

AMERICANS BEFORE COLUMBUS

A Publication of the National Indian Youth Council Special Edition

NIYC Announces Indian Religious Freedom Campaign

The Native American Religious Freedom Project of NIYC deals with the steady erosion of Indian religious freedom in the United States. The Religion Clauses of the First Amendment to the United States Constitution guarantee all citizens religious freedom. Thus the Establishment Clause proscribes governmental endorsement of a particular religion, and at the same time, the Free Exercise Clause prohibits governmental interference with a religious belief or practice.

In our pluralistic society the concepts embodied in the Religion Clauses of the First Amendment have been difficult to implement. However, over the years, both Church and State have found various ways to accommodate and respect one another. Indian religion which has, perhaps, a fifty thousand year history in the land, is now going through a similar process. As to Indians the process is made more difficult because unlike Christian Churches, it lacks a power base and a public understanding of its nature, beliefs and practices. The result is that traditional Indian religions are threatened to be overwhelmed by government policies and regulations and the needs of the non-Indian public at large.

In order to better understand the Native American Religious Freedom Project's goals, a short discussion of the nature of Indian religious beliefs and practices is necessary. It is often said that Indians are a religious People. This is not so. In order to be religious, one must have a concept of the secular. Indians do not have a notion of the secular. They do not, therefore, conceive of the world in categories, the religious and secular. Their world is an integrated world. It is a wholistic world and rather than relating to different categories in that world, they have a relationship to all of it at once. The Indian world can best be described as a sacred world in which everything in it is alive and has meaning.

The Indian world is not an abstract idea. It exists in space, on land, in some geographic area. Most Americans have an abstract view of their country. They do not generally conceive of it as a land bounded by the Atlantic and Pacific Oceans, by Canada and Mexico. Rather, the country to these Americans is more of an idea, a concept of progress, or a no-

tion of the good life guaranteed by a piece of paper, the Constitution. It is difficult for them to conceive of a people whose notion of themselves is tied to the land.

When a tribe lives in an area for thousands of years, it develops a special relationship to that place. It learns which plants will cure and which will harm. It depends on the land for food. In dealing with that place it builds up a body of experience around that place. This is known as tradition. It is the law which pervades Indian life. One cannot plan a hunt or get up in the morning without rituals. All aspects of a person's life is based on the law.

The present secular world as perceived by Western Civilization is not just the absence of the sacred, it is a deadened world, a world of objects. A tree is an object; a rock formation is an object; social institutions are objects. These objects are not viewed as God's creation. Law is secular and even religion is relegated to Sunday morning.

To the Indians, everything and every place in the world is sacred but some places and certain objects in the world have a very special sacredness, thus rituals are performed in these special places and certain objects have ritualistic significance. Some of these places have become central to tribal religion. These are not made by humans like Church buildings but are rather natural places which correspond to the land. Indeed a whole ontology of religious beliefs has been developed around these places and objects (similar to Western religions' Bibles) and are invoked through religious prayers and songs. These natural places are now being destroyed, often for no other reason than to cater to the interests of tourists and land developers. The impact on the local affected tribes from a social, cultural, and religious point of view has been devastating. It is impossible to describe the awesome disorientation of societies whose "Churches" are being systematically torn down.

In 1978, at the urging of NIYC and other Indian organizations, Congress passed the American Indian Religious Freedom Act (AIRFA) Public Law 95-341, 92 Stat. 469, 42 U.S.C. 1996 (1978). For the first time Congress acknow-



Navajo Sandpainting Ceremony photo by Abigail Adler

America as Holy Land

by Peter Nabokov

Peter Nabokov, whose latest book is Indian Running, is also co-author with Robert Easton of Native American Architecture to be published by Oxford University Press in Spring, 1983.

A few years ago I flew in a single-engine plane to an Indian community called Four Bears, in the center of North Dakota, overlooking the Missouri River. It lies in the heart of the Mandan-Hidatsa-Arikara country, what's left of it. I was in a bar there when a tall man wheeled around on his stool and said slowly, as if addressing an audience behind my head, "Those white people are drowning me out." I looked around for the culprit while his eyes bored through me. But of course he was on target. The Garrison Dam Reservoir that inundated the Mandan sacred townsites in the 1950's was as personally felt by and as impersonally leveled against an entire civilization — the most ancient in the Great Plains — as was his sweeping accusation aimed at a looking and not-seeing way of life that was represented, at that moment, by me.

Then on the huge jet harrelling home

two days later I sat beside a businessman puffing on a pipe who glanced out the window at the neatly framed and tamed, miniaturized Rocky Mountains down below, then turned to ask if I'd ever driven across the country. I replied that I'd thumbed across a number of times and he said "You know, it seems almost sacrilegious to go over it like this, without having to go from place to place and getting sort of to know it". That was his word: sacrilegious.

I thought later how their comments shared the theme of lost homeland, but were still as far apart as the shores of the Atlantic in the contexts they brought to this land. I was struck anew by the immense gulf between a people for whom the land and its creatures provided identity and psychic balance, and a people who had never sought the "inner" power of the American environment, and so had come to exploit its surface to their peril.

I am a student of Native American traditions, not a participant in any Native American religious mysteries. I am one of the wanderers across this land, too often high above it, who has

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Editorial

The writers, poets and scholars who have contributed their time and thoughts to the matter of Indian religious freedom and whose writings are included in this issue of ABC, clearly illustrate that the survival of Indian People is more than a localized or parochial issue. Their writings reflect that they believe it is a matter in which every American citizen has a stake. What they are telling Americans is that, as in the past, when the First Americans helped the early colonialists survive in the so-called New World, non-Indians today have much to learn from Indian People if they are to continue to survive in this land. Rather than seeking to destroy Indian religions, cultures and communities the country should allow Indians to preserve Indian religions and the Indian way of life. To do otherwise will only jeopardize this country's future.

NIYC would like to thank all those who contributed to this special edition of *Americans Before Columbus*. Their specific concerns over the right of Indian People to worship in their traditional way as well as their overall concerns for the continued survival of Indian People as a people, is greatly appreciated. Specifically, NIYC would like to thank: author Stan Steiner who has been a friend and advisor to NIYC for over ten years; poet Joy Harjo who was formerly an editor of ABC and who is an established Indian poet and writer; Ben Bridgers, the tribal attorney for the Eastern Band of Cherokee Indians and Duane King, Curator of the Museum of the Cherokee Indian, both of whom worked long and hard hours with NIYC in an attempt to prevent the completion of the Tellico Dam and the flooding of Cherokee sacred sites; Peter Nabokov, a writer and anthropologist who understands, as do few non-Indians, the profound relationship of Indian people to the land; Karl Luckert, a professor of religion whose monographs on Navajo religion have illustrated the complexity of Indian thought, and the significance of the Navajo religion in the everyday life and the world view of the Navajo People; Abigail Adler, who donated her photographs to NIYC for this issue of ABC; and, to Arnold Pilling, an anthropologist who pushed for the enactment of the American Indian Religious Freedom Act and whose article asks some compelling questions which must be answered.

It is NIYC's hope that this special edition of ABC will increase the public's awareness of the continuing erosion of traditional Indian religions due to the deliberate policies of non-Indians. Moreover, through NIYC's *Campaign for American Indian Religious Freedom*, we hope to enlist the support of all people in our fight to protect and preserve traditional Indian religions for future generations and to ensure the survival of Indian People as a people.



NIYC Campaign

ledged that Indian religions were protected by the religion clauses of the First Amendment. The Act declared that the United States would:

"Protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian... including but not limited to access to sites, uses and possession of sacred objects, and the freedom to worship through ceremonies and traditional rites."

In enacting AIRFA Congress explicitly recognized the need for a consistent federal policy regarding Indian religious beliefs and practices, the very existence of which was being jeopardized by federal government land management decisions. Specifically, AIRFA states that the "abridgement of religious freedom" for traditional American Indians was a direct result of "insensitive and inflexible enforcement of federal policies and regulations".

American Indians are in a unique position in the United States in that they are the only people who worship at sacred sites which correspond to specific geographic sites within the continental United States. For most other Americans, their sacred lands are located abroad in Jerusalem or Mecca. Thus, the American Indian Religious Freedom Act is of the utmost importance in term of ensuring Native American continued access to, and non-destruction of, sacred sites. To date there has been only a handful of lawsuits and administrative actions filed which raise the issue of the infringement of the Free Exercise Clause as it relates to the rights of Indians to freely worship without interference at their traditional sites.

Unfortunately, despite the First Amendment and the added protections embodied in AIRFA, federal administrative agencies and the federal courts continue to be insensitive to traditional Indian religions and practices. One example is a recent decision by a federal judge in Utah who insisted on comparing the Navajo religious practices in question to Western religion. Indeed, in ruling against the Navajo in *Badoni v. Higginson*, Judge Anderson of the Federal District Court in Utah, even questioned the credentials of the plaintiffs, all Navajo medicinemen, since they all have received their training a long time ago and, at that, had neither been trained nor licensed by the tribe. The Court also questioned the importance of the religious shrines at issue since ceremonies were held there on only infrequent occasions as the need arose, as opposed to weekly.

The destruction of Indian sacred sites is tantamount to the destruction of any non-Indian house of worship, be it a church, synagogue or mosque. AIRFA is a step forward, but now, Indians must go into Court and prove before a judge the worthiness of their religion to prevent the destruction of one of its "Churches". To analogize, if someone decided to build a skyscraper on the site of Saint Patrick's Cathedral in New York City, no Catholic would tolerate having to go to court to prove the worthiness of his religion nor the significance of the continued use of the Cathedral.

Moreover, government policies have also attempted to regulate the times when Indians can perform ceremonies at certain sites or obtain access to certain sites. This is the equivalent of the government regulating the time a local congregation may hold its services.

The Native American Religious Freedom Project is a result of NIYC's extensive involvement with traditional Indian religious leaders on a variety of religious issues. In the early 1970's NIYC was in the forefront of the ultimately successful fight to allow Indians to possess eagle feathers for religious purposes, despite criminal sanctions to the contrary. On another front, NIYC fought on behalf of Cheyenne religious leaders to forestall the construction of a motorcycle race track on their sacred mountain, Bear Butte (South Dakota) which threatened to desecrate the mountain. More recently NIYC has sought relief in the federal courts on behalf of Indian religious practitioners from adverse land management decisions by federal government agencies. Specifically, the relief requested has been based on the First Amendment religion clauses and statutory protections of the American Indian Religious Freedom Act. Thus, in 1979 NIYC represented the Eastern and Western Katoah Bands of Cherokee Indians in an attempt to block the completion of the Tellico Dam in eastern Tennessee in order to prevent the flooding of important Cherokee sacred sites (*Sequoyah v. TVA*). More recently, NIYC represented Navajo medicinemen who sought to worship in private at the traditional sacred site, a huge sandstone arch known as Rainbow Bridge, in Utah, and to have that religious shrine managed in a non-destructive and non-sacrilegious manner by the defendant National Park Service, which had expropriated the shrine for public use years ago (*Badoni*

v. Higgins). In July, 1981 the Supreme Court denied NIYC's Petition of Certiorari filed on behalf of the Navajo complainants in *Badoni*. Currently NIYC is representing several Indian Tribes, national religious groups and civil rights organizations who are seeking to appear as amici curiae in a lawsuit filed by Navajo and Hopi religious leaders who are attempting to prevent the expansion of a ski resort into sacred areas of the Coconino National Forest located on the San Francisco Peaks of northern Arizona (*Navajo Medicinemen's Association v. Block*).

Additionally, NIYC has provided legal back-up to attorneys representing Indian religious practitioners seeking to continue their religious practices in the following lawsuits: *Freese v. Griffin* and *Gallahan v. Hollyfield* - the right of Indian prison inmates at New Mexico and Virginia penal institutions to maintain sweat lodges and wear their hair in an uncut fashion; *Pueblo of Jemez v. Edwards* - involving the construction and management of a geothermal experimental project in New Mexico in a manner which does not interfere with the religious practices of Pueblo religious practitioners whose sacred sites are located in an area near the project.

