7\) in the courts; enacting law outside its jurisdiction to build up military, commercial and American national and international occupation; by filing false deeds, titles, leases and taking payment,

\(^1\) Treaty of Ruby Valley (Consolidated Treaty Series Volume 127, 1863).
\(^2\) Idem.
\(^3\) Idem.
\(^4\) Johnson v. McIntosh 8 Wheat. 543 (1823); Cherokee Nation v. Georgia 30 US 1 (1830); and Worcester v. Georgia 31 US 515 (1832).
\(^5\) Preliminary study of the impacts on indigenous peoples of the international legal construct known as the Doctrine of Discovery. UN Economic and Social Council Permanent Forum on Indigenous Issues E/C.19/2010/13
\(^6\) Study on treaties, agreements and other constructive agreements between states and Indigenous populations E/CN.4/Sub.2/1999/20; at 108. relations with sovereign nations [E/CN.4/Sub.2/1992/32, paras. 138, 139;compare also E/CN.4/Sub.2/1995/27] at 109. because the “legitimization” of their colonization and trade interests made it imperative for European powers to recognize Indigenous nations as sovereign entities; at 110. In the course of history, the newcomers then nevertheless attempted to divest Indigenous peoples, as pointed out above, of their sovereign attributes, especially jurisdiction over their lands, recognition of their forms of societal organization, and their status as subjects of international law.
\(^7\) Act Adopting the Common Law of England, Nevada Territorial Legislature, October 30, 1861.
taxing or providing payments from military occupation to US citizens in Nevada, defrauding the Western Bands of the Shoshone Nation of Indians that also are acts of environmental racism.

The US military and commercial industry deliberately pollute, exposing Newe in downwind communities to hazardous substances and toxic wastes. Uranium is the most hazardous and toxic materials released by from US/UK testing of weapons of mass destruction on Newe lands and people. Understanding the onset and spread of radionuclide within the boundaries of the treaty of peace and friendship is difficult due to the culture of secrecy in all branches of the US government.

What is known was investigated by Newe people down-wind from clandestine US military and civilian nuclear facilities. Newe came together to address the adverse human health impacts known to be plausible from exposure to ionizing radiation in fallout released from the 1,024 WMDs test at the Nevada National Security Site operated by the Department of Energy, formerly the Atomic Energy Commission, Nevada Test Site.

There are a wide range of impacts that include physical adverse health consequences and psychological. Overall, Newe bear an involuntary, disproportionate burden of risk from US nuclear development than non-indigenous populations.

Between 1951 and 1994 the US conducted 924 nuclear weapons tests and 100 atmospheric nuclear tests killing, in secret, groups and individual citizens of the Western Bands of the Shoshone Nation of Indians living peaceably in our own country. At the same time human radiation experimentation was classified secret.

The US Department of Energy created a study protocol of “cultural triage” for use in dismantling Newe living life-ways for US nuclear development and the profit of the US nuclear industry that is defined as, “the forced choice decision-making by an ethnic group to a development project.” Triage is a word of French origin. Its normal usage is flood, famine, natural disaster and just declared wars. Peace endures by treaty and there is no natural disaster but, rather a deliberate act of the benefit of the US and profit of the US nuclear industry. The US culture of secrecy is manifest “intent” to kill groups and individual Newe citizens. The US is perpetrator of crimes against humanity, a violation of the US criminal statute 18 USC 1091. To justify defrauding the Newe the US created the Supreme Court, “plenary power of Congress,” to

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justify the theft of indigenous property, a fraud by the US and failure of due process. The systematic process makes abuse regular, institutional racism by the Secretary of the Department of the Interior, purported trustee for incompetent federally recognized tribes that cannot consent. Newe are targeted for specific abuse demonstrated by the case of the Timbisha Shoshone tribe that was overthrown for acts bringing to light US abuse at the UN HRC CERD in 2008 regarding WMDs, HLNW.

The US continues military entrenchment within the boundaries of the Treaty of Ruby Valley at: China Lake Naval Weapons; Supersonic Operations Areas; plans to expand military entrenchment with 1.7 million acre US Navy expansion near Fallon; an 800,000 acre US Air Force at Nellis, and military Red Flag exercises led by the US of multi-national military forces violating the territorial integrity of the Western Bands of the Shoshone Nation of Indians. Each has its own hazard and toxic release adversely impacting the land and People of the Western Bands of the Shoshone Nation of Indians.

NEWE RESEARCH FINDINGS

Tribal community outreach and education cannot be underestimated. An informed tribal community can take protective action and minimize exposure. The US has conducted numerous radiation exposure tests on humans in secret. Indigenous people experience exposure through unique exposure pathways. Adsorption of radio-nuclides important to human health in different parts of the body include:

A) Cesium-137 in muscle;
B) Plutonium-239 (in particle form) stomach ingestion and lungs inhalation;
C) Radioactive Iodine-131 (mimicking natural Iodine) into the thyroid; and
D) Strontium 90 (mimicking calcium) in the bones.