The NIYC Religious Freedom Project has been urged on NIYC by Indian religious leaders and tribal officials who perceive the decay of Indian spiritual life as a result of the destruction of, and the denial of access to, their sacred sites. What is particularly disturbing to NIYC's constituents is that the adverse decisions of the federal agencies and federal courts, in most instances, subordinate the right of Indians to practice their traditional religions to the perceived right of tourists to enjoy a recreation area: *Sequoyah*, an artificial lake;

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Message From Vine Deloria

The framers of the Constitution believed they had resolved the problem of official religious intolerance by prohibiting it in the First Amendment to the U.S. Constitution. With the passage of the First Amendment a wall was erected to ensure the separation of church and state for all time. While the framers were preoccupied with the preservation of their western religions, there was little or no concern for American Indians as people, much less in their religion which was dismissed as primitive and lacking spiritual content. The primary concern of these men was the prevention of outright warfare among the various christian churches.

Thus despite the Constitutional protections embodied in the Religion Clauses of the First Amendment American Indian religions and practices have been constantly under attack for over 200 years. In fact the government at times officially banned some Indian religious practices and even meted out the various reservations among the different Christian denominations for missionary purposes. In spite of these constraints and restrictions imposed upon the Indian people's religion, its continued survival demonstrates the profundity of meaning that it holds for

those practitioners of its truth.

With the passage of American Indian Religious Freedom Act in 1978 the government once more dealt with the problem of religious intolerance. While really prohibiting nothing the Act is more a statement of purpose, specifically that Congress believes the preservation of Indian religion comes under the protections of the U.S. Constitution. The philosophy has changed but the problems remain intractable. To date, the Act has been largely ignored. It is clear that the Act's full implementation can only be achieved through additional acts of Congress, executive orders, and administrative fiat.

For the foregoing reasons I embrace and applaud the efforts of the National Indian Youth Council, through its Native American Religious Freedom Project, to preserve and protect Indian religions and practices. This endeavor now being put forward by NIYC is one that is long overdue and must succeed. Not only because Indian people desire its success, but without these efforts the republic cannot succeed. American Indian religious truths are a necessary element in the over-all schema, thus its absence implies an imbalance for all of us.

Some Cross-Cultural Questions

by Arnold Pilling

Wayne State anthropologist, Arnold Pilling has done research in Australia and northwestern California and is now studying land use in Detroit.

While the American Indian Religious Freedom Act brought to public attention the need to protect Native American religious freedom and sacred sites, the issues raised by this Act cross both national and cultural boundaries. Consider, for example, the case of the city of Detroit and its suburb Hamtramck, which in 1980 and 1981 undertook the destruction of an abandoned automobile plant called Dodge Main. This action entailed the removal of a mixed Polish and Black neighborhood and was considered necessary for the erection of a new General Motors factory. The urban "renewal" project also involved the possible destruction of two sacred sites: an old Roman Catholic church that was the home parish for many local Poles and suburban former residents, and the second-oldest Jewish cemetery in Detroit, which contained many nineteenth-century graves.

The response of Detroit public officials and citizens in this case is instructive. Despite the objections of many parishioners, the Detroit mayor's office and the archdiocese negotiated the abandonment and demolition of the local Roman Catholic church. On the other hand, no city officials or religious leaders suggested that the Jewish cemetery be removed. According to Catholic doctrine, religious practice allows for the deconsecration of sacred sites. Jewish doctrine, however, forbids the moving of human remains and the human destruction of sacred things. It is difficult to tell where politics ended and religious doctrine began in the Detroit decision.

Similar disputes have occurred in Australia in recent years. In 1967, a white man named Harold Hoffman from Leonora, Western Australia, staked a mining claim to a deposit of colorful "Wecho stones" for which a Perth stone company was offering \$100 a ton. Several months after the mining claim was made, an Aborigine from the area told Hoffman that the stones and site were sacred. A white child had apparently shown a sample of the Wecho stones to her school class, sacrilegiously exposing a sacred Aboriginal object to women and children.

The Western Australian Aboriginal Association asked Hoffman not to quarry the stone; newspapers reported that an Aborigine man was sentenced to death by a native court for revealing that the Wecho stones were sacred; and university students demonstrated for the preservation of the Wecho site. Finally, the state government set aside twenty-five square miles for the sacred site, despite the fact that Leonora Aborigines refused to give details of it in the Kalgoorlie Mining Warden's Court. By the time of the government's action, however, few Wecho stones remained at the site and neither the government nor the Aborigines could stop souvenir hunters from removing those that were left.

With the recent mining boom in Australia, these controversies over sacred sites have become more frequent. In Arnhem Land, after the Australian government authorized mining operations, a major sacred site was bulldozed even before local Aborigines knew it was threatened. In the summer of 1980, Aborigines at Noonkanbah in Western Australia protested an AMAX oil-exploration project that threatened the sacred site of the people's Lizard God. A dispute is now

taking place in Victoria among Aborigines, environmentalists, the state government, and Alcoa over the siting of a proposed aluminum-smelter project.

Closer to home, the US Forest Service has allowed a private lumber company to bulldoze a right of way through the heart of a still-used Native American religious area, breaking its sacred silence. In northwestern California, some Native American traditionalists call the marking of sacred sites desecration. About 1910, some Indian-relic hunters who dug up an old grave in northwestern California were convicted in a white court. In 1967, near the same area, a modern archaeologist was told by a local Native American that digging a habitation site was desecrating the sacred — that a family house was like a person and that, once buried, it should not be disturbed.

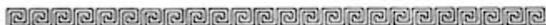
Obviously, many factors influence the identification and preservation of sacred sites. How much political power is held by the members of the religious persuasion claiming the site as sacred, and how powerful are those intending to destroy it? What are the rights and obligations of the government to guarantee noninterference in religion by officials, private companies, and tourists? How much public support can be mobilized for preservation (or destruction), and how strong are the

sanctions against desecration?

At a more general level, what do we mean by a "sacred" site? What are the beliefs of devotees of the religious tradition, and can these be revealed to preserve and register sites? And what about the protection of sites inhabited by sacred animal or plant species — areas, for example, where sacred herbs grow or where nests of eagles or condors, whose feathers have religious meaning, are located? What about the felling of redwood trees or the killing of seals at rockeries? The traditional Yurok consider these species to be like humans and reverently ask them to yield their lives. Finally, what about the use of defoliants that kill the plants used in sacred rites?

There are so many questions raised by the definition and ultimate protection of "sacred" sites that one wonders whether in the search for legal clarity we have created a much less manageable political, cultural, and ethical morass. Nevertheless, only when land exploiters, bureaucrats, devout adherents, organizers of public support, and others confront these questions cooperatively is there hope that a sacred site, however defined, can be preserved.

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NIYC Campaign

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Badoni, a rock formation; Navajo Medicinemen's Association, a ski resort. Through the Native American Religious Freedom Project, NIYC will continue to assist Indian religious practitioners in ensuring the survival of their religions and ultimately the Indian way of life.

The objectives of NIYC's Religious Freedom Project are to bring about institutional changes affecting approximately two million American Indians. It will seek affirmative government action and regulations regarding the future non-destruction and use of Indian religious sites. It will assist tribes whose religious sites are threatened. It will educate the public as to the nature of Indian religions and the problems they are encountering. It will create a national coalition of Churches, civil rights and civil liberties groups to support the right of Indians to worship, unencumbered at their traditional sacred sites.

Indeed, the latter two aspects of the Project are perhaps the most important. NIYC believes that at stake is the very survival of traditional Indian cultures in our society. Since the adverse land management decisions made by federal agencies, and subsequently upheld by the courts, are allegedly made on the public's behalf, NIYC believes that an informed and concerned public can help protect and preserve traditional Indian religious beliefs and practices

for future generations. It is therefore important to draw the public's attention to the continued destruction of Indian sacred sites and religious practices tied to those sites. As a means of beginning to focus the public's attention on the threat to Native American religions NIYC is launching an American Indian Religious Freedom Campaign which will be announced at a series of three press conferences to be held in Albuquerque, New Mexico, Washington, D.C. and New York City on April 19, 21, and 22, respectively.

A primary goal of the American Indian Religious Freedom Campaign is to build a national coalition to be comprised of Indian tribes and organizations, national church organizations, and civil rights and civil liberties groups which will work together to educate their members and the public, about the erosion of traditional Indian religions in America. Additionally, as a part of the Campaign, the coalition will also attempt to educate and influence public officials and legislators, and seek additional affirmative government action to ensure the full implementation of AIFRA through executive orders, legislation, and administrative regulations.

NIYC is very optimistic about the success of the Religious Freedom Project and Campaign. In the months to come, NIYC will keep its supporters informed of the accomplishments of both the Project and the Campaign.



A Navajo Household

photo by Abigail Adler

Sacred Objects and Secular Laws

by Stan Steiner

A Santa Fe resident, corn grower, and sun-walker, Stan Steiner is the author of The Vanishing White Man; The New Indians; La Raza: The Mexican Americans; and, The Islands: the Worlds of the Puerto Ricans; and, The Dark and Dashing Horseman. He is currently working on a new book to be published by the University of New Mexico Press in Summer, 1983, The Superb Masculinity of the West: The Study of Macho.

"My heart is in these medicine bundles," said Andy Natonabah, a Navajo medicine man.

On the floor of the museum's offices was a pile of old sacks and suitcases full of hundreds of sacred objects of the Navajo people. These religious and ceremonial "artifacts" were being given back to the Indians by the white museum curators. Four medicine men had come from the reservation to bless the sacred objects and take them home.

A ceremonial of the media was taking place. Some thought it blasphemous, but the television crews were filming what newspapers called "something unique" in white and Indian relations: "Instead of taking the white man would be giving back".

One of the medicine men objected to the television crew. Perhaps to neutralize the evil-eye of the television camera the old man stepped before it and sprinkled some corn pollen on its lens. He anointed the forehead of the camera man with pollen, as with holy water. And the startled camera man jumped backwards.

The medicine men then began a quiet chant in celebration. It was a "song of joy", they said.

"Each of these sacks, bundles, and suitcases represent the blood of the Navajo Nation", said Natonabah: "We will take them home and teach the younger generation what these things mean".

Some of the medicine bundles had been stored for so long in the museum's vaults that the sacred herbs had turned to dust. The medicine men would return these to the earth of the Sacred Mountains. But eight medicine bundles were still usable, and so were many prayersticks and ceremonial feathers.

The students at the Navajo's Community College would use the sacred objects in learning to perform "ceremonies in a hogan on the campus" explained Harry Walters, the curator of the College's Cultural Center.

It was in August of 1977 that the curators of the Wheelwright Museums, now renamed the Navajo Museum of Santa Fe, New Mexico, decided to return their collection of sacred objects to the Navajos. "That was the year before the American Indian Religious Freedom Act was enacted", said anthropologist, Harry King, chairman of the museum's Board of Trustees: "We did it voluntarily".

But why?

The museum had collected the sacred objects when they "sensed the whole culture way dying", they said: "But the Navajo culture did not die. It changed,

it grew, it could not be locked up as artifacts. The Navajos changed. We didn't. We were the custodians of antiquity, the presumptuous interpreters of another culture's religion..."

So they decided to give back the sacred objects not only because the Navajo people needed them, but for their own sake. To "gain harmony in our own work, to honor the creative tension between preservation and pervasance which has sustained the Navajo Nation itself", they said.

And so the four medicine men gathered up the old sacks and suitcases containing the sacred objects. They loaded them on their jeeps for the long journey home.

Natonabah said: "I am taking my blood back to the reservation".

Not many museums have followed the magnanimous and enlightened lead of these curators.

Reluctantly the Denver Art Museum did return a figure of a "War God" that the Zunis demanded be given back, after much controversy. And, so did the Millicent Rogers' Museum in New Mexico; and the Heard Museum in Phoenix, Arizona which returned its deeply religious kiva masks to the Hopis; while the New York State Museum talked of returning some twenty six sacred Wampum belts to the Onondagas of the Iroquois Nations, but in the end would not part with its horde because, they said, the Onondaga would not build a museum to exhibit them; the people wished to use these belts that recorded the tribes history in their worship.

To the tribal people the sacred objects are not "artifacts" to be exhibited to the tourists, anymore than are the altars of St. Patrick's Cathedral to its worshippers. One of the leaders of the Onondaga people, Oren Lyons, has expressed this point of view succinctly:

Religion as it has been and still is practiced today on the reservation permeates all aspects of tribal life. The language makes no distinction between religion, government and law. Tribal customs and religious ordinances are synonymous. All aspects of life are tied into one.

And yet, the curators at the Smithsonian Institute in Washington D.C. have been adamant in refusing to return the Zunis' "War Gods" and numerous sacred objects stored in their collections for religious use until the Indians build museums to exhibit them. For most tribes building such museums is "practically impossible", says Bowen Blair, editor of "Environmental Law"; even if they were inclined to do so.

Of all the problems posed by the possession of sacred objects to museums none is more disturbing than that caused by the differing concepts of religion in the Indian and non-Indian societies. In the *Task Force Report of the Interior Department on the American Indian Religious Freedom Act*, in 1977, one aspect of these differences was stated thusly: "For the larger religions the deity is the Creator who institutes natural laws", while the

"tribal religions regard the world as a continual process of creation, and their concept of creator is simply one of identity, not of function". That is, everything is religious.

In the original notes of the *Suggested Guidelines for Museums*, issued by the North American Indian Museum Association the idea was put simply: "To some, all is sacred, and all is religious".

The conflicting views of sacred objects and religious practices is reflected in the conflicting interpretation of the laws that govern their preservation. Even the venerable Antiquities Act of 1906 is "unconstitutionally vague", said a ruling of the Ninth Circuit Court of Appeals, because it does not define an "object of antiquity", or even a "ruin", though the Act was meant to prohibit the exploitation of "objects of antiquity" and "ruins" on federal or tribal lands without "permission" of the Indians involved.

ment. But, none of its terms were defined, either.

If a sacred "site" is a mountain or river, what then? If a "ceremonial and traditional rite" has to be performed at the location of a uranium mine, what then? If a "sacred object" is in the possession of a museum, what then?

Often "ceremonials and traditional rites" take place at a mountain, a river, a cave, a butte, that has religious importance. The earth itself is a sacred object: it is the church and its natural phenomena are the altar of Indian religions. In one of its rulings the Indian Claims Commission noted the affinity of Indian religion and the earth:

The native religion ... does now and has for centuries tied them closely to the land ... the people by their prayers and religious functions keep the land producing and the land keeps the people ...



photo by Abigail Adler

Navajo Burial Site

Nonetheless, the Act encouraged such exploitation "for the benefit of reputable museums" if sacred objects unearthed were to be exhibited in "permanent preservation in public museums". The words "reputable" museums and "permanent preservation" were not defined.

Equally, the *American Indian Religious Freedom Act of 1977 (Public Law 95-341)* is cursory and terse. It was meant to redress "the abridgement of religious freedom for traditional American Indians" by government agencies by guaranteeing their "freedom to believe, express and exercise the traditional religions" through "access to sites, use and possession of sacred objects and freedom to worship through ceremonials and traditional rites". The freedom of Indian religion was broadly based, in the Act, on the First Amend-

Though the Religious Freedom Act makes but passing reference to "access to sites" of worship it has encouraged Cherokees and Navajos to seek its protections in the hope of safeguarding their shrines and sacred objects.

On the Little Tennessee River the Cherokee with the aid of the National Indian Youth Council and the Native American Rights Fund went into court to block the Tellico dam from flooding their ancestral homes and tombs. The court ruled against them. Now their sacred sites are beneath water. So are 10,000 year old archaeological sites, the tombs of 1000 dead whose skeletons were removed in a truck, and the "Cherokee Jerusalem", Chota. The public was more interested in a tiny fish, the Snail Darter, than in the

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Indian Religions and the Courts

by Ellen Leitzer

Ellen Leitzer is NIYC's Staff Counsel and Director of the Native American Religious Freedom Project.

In a Joint Resolution dated August 11, 1978, and entitled American Indian Religious Freedom Act (AIRFA), the United States Congress recognized that in the past it had enacted laws which interfered with the religious practices of Native Americans without considering the impact of such laws upon them.

Congress stated in the Resolution that freedom of religion is "an inherent right, fundamental to the democratic structure of the United States Constitution." (The religion clauses of the First Amendment state: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.) Congress further recognized that the lack of a consistent federal policy has resulted in "the abridgment of religious freedom for traditional American Indians" owing to a "lack of knowledge or the insensitive and inflexible enforcement of federal policies and regulations" even though such laws were never meant to relate to Indian religious practices and, therefore, were passed without consideration of their effect on traditional American Indian religions.

As a result of this history of abuse of religious freedom and in order to bolster the application of the Free Exercise clause of the First Amendment to American Indians, Congress enacted AIRFA. The Act declared that the United States would:

protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian... including but not limited to access to sites, use, and possession of sacred objects, and the freedom of worship through ceremonies and traditional rites.

Only a handful of lawsuits and administrative actions filed since the enactment of AIRFA have raised the issue of the infringement of the Free Exercise Clause as it relates to the rights of Indians to worship freely without interference at their traditional sacred sites. This article focuses on the facts of two of the four lawsuits litigated under AIRFA and the First Amendment, *Badoni v. Higginson* and the consolidated actions of *Navajo Medicinemen's Association v. Block* and *Hopi Tribe v. Block*; the negative results reached by the courts; and the implications of those decisions for the continued survival of traditional Indian religions in America.

On June 15, 1981, the U.S. Supreme Court denied a petition filed by the National Indian Youth Council (NIYC) and the Native American Rights Fund (NARF) to review the lower court decision in a suit, *Badoni v. Higginson*, filed on behalf of Navajo medicinemen who sought to worship in private at a traditional sacred site in Utah, a huge sandstone arch known as Rainbow Bridge, and to have their religious

shrine managed in a non-destructive and non-sacrilegious manner by the National Park Service (NPS), which had taken the shrine for public use years ago.

The arguments in *Badoni v. Higginson* parallel the constitutional and statutory arguments presented to the Court in *Sequoyah v. TVA*, a case in which NIYC and NARF attorneys attempted to block completion of the Tellico Dam in eastern Tennessee in order to prevent the flooding of Cherokee Indian sacred sites.

Both *Sequoyah* and *Badoni* present issues that were never before litigated in the United States. Specifically at issue were questions of federal land management decisions as they impacted on traditional Indian sacred sites. Indians, unlike any other group in our society, worship at sacred sites which correspond to natural geographic locations—a confluence of streams, perhaps, or a mountain top, or a sandstone arch. These are the abodes of gods and places where specific ceremonies that invoke the protection of or aid of those gods must be performed. Moreover, to be effective, the religious rituals must be conducted in private.

In *Sequoyah*, gods were drowned by the flooding of the Little Tennessee Valley, and with them died an entire body of traditional Cherokee beliefs. Some ceremonies will never again be utilized, but more important, the protections provided the Cherokees by those gods are lost forever.

In *Badoni*, similarly, the completion of the Glen Canyon Dam on the Colorado River in southern Utah in 1963 and the creation of Lake Powell, flooded the abodes of many important Navajo deities. However, many of the more significant deities continue to reside in Rainbow Bridge, a shrine sacred to the Navajos long before it ever became a national monument.

The creation of Lake Powell has made access to Rainbow Bridge, once remote, now relatively easy. Indeed, the National Park Service provides boat trips to the arch and has constructed a dock nearby so that tourists may freely roam about in the area of the arch. The result of this government-created tourist activity has been the desecration of a religious sanctuary and the intrusion of

camera-toting, beer-drinking tourists into religious ceremonies. Court documents state that curious tourists have even taken photographs of religious ceremonies in progress. Predictably, as a result, Navajo medicinemen are becoming discouraged about even attempting to hold ceremonies at the arch.

The *Badoni* plaintiffs felt that if nothing else, the First Amendment protected their rights to practice their religion free from public intrusion, and they sought an accommodation of their religious beliefs and practices. So, for example, the medicinemen suggested that the dock be removed or that access, on those rare occasions when ceremonies were in progress, be denied to the public, a practice not uncommon at the other national parks.

Indeed, as previously stated, Congress unequivocally gave that interpretation to the First Amendment when it enacted the American Indian Religious Freedom Act, which purports to protect Indians and the practice of their traditional religions as those traditional practices may be adversely affected by federal land management decisions.

Despite the guarantees of the First Amendment and Congressional mandate, federal courts refuse to follow the law. In so doing they have flagrantly misconstrued Supreme Court decisions which beg for a different result.

The decision of the U.S. Court of Appeals of the 10th Circuit in *Badoni* is a perfect example. That Court dissented from the trial court's decision, which had also held against the Navajos, but then proceeded to uphold the adverse results by ruling that to accommodate the religious practices of the Navajo at Rainbow Bridge would itself be a violation of the Establishment clause of the First Amendment, since Rainbow Bridge would become a government-managed shrine. The Establishment clause prohibits government management or endorsement of any single religion. The Appellate Court failed to cite any of the numerous decisions of the Supreme Court which require an accommodation of the religious practices of a minority when government action has caused an infringement of their protected religious freedoms.

The Court of Appeals' analysis regard-

ing the status of Rainbow Bridge was seriously flawed. Rainbow Bridge is a government-managed shrine despite the fact that the government was ignorant of the sanctity of the arch at the time it was designated a national monument by executive order in 1910. The question is not whether the monument may be "converted" into a religious shrine; rather, it is whether the federal government may unilaterally take over an established religious shrine and then manage that shrine solely for the benefit of tourists, in such a way that the pre-existing religious practices are prevented from continuing. Logically it would follow that rather than regulating Indian religious practices at the shrine, it is the intrusion of the tourists which should be regulated.

The Court of Appeals' decision is even more disturbing when viewed in light of that fact that according to NPS documents currently 121 churches are located in national parks and managed by the National Park Service. Of these, only three are Indian sacred sites. In most instances, the congregations of these churches, many of which have historic significance, are permitted to conduct sectarian services on a weekly basis. Additionally, the NPS operates several chapels of its own for the convenience of tourists at the larger national parks. Clearly, the *Badoni* plaintiffs were not seeking an unusual accommodation.

Recently the U.S. Supreme Court decided a case involving the First Amendment implications of a Christian student organization which was seeking to hold religious services at the student union of the University of Missouri, a publicly funded institution, *Widmar v. Vincent*. The Court held that the Christian students had a First Amendment right to practice their religion on public property. The Navajos raised analogous First Amendment issues; but the *Badoni* facts were more compelling. Unlike the members of the Christian organization, who can just as effectively practice their religion elsewhere should they have ultimately been denied access to the university's student union, the Navajos cannot go elsewhere since it is the site in question which has religious value, and which coincidentally happens to be located on public land.

The refusal of the Supreme Court to review the adverse lower court decision in *Badoni* is particularly offensive knowing that the Court decided to hear the *Widmar* case and then rendered a decision favorable to the religious interests at issue. Once again, the fundamental constitutional rights of Indians are being ignored or subordinated to the interest of a majority. One can only wonder how indignant the congregation would be if the historic Old North Church in Boston, which is managed by the National Park Service, were interrupted during Sunday morning worship by picture-snapping, beer-drinking tourists. Surely the congregation would be assisted by the National Park Service and the courts in ejecting the intruders and in ensuring that similar intrusions were prevented. Or



San Francisco Peaks, Northern Arizona

photo by Maris J. Shebala

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Frank v. Alaska:

An Athabascan's Right to Practice His Religion

Carlos Frank, an Athabascan residing in Alaska, was compelled by his religious beliefs and values to perform an act, killing a moose, in violation of Alaska state game laws. As a result Carlos Frank suffered criminal sanctions. The decision of the Alaska Supreme Court, in reviewing Frank's actions and subsequent conviction, provides a clear analysis of the steps a court must take in weighing the important free exercise of religion interests of an individual when those interests come into conflict with the interests of the State. Additionally, the decision clearly distinguishes the dictates of the Establishment of Religion clause and the Free Exercise of Religion Clause of the First Amendment to the U.S. Constitution. It is hoped that the sensitivity and wisdom exhibited by the Alaska Supreme Court in reversing Carlos Frank's conviction will be followed by other courts when presented with analogous issues.

The decision of the Alaska Supreme Court in *Frank v. Alaska* is reported at 604 P. 2d 1068 (Alaska 1979). That decision is reprinted below in its entirety, absent case citations and footnotes.