•DOSE--Native American tribal communities receive substantially higher exposure than other Americans from US nuclear weapons testing (While no statistical significance can be determined to show a cause effect relationship between US/UK nuclear weapons testing and the onset of illness and disease, based upon lifestyle differences alone, Native American risk of exposure is 5-10 times greater for adults, 10-30 times greater newborns and as much as 60 times greater for in utero exposure).

•LIFESTYLE--The US Department of Energy (DOE) Off-Site Radiation Exposure Review Project findings did not model Native American lifestyle appropriately, substituting instead a Shepard lifestyle. No follow up on Native

9 www.indianlaw.org/tst/home
American tribal communities has been done by the Department of Energy.

• COLLABORATION--Collaborative research that brings scientists and grassroots community together in the field where the impact effect is experiences can provide a valuable first hand observation of tribal life-ways that is appropriate context for understanding unique exposure pathways.

• EXPOSURE PATHWAYS--Because of the unique exposure pathways (lifestyle differences alone) calculations of possible dose estimates are significantly higher for Native Americans than non-Native Americans. Unique life-way exposure pathways include:

A) Diet: traditional food resources including rabbit, deer, and how the food prepared -- a greater varieties of foods and their more complete consumption contribute to errors in calculating dose. (See below human accumulation sites).

B) Resuspension of ionizing radiation include: Wood burning for heating homes and sweats, US Bureau of Land Management fire management techniques, desert dust storms and household deposition.

RISK PERCEPTION

• Risk perception constructed by Native Americans stakeholders is significantly different than scientists working in isolation in far off universities and is socially constructed by events in the field and cumulative among members of tribal community who experience nuclear threats, hazards and adverse social, economic and health impact.

A) Standard effects are uniform for most types of events like traffic accidents (the individuals are provided emergency care, wreckage is removed, the site cleared, then repaired and the event ends).

B) Special effects are those related to stigma that nuclear technology brings enduring threat and hazard (While an event involving nuclear material may end, as in the accident scenario aforementioned, issues of how clean is clean and biological genetic damage may never end for some communities and individuals).

• Areas of application include the understanding of special effects that may affect victims of terrorism; victims of man made ecological abuse; victims of natural disaster; peoples uniquely vulnerable to stigma impacts because of size and lifestyle (Native American tribal community); and, impact vulnerable industries such as tourism and Indian gaming.
In 1987 the US Department of Energy created an incompetent Consolidated Group of Tribes for engagement and to manufacture consent with “cultural triage”. The consolidated Group of Tribes continues to provide input for incompetent tribes and other fictional tribes that do not exist. Among these are the Las Vegas, Indian Center and the fictitious Pahrump Paiute tribe, represented by an individual that does not meet US requirements of a federally recognized tribe yet, speaks for all tribes in the process as an employee of the Department of Energy.

The US also threatens Newe people with fracking technologically enhanced naturally occurring radioactive material (TENORM)\(^\text{11}\) \(^{226}\) and \(^{228}\) released in fracking fluids hazardous for thousands of years.

The US threatens Newe with coal ash TENORM.

The US threatens Newe with uranium mining naturally occurring radioactive material (NORM) with the largest discovery within the homelands of the Western Bands of the Shoshone Nation of Indians.

The US violates the peace treaty and territorial integrity of the Newe people with plutonium shipped in secret from US nuclear reactors to be disposed of in the homelands of the Western Bands of the Shoshone Nation of Indians without Newe consent.\(^\text{12}\)

The US acts in derogation of the sovereignty of Western Bands of the Shoshone Nation of Indians exceeding authority granted to the state party by the people in it’s constitution, and therefore is inconsistent with, and runs afoul of, the structure and design of the US federal system of government established by the US Constitution. The current US government policy is a pattern and practice of ongoing abuse and non-compliance with domestic and international law. In the proposed Yucca Mountain nuclear waste repository $15 billion was distributed to all parties but indigenous people. Not providing funding to understand and mitigate risks posed by nuclear waste the US is “environmental racism,” preying upon the already vulnerable Indigenous people by forcing “…the most hazardous substances created by humans”\(^\text{13}\) upon the already vulnerable Western Bands of the Shoshone Nation of Indians.

\(^{11}\) www.epa.gov/radiation/technologically-enhanced-naturally-occurring-radioactive-materials-tenorm
\(^{13}\) US Government Accounting Office, A Report to Congress, Spent Nuclear Fuel Accumulating Quantities at Commercial Reactors Present Storage and Other Challenges GAO-12-797.