Opinion

In October of 1975, Delnor Charlie, a young man from Minto, died. Immediately preparations were made for a ritual that had been performed countless times in Minto and other Central Alaska Athabascan villages. It is called the funeral potlatch, a ceremony of several days' duration culminating in a feast, eaten after burial of the deceased, which is shared by members of the village and others who come from sometimes distant locations.

Delnor Charlie's burial, as is traditional, was delayed until friends and relatives living elsewhere could reach Minto and until the foods necessary for the potlatch could be prepared. With the food preparation under way, Carlos Frank and twenty-five to thirty other men from the village formed several hunting parties for the purpose of taking a moose. It was their belief that there was insufficient moose meat available for a proper potlatch. One cow moose was shot, which Frank assisted in transporting to Minto. Some 200 to 250 people attended the final feast.

A passerby took note of one of the hunting parties and reported it to state officials, who investigated and subsequently charged Frank with unlawful transportation of game illegally taken, in violation of [state law]. The season for moose hunting was closed and in any event there was no open season for cow moose in 1975.

In the district court Frank admitted transporting the moose. He raised the defense that application of the game regulation to him, under the circumstances, amounted to an abridgment of his freedom of religion. After an extensive evidentiary hearing, Judge Clayton found that "the funeral potlatch is an integral part of the cultural religious belief of the central Alaska Athabascan Indian." He found further "that moose



Indians hunting moose near Nulato, 1868 (from F. Whymper, *Travel and Adventure in the Territory of Alaska*, New York, Harper and Brothers, 1869, p. 244).

is an integral part of the diet and 'the staff of life' to these Athabascan Indians;" that the food for such a potlatch "is primarily required to be native food;" that moose is "more desirable" for such a celebration than any other native food; but that it is not "specifically required for this ceremonial occasion however desirable it may be." Judge Clayton thus concluded that Frank has not been denied his religious privileges. Frank was thereupon convicted and sentenced to a forty-five day jail term with thirty days suspended, a \$500 fine with \$250 suspended, one year probation, and a suspension of his hunting license for one year. Judge Clayton noted at sentencing that Frank was sincere in his beliefs and it was these beliefs which had carried him into a criminal violation.

On appeal Superior Court Judge Van Hooissen also determined "that the potlatch is an activity rooted in religious belief and a very integral part of the religious tenets of the Athabascan Indian. . . . The sincerity of the natives of Minto in their religious beliefs is not doubted." However, he agreed with Judge Clayton that fresh moose meat was not such an "absolute necessity. . . as to override the compelling state interest of the State of Alaska in the management and control of its game for the benefit of all its people, native and white," and affirmed the conviction.

We have concluded that the free exercise clauses of the first amendment to the United States Constitution and article I, section 4 of the Alaska Constitution (which provide that neither Congress nor the State Legislature, respectively, shall pass any laws respecting the establishment of religion nor prohibit the free exercise thereof) protect Frank's conduct and that the state has not demonstrated reasons which justify prohibiting it. We therefore reverse the conviction. Our reasons follow.

No value has a higher place in our constitutional system of government than that of religious freedom. The freedom to believe is protected absolutely. The freedom to act on one's

religious beliefs is also protected, but such protection may be overcome by compelling state interests. A law imposing criminal or other penalties on the performance of acts which conscience compels, pressures the underlying beliefs and infringes to that extent the freedom to believe.

Because of the close relationship between conduct and belief and because of the high value we assign to religious beliefs, religiously impelled actions can be forbidden only where they pose some substantial threat to public safety, peace or order, or where there are competing governmental interests that are of the highest order and are not otherwise served.

It has been clear at least since *Sherbert v. Verner* [a landmark free exercise case] that in certain cases the free exercise clause requires government to accommodate religious practices by creating exemptions from general laws. *Sherbert* was fired because she would not work on Saturday, the sabbath of her religion. Her claim for unemployment compensation was denied in the state courts because there was a condition of eligibility that a worker be available for work Monday through Saturday. The Supreme Court held that the state had a duty to make an exception to this policy so that *Sherbert's* exercise of her religion would not be penalized.

Sherbert was followed in *Wisconsin v. Yoder*, [another landmark decision]. In *Yoder* there was involved a conflict between respondents' belief, rooted in the religion of the old order Amish, that children should not attend public school beyond the eighth grade, and a Wisconsin statute requiring all children to attend public schools through the age of sixteen. The court held that an exemption must be granted. Other courts, following *Sherbert*, have also required exceptions to facially neutral laws in order to protect religiously based conduct.

The free exercise clause may be invoked only where there is a religion involved, only where the conduct in question is religiously based, and only where the claimant is sincere. These requirements are readily present here.

We shall examine them in order.

The appellant presented impressive evidence concerning the religion of the Central Alaska Athabascan people. Several Athabascans and expert anthropologists testified and anthropological works were received in evidence. The evidence was unrefuted, and in summary it shows the following.

Athabascan culture is highly individualized. From a complex belief system individual selection is tolerated and is the norm. Yet, there is a distinct belief system recognizable in Athabascan villages many miles apart. These beliefs have blended comfortably with Christianity which was introduced in the 19th century.

Death is the life crisis receiving the greatest attention in current Athabascan culture. While it may be awaited with equanimity, it is an event of predominant significance, whose repercussions are long felt in the village.

The funeral potlatch is the most important institution in Athabascan life. It is mandatory. Peter John, seventy-six, a former tribal chief in Minto, could not remember a death that was not followed by a funeral potlatch. It is apparently an obscenity to suggest that possibility. While a potlatch may be held to celebrate secular occasions, the funeral potlatch is distinguished by its fundamentally sacred aspect. The ritual has its origins in antiquity and it has not changed in any important respect since anthropologists first began to describe it.

Food is the cornerstone of the ritual. From the moment the death is learned of, food preparation begins. People begin to arrive in the village from nearby and remote places. Food is brought by all participants to one or several houses associated with the deceased and is shared in several pre-burial meals. The body will not be buried until a sufficient quantity of the proper food is prepared for the post burial feast. In the case of Delnor Charlie this took four to five days.

Athabascans believe that the funeral potlatch is the last meal shared by the living with the deceased. It is a communion meal. The deceased is discussed and songs of eulogy are sung. The deceased is thought to partake of the meal and this helps his spirit on its journey. As the [trial] court found:

No sharp line of demarcation separates the living from the dead. It is believed that the *kunkubidza* ("similar to dead but still the same") of the person who died is present at the funeral potlatch where he partakes of the communal feast by food which is burned and where he is honored by those who knew him and help him on his journey to *yoyeet* ("like up in the sky").

The funeral potlatch serves other functions. The grief of the family is to be eased. The community becomes involved and the sharing of food is the communal tie. Prayers are said for the dead and the living. All who have come

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Sacred Objects

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"Cherokee's right to 'access' to their sacred sites.

And in the Southwest the Navajo, led by four medicine men, asked the courts to halt Lake Powell's inundation of their sacred Rainbow Arch Monument by water and tourists; they consider "the arch itself to be a God", it is said.

The courts denied the Navajo religious claims, because they had no "property interest" in the Arch, as in a church and the medicine men had not been "trained" by their government; besides, the religious training of the "alleged" medicine men "took place years ago". In any event, the need of water "outweighs the plaintiff's religious interest", the court said, for it had no ruling on the constitutionality of the American Indian Religious Freedom Act.

To define an Indian religion would seem to be beyond the abilities of the government, which is as it perhaps should be. After all, "It is improper for State or Federal Government to determine what is religion" as the North American Indian Museum Association has hopefully said, the "government cannot make theological decisions".

For the responsibility of the government is neither to "define", or "determine", a religion. Its task is to protect its practice.

The dilemma of museum curators has not been entirely of their own making. In the acquiring of museum collections there are historical rituals, as in any other profession. Curators are "schooled in acquisition" wrote the art historian, Clemency Coggins: "They believe that an object acquired by a museum is necessarily in a better place than it was"; for they know best how to preserve it.

Still, to preserve a sacred object in a museum case, like a animal in a zoo cage, not only protects it, but changes it. Though it may loom larger in the public eye, it is diminished.

In the early days of museum exhibits it was not uncommon to see a life-sized Indian made of clay or paper mache sitting sorrowfully in a display case. Who can forget the forlorn "real life" Indians preserved in glass that graced, or disgraced, the old American Museum of Natural History, in New York. Those specimens may have been adorned in the most resplendent feathers and religious regalia, but that did not conceal their sad demeanor.

Not only the sacred objects of the native people, but the native people themselves were treated like fossils. They were exhibited much as if they were stuffed animals.

And their sacred objects were often displayed like dinosaur bones. In the sterile isolation of a museum case they were frozen in time and in space, denied their renewal and lifeblood as a living religion at a time when tribal religious practices were banned on the reservations. The museums came to believe they had inherited the obligation to preserve the supposedly vanishing cultures of the tribes.

Even now there are anthropologists who "persist in thinking that the

Creator put Indians on earth so that (they) can treat them like so many chessmen on a board". Pueblo anthropologist, Alfonso Ortiz, has bitterly said. There has for long been what Lakota anthropologist, Bea Medicine, has called the "our Indian" approach in which a curator selects a tribe or item and focuses on some aspect of its spiritual, or material, life which then becomes "his" field of expertise, or "her" Indians.

These attitudes have often arisen from a sense of cultural superiority. In his comments on Margaret Mead's fine study of adolescence in Samoa, the Flathead anthropologist, Darcy McNickle noted Mead's purpose was to preserve the Samoan folkways, on paper, so that the islanders could better understand themselves. "Simple people, primitive people" Mead had said lived in societies that "never attained the complexity of our own" and so a trained student could master the "fundamental structure of a primitive society in a few months" of study.

And so, who could better preserve and understand the sacred objects of the Indian people than the trained museum curator? If a tribal society was dying, or was being extinguished by a white society, its sacred objects having fallen into disuse and their meanings lost, then it became the ironic obligation of the museums to preserve whatever survived. The curators of the sacred objects of the Indian people came to believe that it was their mission to protect the sacred objects from the Indian people to whom they belonged.

The essence of the American Indian Religious Freedom Act was the recognition by whites that the Indian people should, and could, preserve their own religious objects and beliefs. It reflected the demands of the "New Indian" movement of the sixties and seventies, and the revival of old Indian beliefs.

Perhaps the new attitude first emerged in the white world at the conferences held at the University of Chicago, in 1954 and 1960. There the tribal scholars demanded and the white scholars, under the guidance of Sol Tax, recognized that "Despite external pressures and internal changes, most of the present identifiable Indian groups residing on reservations... will continue indefinitely as distinct social units, preserving their basic values, personality and Indian way of life."

In this sense, the recognition that the "use and possession of sacred objects (was) necessary for the exercise of religious rites and ceremonies" was not granted to the Indian people by the government. Rather the Congress had merely legalized the reality of the enduring and evolving strength of the spiritual worlds of the Native American.

"No matter what the white man says or does he cannot give or take away the spirits", the Navajo woman leader, Anne Wauneka, once said to me: "He does not control the spirits. He is controlled by them".

To such contemporary Indians their sacred objects have never been objects at all, for they are the physical embodiment of spiritual forces; they are "beings". Nor are they merely works of art to be hung on walls or placed in glass cases of museums, for they possess the powers to heal or harm, to curse or bless.

And nowhere are the distinctions between the two views of sacred objects more sharply delineated than in the case of those so-called Zuni "War Gods".

The Zuni "War Gods" are carved figures, about two feet high.

On the mountains and mesas of the Zuni Reservation the sacred figures are placed in secret and hidden shrines. There beneath the turquoise sky they guard the land and the people and protect them from their natural and human enemies.

For the Zunis will sometimes say these "War Gods" are not symbols of their "Gods"; they are "spiritual beings". And they do not merely control "War"; they maintain the balance of life between man and the earth, between death and rebirth. The Zunis call them *Ahayuda*.

Governor Robert Lewis of the Zuni Pueblo in requesting that museum curators return the *Ahayuda* to their shrines has spoken of them as "very powerful spiritual beings" who if they were not returned to "their rightful place" might in their anger and wrath destroy the museums in which they were displayed.

"The *Ahayuda* have very great and destructive powers", Lewis wrote: "When the *Ahayuda* are (taken) away from their shrines they cause earthquakes, fires, floods, storms and other violent destructions" - because the Zuni "religious leaders cannot pray to them

to use their powers for beneficial ends"

And so, not only for the sake of the Zuni, but for the safety of the museums, the curators had better return the *Ahayuda*, at once.

Besides, they were stolen property, said the Governor. He echoed the complaints of so many Native American leaders who have accused the museums of knowingly, or unknowingly, buying sacred objects that have been stolen from the tribes. "The only way (the *Ahayuda*) can be removed", Lewis said, "is by theft".

More importantly the needs of the *Ahayuda* were not being met by the museums. They could not be met, by the curators.

In the museums the *Ahayuda* might be lovingly displayed in an airconditioned, perfectly controlled atmosphere. But that was blasphemy, to them. The curators attempt to preserve them violated and defiled the Zuni's religion.

On their mountains and mesas the *Ahayuda* were displayed in the sun and wind, the rain and snow; for as "spiritual beings" of the earth and sky they had to remain part of the earth and sky. They had to evaporate and dissolve in the elements. They had to return to the Father Sky and Mother Earth.

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photo by Abigail Adler

Preparing Mutton for the Navajo Female Puberty (Kinaalda) Ceremony

Interviews with Navajo Medicinemen

by Karl W. Luckert

The following two interviews are excerpted from the book *Navajo Mountain and Rainbow Bridge Religion* by Karl W. Luckert and are reprinted here with the author's permission. In the interviews Lamar Bedonie and Long Salt, two Navajo Indian medicinemen, explain to Luckert the relationships of their religion and certain rituals to specific geographic sites. (Indeed, Lamar Bedonie was a plaintiff in *Badoni v. Higginson*, a lawsuit which is discussed in detail in this issue of ABC in the article entitled "Gods In The Earth: Native American Religion and the Courts".) Throughout the interviews questions put to Bedonie and Long Salt by Luckert are contained in parenthesis as are the author's comments which explain certain references by the interviewees.

Lamar Bedonie

(Lamar Bedonie is 74 years old and lives south of Monument Vally, near El Capitan. We came to him at a time when he was actually exhausted. He had just returned from an all-night healing rite. Nevertheless, he decided to talk with us then and there. His sometimes very brief answers must be attributed to his being overly tired. Like buster Hastiin Nez, Lamar Bedonie told us about a trip to Rainbow Bridge with Mr. Pinetree. This trip took place around 1921. Near Navajo Mountain the years 1917, 1920, 1923, and 1924 were drier than the intervening years; and the Kayenta area was driest in 1920.)

Interview

-From the time I was born, (that is) from the time I began to realize things, I have been aware of these things, until now. This Rainbow Bridge, together with Navajo Mountain, about these together I have known. Head of Earth (*Naatsis'áán*) is our God (*Nihidiyin*), is Blessingway (*Hózhóóji*), and is Old-age-place (*Sq'a naagháii*). Of this I have been aware—sixty or more years ago. I am now 69 years old. From the time (I was young) I remember this.

-I became aware of it (specific ceremonies) when I was fourteen. My maternal grandfather and grandmother, my father and my mother lived around here. Like now, there was no rain and it was hot. When it did not rain we put them (the offerings) there (in the Rainbow Bridge area)—precious stones and cornpollen. We put them there. Medicine to be put in the mouth (*azáá'níl*) and prayers were made—this prayer for rain. We carried out to the top (of the canyon) some precious stones, to the place where the roads come together and beyond it, to the place of the Spring. It is a Holy Spring (*Tó diyinii háálj*).

-We put the precious stones into the water, into the Spring. (That is), I was told not to put it in (the middle) of the water. I put some in all the four directions along the edge of the Spring, it (cornpollen) then flowed onto the water. The old man's name (the leader's name) was Pinetree (*Nídishchí*). He was

the one who was performing (the ceremony). He was my paternal grandfather. Then (the two of us) left there. (Before leaving) we spoke these words: Rainbow Boy!

Nááts'ílid tsilkééh!
Today we (two) humbly (thinking ourselves poor) come.

Dííj hojoobá'i úniidzingo níit'ááh.
Asking for rain, we come.

Nihee nahodootjil, di'niigo éi níit'ááh.

Corn and the other crops which we have planted are drying up.

Naadóg' éi nihits'óp' bida'niigan dóó t'áadoo le'é k'idilyáhóp' bi'niigan.

Therefore we (two) have come to you for rain.

Biniinaago níitsá hániit'ááh.

-That is the way it is said to him (Rainbow Boy). So then, in a standing position, we started talking. So we started praying in (toward) the east, then here (south), then here (west), then here (north), making the four directions to finish our prayer.

-The ceremony came to (was given to) Water, to Water-of-life. And we use it. We talk to it like we talk to people. From the Rock (nearby) there came a sound of thunder. It came right out of the Rock. The sound came for a little while, and then we prayed. We spoke twelve times. Then we dipped up some water. The jug was a woven basket, sealed with pitch. We put water in it. We picked some plants and took some mud out of the waterhole. Then we returned home on horseback. We went back part way by horse, then on to the top of Navajo Mountain on foot.

-Then we looked down on Rainbow Bridge. We stood beside each other and began praying—praying along the path on which we came (as we looked out over the path). We made holy prayers (*aghánáhóádi*)—skyward prayers. We prayed in this direction and in that direction. Over there was the Spring, and over here (on top of Navajo Mountain) was the broken (stone-) replica of a man—this (a few feet) long. The water we got from the Spring (near Rainbow Bridge) we poured into the Spring (on top of Navajo Mountain).

(From a purely impersonal or atheistic perspective, this action could be interpreted as "priming the pump"—so that water vapors would rise and form rain cloud. But all this was one for the purpose of communicating with "persons." It was a clear gesture of telling the Water-person and the Head of Earth what had already been told to that Water-person and to that petrified Rainbow-person down in the canyon—namely, that rain is needed, and that the help of all rain-involved Holy People is required.)

Then we dipped some water from that Spring, we prayed, and then began to leave. We arrived back home, and many people were gathered there—at my father's house, at the foot and to the east of Navajo Mountain. My father was called Kay Bedonie. Another father (or uncle) was called Long Salt (*Áshjji Nééz*). My father's real (Navajo) name was Yellow Salt (*Áshjjiiltsooi*).

-We came home. We brought back some water (from the spring on the Mountain). A little boy and girl were sitting there; they were made ready.



Rainbow Bridge, Southern Utah

photo by Karl Luckert

They were sitting there to make an offering (sacrifice). Then a song from Blessingway was begun, to sing for rain. It became cloudy and started raining, and it kept raining for eighteen days. With this rain we had crops. We had lots of food, (such as) watermelon, corn, and many other crops.

-In this manner we have come from one generation to another. Our young men and women have been raised this way; our herds of sheep have become larger, along with the cows. In this way we have life. With the Spring there, and with Rainbow Bridge, with these my prayers are linked. I pray whenever I want to pray. I get ready, I start praying, and it starts raining. I know the prayer of Rainbow. I use that first; then (I pray to) Water, then (to the) Mountain with its plants. The medicine from the Spring, which I mentioned, is very important. It is my medicine bundle (*jish*). This is what men usually have (*hastoi ndeijah leh*). The most important thing in this bundle is the medicine. With this we heal people, and that is why we kept it. And this is the way it is. ...Long Salt (also) does this kind of ceremony....

-(Was this ceremony practiced before *Hucéldi*, the Long Walk?)—It was done during that time. My father's maternal grandfather's grandfather, three generations (three maternal grandfathers) ago, he used to hold the ceremony. His name was Blind Salt Clansman (*Áshjji bináá' ádini*). He was the one who discovered Rainbow Bridge, and from him we have our story. Blind Salt Clansman, he was the one who practiced this ceremony. Blind Salt Clansman did not go to Fort Sumner.

-(Do you know anything about a sacred cave in the Rainbow Bridge area?)—This side of Rainbow Bridge, toward Navajo Mountain, into the east side there is a hollow under the rock. At this place things (healing chantways) were taught to apprentices. At that same place there is evidence of a *Yéibicheii* dance (*Na'akaii*). The Holy People were probably the ones who used to dance the *yé'ii* dance (there). And there is evidence that they performed this dance

near Rainbow Bridge, (at a place where) the ground is all smooth. Against the rock Blind Salt Clansman was sitting on his horse. White clay (porcelain—*Leets'aalgaii* was used to chip (engrave) the rock. And in this manner Blind Salt Clansman and his horse's figures were engraved on the face of the rock—with him sitting on the horse. That is gone now. Someone destroyed it, that is the way it is.

-Since the time of (appearance of) the paper-book, and to more recent times, I have been wondering what it is (really) like. The things I have missed are probably written down on paper (somewhere).

(This expression of awe toward written traditions was in this instance completely unwarranted. Before some Navajo men, such as Lamar Bedonie himself, decided to speak, we knew almost nothing about Rainbow Bridge ceremonialism.) But about what I am telling you, I know about it. I went over there myself and participated myself. It is not something I have thought up. And the other men know that it is that way. Whenever there is a meeting, I talk about this (concern for) Rainbow Bridge. The Navajo people do not like it. The leaders (*naat'aanii*) do not like it. Our ceremonies have become difficult. Our prayers and songs are hard to perform. The No-sleep ceremony (*Doo iigháash báá á'ínéé*) also has become difficult. Now the water holds us back. And at that place people are drinking beverages containing liquor (*bizhée' hólóni*). Tin cans and bottles litter that place. We never thought of it in that (profane) way. But it is like that now. When plans were made for the dam we were told that it would not be that way. But now people are just overlooking that.

-(Did you learn any of your songs down there?)—I sing Blessingway, and (other) chants I sing. I have a sacred bag with cornpollen, and I have things to pray with. I have a prayer. And the things which the older men had I have. And I know how to do Crystal-gazing (*Deist'íí*). I can see through the mountain. I was doing this all night, and that is why I was sleeping (when you came). The man (patient) was very sick. He lives near Page. If I had not been doing this, I

would not be so sleepy now.

-(These things which you have, which you use for your ceremonies, did you learn the songs which go along with these things in the cave near Rainbow Bridge?)—Yes!

-(Do you remember the names of people with whom you learned there?)—With Long Salt, with my father Yellow Salt (Kay Bedonie), and an uncle whose name I do not remember. (But) Paul Goodmann (Navajo name—*Naakaii Dii'oi*) also knows it. Charlie Salt also knows. We get together.

-(I used to work for DNA (People's Legal Services), and I went to Window Rock and to Fort Sumner (*Hu'el'di*—four years ago, on an anniversary march). And the people asked me many questions. In this manner I was a leader. Then I left (DNA). So, for this reason I thank you for asking these questions, and I thank you for coming to see me. (Now I am a singer). I know the songs, and I have made up a chantway from them. (In the days) when Blind Salt Clansman was alive, there were no Anglos around. None of their tracks were around...he was the one who did the teaching...he told us that this was to be our way of life and our food. And this was the way we did it.

-(Concerning Rainbow Bridge, I used to earn my money from it. I used to take White people up there after they found out about it. At that time there were no trails (yet), and we had to make our own trails. And we made a trail, and I took only White people up there. Some were big (fat) ladies who could not ride horses. They wanted to see the Bridge. So I used to help these ladies onto and off their horses. That was my work. I also used to carry their lunches and hay for the horses. They wanted to go up there and see it, and take pictures. Every day I earned money that way.

-(Did you have ceremonies for rain only in summer?)—(Yes, but) only when it was dry and without rain. After a number of years there comes a time when it does not rain.

-(What was the greatest number of people to attend a rain ceremony?)—On the east side of Navajo Mountain a hogan was built, with a large shelter (branch hut). Over three-hundred people attended this meeting to pray for rain. Five people (at that time) went down to Rainbow Bridge to place offerings (*nit'iz*) at the Spring. I did not go (along that time)...thirty-nine years ago it (this practice) was started again. It was ended about three years ago when our (sacred) Spring was covered up by the water which had backed up on account of the dam.

-(Concerning the Monster Slayer ceremony, there are songs to Earth, to the Dark Sky (*Yá'di'hi*), to Sun, to Female Mountains, to Female Water—these are the main ones; then to Darkness in which we sleep, to the Passing Days (*háyo'okáát*), and to Dusk (*Náho'otsoii*); we use this (appeal to these) right along with Corn and Rain. When there is no rain what will we use?—(when) there is no water in the earth and none from above? Everything we have needs rain. So, Rainy Weather said that it wanted to be first. Since he has said (asked for) this, it is his job now—through Rain we have life.

-(What is the water, backing up below

Rainbow Bridge, doing to the prayers or to the gods?)—It will probably end all. It (Rainbow Bridge) supports life. It will cease. The Water rose and got it wet, and it began deteriorating; that Water is not careful. The Rainbow will be broken. It will break the People's life, their minds and teachings (beliefs). The people from Window Rock (seat of tribal government) say we are surrounded by Rainbow. We say it is our God—(that) our leaders there at Window Rock are surrounded by Rainbow.

-(How is it that the part under water is not holy anymore?)—Saying "Corn-pollen blessed by the Rainbow" we go about; also, this same Cornpollen is contained in the medicine bundle, and in making the offerings. (From making the prayers and offerings) we hope to gain sheep, horses, and other livestock in abundance. (*Nááts'í'ildid bəgh nanoogáád, éi dī'nóo neilyiz leh, inda r'áá éi dī' ndilyéeh bī' silá, r'áá*



photo by Abigail Adler

Navajo Sandpainting Ceremony

inaalyeel bī' silá, r'áá éi dī' dibé éi bee neilyéé doo, t'ij' bee neilyéé doo.)—It is not holy anymore, and so we do not have rain now. And there are no plants, even on Navajo Mountain there are none. Plants do not come up anymore, and there is not enough water to go around. We have given this water a different name, and it is used for other purposes than (only) drinking. The Rainbow is broken. Our way of life, our way of thinking, our religion is broken. (As the waters of Lake Powell threaten to rise, Lamar Bedonie foresees the eventual fall of Rainbow Bridge. But what is important here is not only the integrity of the stone structure, but also the intrusion of the controlled (less-than-White-man) waters of Lake Powell. These are understood to be in contrast with the untouched and unused (greater-than-human) Waters of sacred springs.)

-(Missionaries say "My Lord" (*Shidiyin*); it is according to that (manner) that they live. My life is (lived) in accordance with this Rainbow, my prayers are holy. According to this Rainbow life began, and people lived by the Rainbow. Nowadays people try to use it in their prayers. The missionaries used it (by praying "My Lord"). (This

Navajo practitioner completely identifies the "Lord" of Christian missionaries with his own divine "Lord"—the living Rainbow deity together with its Rock-arch "incarnation." This reflects not only his ability to compare entities of similar functions, but also his open mind toward other religious perspectives.) But people cannot use it now, because water has covered it. It (its destruction) will break many of us. Many of us depend on this Rainbow. There are things called Lightning, which come down. And people who cannot get along well together, this Lightning punishes them or makes them suffer. This is the way the story (tradition) goes.

-(Is Rainbow Bridge like the roots of Rainbow? And is there another root?)—Yes, it supports it (like a root). (And) yes, there is (another root). It is attached to Blanca Peak; it is attached to Mount Taylor; San Francisco Peaks it is also

then Spruce (*Ch'ó*) (which) stands up there. Behind that lies a large Snake. He says, I will protect you. When he (a discoverer) looked at him, he saw that the Snake had arrowheads covering him all over. We have a prayer of this Big Snake, and we pray that prayer.

-(When the Hopi people dance with snakes, does that also help bring rain?)—Yes, they have their powers (*éi hózhó bidahólni'ih*).

-(Will the Navajo people ever dance with, or have anything to do with, snakes?)—We have something to do with them. (In) the Lightningway ceremony, male branch (*Na'at'ood bik'g'*), they carry crooked wood, or wood that winds around. We can have medicine put on us in that manner. It is our medicine bundle (*jish*).

-(Are there any snakes who will devour people?)—That will probably not happen, because they are people and we are people. When we make a sandpainting we put the snakes down as people, then on top of it we sit and get our medication.

-(Is the River, or wherever the water runs, thought of as a snake?)—Yes.

-(When the dam was made, what happened to the snake?)—They probably lived down there. (They) may have moved elsewhere, or made their roads down there. We do not know.

Long Salt

(Long Salt (*íshijhi Nééz*) died in February, 1977. His father was the famous rain-requester Pinetree (*N'di'ah-chi'*) of the Many Goats clan. His paternal grandfather was *Dághaa' dah sikaadi*, and his maternal grandfather was Whiteman Killer. Pinetree was married to the three daughters of Whiteman Killer. His marriage with the oldest daughter, Long Salt's mother, took place after their return from Fort Sumner. . . .

He was born in 1885(?) near Water-under-rock (*Tséyaa tóhi*) at a place called *Tsélgaii*, which is approximately eleven miles southeast from the base of Navajo Mountain.)

Interview

-(My maternal grandfather and my father used to speak their prayers on top of the Mountain (Navajo Mountain) many years ago. It was at a level spot, where the home of Monster Slayer (*Naayé' Neizgháni*) was. That is where they sat (Monster Slayer and) Born-for-Water (*Tó Bá Jishchini*); (Monster Slayer and Born-for-Water are the Navajo Twin war-gods.) they sat there, it is said. That is the place where they placed precious stone offerings (*nit'iz*), these old men. They used to carry these (offerings) there, calling on the name of *Naatsis'áán* (Head of Earth), it is said. They also made an offering at the place where the Spring is. That is what the old men were saying (and doing). But nowadays the White people do all kinds of things up there. (Such as building a radio tower up there, by the sacred Pool.) It (the old men's ceremonies) made life good for the men and women of long ago.

-(Not long ago, I (myself still) used to place offerings. Offerings is what I used in my ceremonies on the Head of Earth ... I do not remember the first time. But

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and contributed are thanked. It is hoped that the funeral potlatch and one that is to follow, often more than a year later, the memorial potlatch, will assuage the spirits and prevent future deaths.

From the foregoing it is clear, and consistent with the findings of the courts below, that the funeral potlatch is a religious ceremony. The role of moose meat in that ceremony must next be examined.

Native foods comprise almost all of the foods served at the funeral potlatch. In a culture without many formal rules this is an absolute requirement. Native food means moose, bear, caribou, porcupine, fish, duck and berry dishes.

Of the native foods moose is at the apex. The most common big game animal is required, and in Central Alaska this is moose. As the district court found, it is the staff of life; it is the meat which the people regard as most important for their sustenance. However, the district court found that although the evidence indicated that moose is the most desirable of foods to be served, it is not "an essential requirement."

The district court's finding that moose was not essential for a funeral potlatch is based primarily on the following testimony of Chief Peter John:

Q. Could there be a potlatch without wild meat?

A. Well, it could be, maybe, but then I don't think I'll enjoy it.

However, John also stated that he had been to hundreds of potlatches and had never attended one in which there was no moose meat, a recollection shared by Catherine Atla, fifty-two, and Carlos Frank, Barbara Lane, an anthropologist, provided this gloss on John's statement:

A. If a Roman Catholic priest were in some bush area up here and found himself without the proper wafers and wine, he could still perform his function with some substitute, but it wouldn't do in the sense - If at all possible to have the proper foods, that's what you would use.

Q. But nevertheless it could be accomplished?

A. I believe so. As a dire strait, in some unusual circumstance.

Other witnesses stated that moose meat is a necessary requirement having the sacramental equivalent to the wine and wafer in Christianity. Frank and all of the Athabascan witnesses, including Peter John, testified that they could not risk showing disrespect to the dead by failing to provide moose for the post-burial ritual.

Thus we would be inclined to hold that the district court was clearly erroneous in concluding that moose meat was not essential for the observance of a funeral potlatch. However, absolute necessity is a standard stricter than that which the law imposes. It is sufficient that the practice be deeply rooted in religious belief to bring it within the ambit of the free exercise clause and place on the state its burden of justification. The determination of religious orthodoxy is not the business of a secular court.

We think the evidence is inescapable that the utilization of a moose meat at a funeral potlatch is a practice deeply rooted in the Athabascan religion. While moose itself is not sacred, it is needed for proper observance of a sacred ritual which must take place soon after death occurs. Moose is the centerpiece of the most important ritual in Athabascan life and is the equivalent of sacred symbols in other religions.

The question of sincerity requires no extended discussion. The district court found Frank to be sincere in his beliefs.



Athabascan Women Preparing a Moose Hide

photo by James W. VanStone

That conclusion is abundantly supported in the record.

Having established that protected religious conduct is involved, we turn next to an evaluation of the competing state interest. There can be no question but that there is a very strong state interest underlying hunting restrictions. The game resources of Alaska occupy a place in the lifestyle of Alaskans which is unparalleled elsewhere in the United States. Rural Alaska natives are acutely aware of this. Illustrative of the importance of wildlife in Alaska is the fact that our state constitution contains specific requirements governing its use and management.

It is not enough, however, simply to conclude that there is a compelling state interest in maintaining a healthy moose population. The question is whether that interest, or any other, will suffer if an exemption is granted to accommodate the religious practice at issue. Thus, in *Wisconsin v. Yoder*, the inquiry was not limited to the importance of compulsory school attendance generally. Also needed was an examination of "the impediment to those objectives that would flow from recognizing the claimed . . . exemptions."

The state contends that widespread civil disobedience will result if Athabascans are allowed to take moose out of season when necessary for a funeral potlatch. As the state's brief colorfully puts it: "Alaskans seem to have a marked tendency to come unglued over fish and wildlife allocation issues." The state predicts as a result, general non-observance of the game laws, a "downward spiral into anarchy," "poaching and creek robbing," and "tragic confrontations" between recreational hunters and Athabascans.

We give no credence to this argument. It is, first of all, not supported by any evidence. Moreover, its prediction of general lawlessness is an extreme and unwarranted comment on the general character of the state's citizens. Interests which justify limitations on religious practices must be far more definite than these. Justifications founded only on fear and apprehension are insufficient to overcome rights asserted under the first amendment.

The state does not urge that an exemption granted to Athabascans needing moose meat for a funeral potlatch will result in so many moose taken as to jeopardize appropriate population levels. The trial record is silent on that question. We are not advised as to how many funeral potlatches are held each year, nor how many moose are legally taken, nor the level of harvest which would cause a population decline. All

the record reveals is that there was but one funeral potlatch in Minto in 1975, and that one moose was needed for it. The burden of demonstrating a compelling state interest which justifies curtailing a religiously based practice lies with the state. On this record, that burden has not been met.

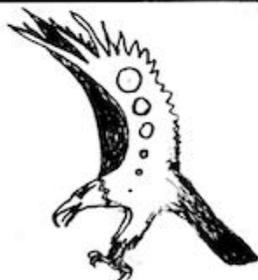
Finally, we turn to the state's argument that granting an exemption in this case would amount to an establishment of religion contravening the establishment clauses of the first amendment to the United States Constitution and article I, section 4 of the Alaska Constitution. These clauses are designed to prevent sponsorship, financial support, and active involvement of the sovereign in religious activity. Accommodating the religious beliefs of Athabascans by permitting the killing of a moose for a funeral potlatch does not rise to the level of these interests. The purpose of such an accommodation is merely to permit the observance of the ancient traditions of the Athabascans. As such, the exemption reflects nothing more than the governmental obligation of neutrality in the face of religious differences, and does not represent that involvement of religious with secular institutions which it is the object of the Establishment Clause to forestall. Arguments similar to the state's were dismissed as plainly wrong in *Sherbert* and *Yoder*.

If the reason the state did not urge that exemptions for funeral potlatches will endanger moose populations is that such a showing cannot be made, the state may be well advised to adopt regulations governing the taking of moose for such purposes. Carefully designed regulations would have the effect of guarding against abuses and, aid in record keeping, which would be of value in determining the impact of the exemption on moose populations. There exist models for similar religious accommodations. For example, [federal statute] authorizes the Secretary of the Interior to allow eagles to be taken "for the religious purposes of Indian tribes," upon a finding that the taking is compatible with the preservation of the species. Regulations have been published implementing this. Similarly, the Wisconsin legislature has recently enacted a statute permitting the taking of deer by Winnebago Indians for religious ceremonies, and has directed the state Department of Natural Resources to promulgate appropriate regulations.

The judgement is reversed and this case is remanded with instructions to dismiss the complaint. Connor, Justice, dissenting.

Eagle Poem

To pray you open your whole self
To sky, to earth, to sun, to moon
To one whole voice that is you.
And know there is more
That you can't see, can't hear
Can't know except in moments
Steadily growing, and in languages
That aren't always sound but other
circles of motion.
Like eagle, that Sunday morning
Over Salt River, circled in blue sky,
In wind, swept over hearts clean
with sacred wings.
We see you, see ourselves and know
We must take the utmost care
And kindness in all things
Breathe in, knowing we are made of
All this, and breathe, knowing
We are truly blessed because we were born
And die soon, within a true circle
Of motion, like eagle rounding out
The morning inside us.
We pray that it will be done
In beauty.
In beauty.



Joy Harjo 1982

A Creek Indian from Oklahoma, poet Joy Harjo currently lives in Tempe, Arizona where she has completed, a soon to be published, third book of poetry, *She Had Some Horses*. In addition to her new book, Joy is also writing a play. She was formerly editor of *Americans Before Columbus*.

America as Holy Land

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nonetheless sensed its forces, and has been increasingly at a loss to reach them. Yet, I believe, as Carl Jung said in one of the final letters of his life, when death approached and of all the world's spiritual disciplines he had studied, he turned to Native America: "We are solely in need of a Truth or a self-understanding similar to that of Ancient Egypt," he wrote, "which I have found still living with the Taos Pueblo. Their chief of ceremonies, Mountain Lake, said to me, 'We are the people who live on the roof of the world, we are the sons of the Sun, who is our father. We help him daily to rise and to cross over the sky. We do this not only for ourselves, but for the Americans also. Therefore they should not interfere with our religion. But if they continue to do so and hinder us, then they will see that in ten years the sun will rise no more.'" And Jung added, "He correctly assumes that their day, their light, their consciousness and their meaning will die, when destroyed through the narrowmindedness of American Rationalism, and the same will happen to the whole world."

I am talking of more than a reciprocity between man and ground he can touch and sky he can see; I am evoking an inner counterpart, the spirit within, behind and beyond the surface our eyes pick up, the same terrain the artist-chronicler George Catlin could not envision when, in the 1830's he was halted by Indians in the midst of his search for the fabled quarries of sacred red pipestone. A Dakota named The Swift Man tried to persuade Catlin to turn back, arguing that whites had already desecrated the sacred material by carving it into trinkets. Catlin responded that he meant no harm, and brandished the open-sesame of scientific-inquiry-for-the-benefit-of-mankind. The Dakota still resisted. Catlin's account has them practically saying, "You will not see what you are going to see." Behind the standoff lay two conflicting views of the earth, and one can guess which won. Catlin did reach the quarry, and the brick-red soapstone was henceforth named Catlinite, and we own what we name (and what we tame). Not until the 1920's did the Yankton Dakota secure the site again, and they had to have it designated a historical landmark, not a holy shrine, to safeguard it.

This was the inner geography to which a Zapotec Indian from the Oaxacan highlands referred in 1977 as we were cutting his alfalfa with hand sickles side by side. I had inquired about house-blessing ceremonies. Did his people have them as the Indians of North America did? His eyes stayed on his busy hands, but he said methodically, "When we build our house and it is finished the Catholic priest comes and our relatives come and he blesses it with holy water and we have a feast." But I pressed him: What about blessing the building site itself? There was some silence and the swish of our sickles, and then he stopped and looked directly at me and spoke under his breath: "When we lay out a house, we first bless the land. We feed the land; maybe it is a superstition but we feel it is our mother. That is our old, old belief. So we kill a

turkey or a chicken, and an old man, one of our own, sprinkles its blood in the corners. We bury chocolate there and tobacco, and we pray together and this way we feed the land which, as I said, is our mother, and then later we let the priest come and do his blessing."

It is the same inner landscape that continues to permeate Native American metaphysics and those entrusted with their perpetuation. Oren Lyons, an Onondaga faith keeper from New York State, gave the Kiowa writer N. Scott Momaday an inside look at how such basic teachings are transmitted today. As Lyons told it, "I was fishing with my uncle, he's an old chief from home, and we were out there in a boat in the middle of the lake and talking about this and that. I had just graduated from college at that point, you know. And I was kind of feeling my oats a little bit. And we were talking and he said, 'My you are pretty smart, you know. You learned a lot of things.' I said, 'Yeah.' I was surprised. And he said, 'Good. Then you ought to know who you are then.' 'Sure,' I said. 'I am Farland Lyons.' He said, 'Yeah, that's who you are, I guess. Is that all?' So I started to suspect right away something is going on here. Here I am in a boat, and I can't get out. And we were out in the middle of the water. He said, 'That's your name alright. We know that. Is that all you are?'"

"Well, I started thinking. I started to feel a little track already, and I went to my father's line, my mother's line, my clan. I searched, and he chased me all over that boat for two hours. He wouldn't let me out. I was ready to swim. I was getting mad. Then I said, 'Well, who the hell am I then?' And he said, 'Well, I think you know, but I will tell you.

"If you sit right here and look right over there, look at that. The rocks. The way they are. The trees and hills all around you. Right where you're on, it's water." And he said, "You're just like that rock." And I listened. He said, "You're the same as the water, this water." I waited and listened again, as he said, "You are the ridge, that ridge. You were here in the beginning." "You're as strong as they are. As long as you believe in that," he said, "that's who you are. That's your mother and that's you. Don't forget." I never have."

Looming behind these suggestive reflections stands a library's worth of native concepts, categories and mythologies, enshrining special boulders, brooks, and bends in the coulee, an entire environment reconsecrated as a sacred geography forged from the holy elements: earth, air, fire and water.

As the Dakota author, Luther Standing Bear, tells us, it was not only on ceremonial days that his people acknowledged their dependence on the transcendental potency of the earth. "The old people came literally to love the soil. They sat on the ground with the feeling of being close to a mothering power. It was good for the skin to touch the earth, and the old people like to remove their moccasins and walk with bare feet on the sacred earth. The soil was soothing, strengthening, cleansing and healing."

Equally vital was fire with its power stolen from the sun. The Chippewa prophet advises: "The fire must never be suffered to go out in your lodge.

Summer and winter, day and night, in storm or when it is calm, you must remember that the life in your body and the fire in your lodge are the same, and of the same date. If you suffer your fire to be extinguished, at that moment your life will be at its end." Among the Natchez, the last of the Southeastern Mound-Builder cultures to survive into historic times, a temple housed a perpetual flame; perpetual, that is, until it was extinguished forever by the French in the 18th century.

Of water, too, there is no end of references to inner powers waiting to be released through ritual inroads. The Navajo take pains to distinguish used water, which is controlled and thus contaminated — irrigation water, for example — and untouched water — generally free-flowing, a Pawnee priest would insist — which is super-human and sacred. The agricultural Pueblos of the Rio Grande strive for an especially bountiful relationship with water, as is evoked by this Zuni formula for encouraging rainfall:

When our earth mother is replete with living waters,
When spring comes,
The source of our flesh,
All the different kinds of corn,
We shall lay to rest in the ground,
With their earth mother's living waters,
They will be made into new beings,
Coming out standing into the daylight
Of their sun father,
Calling for rain,
To all sides they will stretch out their hands,
Then from wherever the rain makers stay quietly
They will send forth their misty breath,
Their massed clouds filled with water will come out and sit with us,
Far from their homes,
With outstretched hands of water they will embrace the corn,
Stepping down to caress them with their fresh waters,
With their fine rain caressing the earth,
And yonder, wherever the roads of the rain makers come forth,
Torrents will rush forth,
Silt will rush forth,
Mountains will be washed out,
Logs will be washed down,
Yonder all the mossy mountains will drop with water,
The clay lined hollows of our earth mother
Will overflow with water,
Desiring that it should be thus,
I send forth my prayer.

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photo by Abigail Adler

Navajo Female Puberty (Kinaalda) Ceremony

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As this Zuni incantation personifies their ancient reliance on the cyclical movement of liquid between earth and cloud and back again, so the Navajo turn the intermingling of two rivers into a mythic union. "Colorado River is female," they say; "San Juan River is male. At the place where the two used to come together, where the San Juan mounted the Colorado, an infinite number of Water children were formerly born — Cloud and Rain people who would then drift south-eastward."

Air for the Indian generally signifies life itself, and in turn the inspired words which motivate and enhance life. We breathe the breath of an all-creator, air turns into words, into the smoke from the hallowed pipe, the prayer-infused steam from the sweatbath. While the wind itself is the voice of he-who-made-all-things, the voice of Cheutenshu, the game-giver to the eastern Cree, Sila to the Eskimo. And what does Sila say, asked the explorer Knud Rasmussen of a Netsilik shaman. He says, the old man answered, always the same thing. *Be not afraid of the universe.* In Eskimo the word "to make poetry" is the word "to breathe." "Songs are thoughts," it is said in the north, "sung out with the breath when people are moved by great forces and ordinary speech no longer suffices." Far south, with the Zuni again, the people of the Middle Place sing too of the potentialities of air:

My Divine Father's life giving breath,
His breath of old age,
His breath of waters,
His breath of seeds,
His breath of riches,
His breath of fecundity,
His breath of power,
His breath of strong spirit,
His breath of all good fortune whatsoever.
Asking for his breath,
And into my warm body
Drawing his breath,
I add to your breath now.
Let no one despise the breath of his
fathers,
But into your bodies,
Draw their breath,
That yonder to where the road of your
sun father comes out,
Your roads may reach;
That clasping hands,
Holding one another fast,
You may finish your roads,
To this end I add to your breath now...

Of course these elements were hardly so discretely valued. It was in natural and contrived fashion that they fused, and Native Americans invented ingenious methods for joining them to experience their fullest benefit towards health, rich crops, good hunting, balanced mind. The Mistassini Cree decorator of drum or dish would paint a configuration of five red dots to commemorate a time when, out hunting, an immense column of sunbeam had broken through thunderheads to spotlight a forest patch where moose did indeed prove to be standing shoulder to shoulder. In a dream he had already previewed this propitious targeting of vapor and fire; now it was fulfilled in a magnificent amphitheater of landscape.

All four elements combined in the sweatbath, as earthen rocks, heated cherry red by bonfire — which corresponded to the sun's core for the Oglala seer, Black Elk — were dashed with

fresh river water from whips of sweet sage, creating stinging, scented steam. The participants experience on their nerve ends a transformation as that of rain from clouds, a release, a purge. Within the pitch-black interior of the sweat-lodge, prayers begin, the pipe is smoked. Then the door flap is hurled aside. "All my relatives," goes the cry of the participants, as the steam, bearing the distillate of prayers, billows into the night sky.

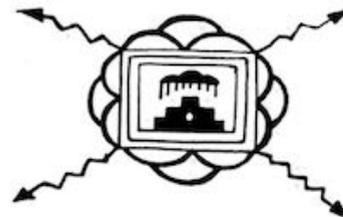
During the great Hako celebration of the Pawnee, a carefully orchestrated blessing for the well-being of children, a secondary ritual utilized that universal mechanism for inner growth, the pilgrimage. As the select party of Pawnee celebrants begin their trek through a consecrated landscape, the Kurahus, or lead priest, explains to them the esoteric significance of water, the winds, fire and earth. When the pilgrims first catch sight of water ahead, the priest guides them in a chant to "the river glistening in the sunlight in its length." They approach the bank, and overlooking the river must now sing to "the water in it that ripples as it runs."

Here instructions for crossing become so exact that we realize the priest is transforming the fording of a stream into an action-meditation. Timed to a sequence of stanzas, the travellers plunge in their naked legs. Once on the opposite shores, the priest commands them to stand stock still, and explains carefully, "We are wet with water through which we have just passed. But we must not touch our bodies where we are wet, for the running water is sacred. So we will sing the first stanza of this song, and call on the wind Hotoru, to come and touch us that we may become dry." As the breeze works on the water clinging to their legs, as the Pawnee describe it, "touching us here and there, completely enveloping us," the singing accompanies the process of evaporation, the transmutation of water and air, registered on everyone's pores. The song climaxes as the celebrants are dry; the sacrament is complete, their journey resumes.

While this Pawnee pilgrimage is an episode in a vaster ceremony, for other Native American societies it was, and in many remains, a vital medium for reconsecration of landscape and doorway to a sacred state of being. The pilgrimage unified men with mountains and trees, rivers and rocks. It regulated the risks of crossing into the realm of deathless myth — generally beyond centers of human traffic, "out there" — with a series of stations, shrines, which seem almost preordained to reflect interior stages of movement toward psychic integration. To the devoted seeker the pilgrimage through an "inner" landscape held out the promise of identity and power and a personal experiencing of that goal of mystical techniques the world over: the breakdown of the separation between the individual and the infinite.

Thus, when the Huichol Indians journey from their homeland in the Sierra Madre of northwestern Mexico to Catorce, the far desert in the state of San Luis Potosi, they trade an erodible terrain for a timeless one. The praying, suitably attired pilgrims are entering what they refer to as The Middle World, where godliness of place infuses every

spring, pool, plant, cave, ravine and hill. This land has been consecrated now as the home of Tamats Kauyumari — elder brother of Deer Tail. It is no longer Catorce rimmed with asphalt roads; it is that mythic expanse the Huichol call Wirikuta, the cradle of their creation. It is here, through a choreography of prayer, dance, vision, recitation, theater, enshrining, offering and wandering, that they experience the incontrovertible verification of their cosmology. Here they taste eternity; here they recover the ancient deer and corn, magically metamorphosed into the ground-hugging cactus known as peyote.



Similarly the Papago, on their grueling trek westward from southern Arizona to the salt beaches of the California Gulf, see behind the salt, which is their ostensible objective, the "corn" that at home gives them life itself. Their pilgrimage is an ordeal of manhood, a ritual in motion coordinated with the planting of prayer sticks at time-honored sites and the chanting of epic narratives which culminate in a sacramental plunge into the ocean. Likewise the Zuni, Acoma, Laguna, Cochiti and Hopi undertake seasonal journeys through religiously encoded territories to emerge as good hunters, fighters, farmers, husbands, fathers, singers and shamans. In most tribal domains sacred mountains overlooked not wilderness, but an environment which was only unknown when one's communion with it had not yet been revealed.

Of course awareness of this inner power of place, and memory of a time when the land shimmered in original mystery, is not restricted to Native America. When a National Geographic correspondent was touring Australia an elderly Aborigine asked if people had occupied America as long as his had been in Australia. "Well, we have Indians," the writer replied, "and they have probably been there that long." The Aborigine smiled knowingly. "Then they must have lived in the dreamtime," he said, "and they must have sacred places in the land as we have."

In Ancient China a land-use doctrine was developed to assure harmony between man's environmental planning and the earth's spirits. Known as Feng-Shui, it was defined as "the art of adapting the residences of the living and the dead so as to cooperate and harmonize with the local currents of the cosmic breath." Into the 19th century, from the building of rural villages in the mountains, to great cities along commercial rivers, this tradition regulated growth and proportion, development with recognition of the land's inner powers. A 19th century British clergyman who investigated the doctrine of Feng-Shui wrote a century ago: "Would God that our own men of science had preserved that sacred awe and trembling fear of

the mysteries of the unseen, that firm belief in the realities of the invisible world and its constant intercommunication with the seen and the temporal, which characterize the Chinese gropings after natural science."

But one need not stray so far from the roots of Western man. There is an old town on a ridge in the Judean mountains that Hebrew texts tell us was founded on the site of an ancient spring, the Gihon. The old Jews, following earlier Greek customs of sanctifying homes of earth spirits, knew this spot as the "navel of the earth," the "foundation stone ... from which the world started" — a spot identical in meaning to a travertine bulge along a feeder canyon of the Colorado that the Hopi call "sipapu" and from which they emerged onto the earthly plain.

Something interesting happens here, for Islam also reveres this Judean place as the hub of its universe. Moslem pilgrims are still drawn to a holy rock situated along an invisible axis mundi between Allah's throne above and a cave below where the souls of the dead congregate twice weekly. Before the creation of man, they believe, angels visited this very rock 2,000 times. It is a souvenir of Paradise. All the sweet waters of the earth issue from it; it was from this cosmic rock that Muhammad was launched on a dream-like journey into the heavens where he witnessed the eternal combat between good and evil and met Abraham, Moses and Jesus.

To create a greater headache for the administration that must oversee these cosmological shrines of present-day Jerusalem, a third religion lays claim as well. Christianity says the site is its umbilicus mundi, a microcosm of its universe, where its ancestral tribes gathered annually for rites of renewal. And then the descendants of those Christians encountered the tribespeople of North America. The great philosopher of Western culture had provided them with guidance they did not follow; Plato advised prospective settlers that their colonies would only survive if they first reconsecrated the earth-spirit shrines of local deities, creating a continuity of renewal rites and pilgrimages. The Catholics attempted this strategy — along with bloody conquest to be sure — in Mexico and Peru, but it may be what kept the heartbeat of those nations profoundly Indian.

However, these new Pilgrims honored the physical and spiritual subjugation of nature. In Pima folklore the first contact-experience is fixed in one harsh memory: the first whites they spied were leveling trees to make a road. Everywhere the Anglo cut and cultivated forest lands, settled in towns modeled after those in Europe, slaughtered game en masse, dammed the rushing waters, and mined the earth's rocks. "We were content to let things remain as the Great Spirit made them," Chief Joseph of the Nez Perce prophetically commented in 1877. "They were not, and would change the rivers if they did not suit them." Defining land as commodity, the Anglo bought it, subdivided it, scarred it with roads and came to enshrine only those sites where he had lived once before, or where his soldiers died in battle.

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Rest in Peace: A Cherokee Dilemma

by Ben O. Bridgers and Duane H. King

Ben Bridgers is the tribal attorney for the Eastern Band of Cherokee Indians and Duane King is the curator of the Museum of the Cherokee Indians.

During the French and Indian War the Cherokee Indians vacillated between supporting the French or the British. In 1756 the British built a fort on the Little Tennessee River, near present-day Knoxville, after Cherokee leaders sympathetic with the British indicated that the French would soon gain strength among the Cherokee unless the previous promises of a fort to protect the Indians were kept. Fort Loudoun, named for the British colonial commander-in-chief, was a wooden stockade built on the banks of the river in the heartland of the Cherokee country known as the Over-Hill villages. Within ten miles of the fort were located all of the prominent and largest Cherokee villages, including Chilhowee, Halfway Town, Settaco, Chota, Toqua, Tommotley, Toskegee and Mialoqua.

In 1760, after a series of misunderstandings, broken promises and arrogant behavior by the governor of South Carolina, the Cherokee fought with the British troops and laid siege to Fort Loudoun and Fort Prince George in South Carolina. The siege of Fort Loudoun was led by a Cherokee war chief, Oconostota, also known by his military title, The Great Warrior. After the surrender of the fort, more than twenty white soldiers were killed in what was identified by the South Carolina Gazette as a massacre. According to one report, Oconostota signalled the attack. Several days later, he ordered the bodies of the white soldiers to be buried.

Two hundred years later, the remains of The Great Warrior were uncovered by University of Tennessee archeologists. The skeletal remains of Oconostota, together with the remains of more than 1,000 other Indians who had once lived in the villages along the banks of the Little Tennessee River, are now stored and curated at the McClung Museum of the University of Tennessee. University archeologists have pressed the Tennessee Valley Authority, under whose authority these remains were uncovered, to permanently retain these bones and artifacts over the protests of present day Cherokees who live on the Cherokee Indian Reservation in nearby North Carolina.

In the controversy that has surrounded the Tellico Dam project, which was fought bitterly between TVA and environmentalists in court and in the media, the issues affecting the Cherokee Indians were largely forgotten or given lip service. In a series of lawsuits from 1970 through 1979, which resulted in two separate injunctions from federal courts against construction of the dam and culminated in the now famous snail darter case, the issues centered on recent environmental and historical preservation laws. The environmentalists appeared to have won the battle

only to lose the war when they faced the combination of a Georgia president and a Tennessee senator, who effectively overrode the snail darter decision of the Supreme Court by exempting the project from such laws in a rider to an appropriations bill.

The North Carolina Cherokees objected to the excavation of graves and the removal of Indian remains from the Tellico area during construction of the dam. When it was clear that the Cherokees would not drop their objections to the desecration of their ancestors, TVA finally stopped excavations. Further cooperation between TVA and the Cherokee ceased, however, when the

dam "has to stop sometime" and accusing the Cherokees of deliberately waiting to bring their suit at the eleventh hour. In its written opinion, the Sixth Circuit court affirmed dismissal of the Cherokee suit on the grounds that the Indian claims concerning the religious significance of these Indian sites merely described a "personal preference" rather than religious convictions "shared by an organized group" and did not constitute a statement of constitutional deprivation.

Perhaps what was most disturbing about the court decisions was that the Cherokees were never allowed to present evidence to support their

telephone calls from the Tribe to the BIA were unanswered.

Almost as disturbing to the Eastern Cherokee as the callous disregard of TVA and the BIA, which was not unexpected, was the active support given TVA by the Cherokee Nation in Oklahoma. Both in the lawsuit and in subsequent negotiations between TVA and the Eastern Cherokee, Chief Ross Swimmer of the Cherokee Nation supported the positions taken by TVA. In the lawsuit the Oklahoma chief submitted an affidavit in support of TVA stating that the Tellico area was of no religious significance to Cherokees and expressed appreciation to TVA for "finding" Chota, the ancient capital of Cherokee civilization. More recently Mr. Swimmer provided TVA with a letter in which he agreed that almost 1,000 of the Tellico Indian remains should not be reburied. Neither TVA nor the courts acknowledged that Mr. Swimmer was not himself a "traditional" Cherokee Indian.

Included in the more than 100 million dollars allocated to TVA by Congress for the Tellico Dam was some \$800,000 to memorialize the Indian culture and civilization buried beneath the lake. The Eastern Cherokees have recently entered into an agreement with TVA to deposit \$390,000 of this money in a trust fund to finance construction of such memorials. The remaining funds of the congressional allocation designated for reburial and restoration at Chota has been steadily reduced until there is now less than \$300,000. Even though no memorial has been built and no Indian has been reburied, funds from this account have been spent by TVA for salaries of its employees and consultants in planning for the TVA monument to Indian history and culture. Should TVA and the Tribe ever reach a settlement on the burial issue, it is likely that any funds remaining at that time will also be subject to the trust agreement.

The Cherokee were encouraged by recent developments in California when the California National American Heritage Commission obtained the state's consent to rebury or return to tribes all Indian remains and artifacts in the possession of the state. As if in reaction to this show of weakness, the Tennessee archeologists and the new director of TVA renewed their opposition to the Cherokee request for reburial of the Tellico remains and relics. The Cherokees in North Carolina continue to petition for the reburial of the remains of the Indians removed from Tellico, whether the remains are classified as historical or pre-historic. TVA and Tennessee archeologists believe the scientific value of the skeletal remains outweigh any humanistic concerns. The Cherokees insist that the skeletal material not be treated as property but as the remains of human beings. Should the forebearers of the Cherokees and other Native Americans "rest in peace" on museum shelves or in the bosom of mother earth? To the independent observer it seems to be a controversy without compromise and a problem without a solution.



(courtesy Dept. of Anthropology, Univ. of Tenn.)

Burial Believed that of Chief Oconostota

North Carolina tribe filed suit late in 1979 to stop completion of the Tellico Dam because impoundment would destroy the Cherokee homeland and deny religious practices of traditional Cherokees.

The federal courts made short shrift of the Indian claims, the district court in Knoxville summarily dismissed the Indian suit, justifying the swift sword of justice with the conclusion that religious beliefs or practices of Indians could not outweigh the property rights of the federal government to its land. The court said the First Amendment of the Constitution "is not a license in itself to enter property, government-owned or otherwise." The appellate court was even less sympathetic to the Indian concerns, making clear that it was tired of litigation over the Tellico Dam, telling the Cherokees at oral argument of the case that litigation over

religious claims. Equally disturbing was that the claims raised by the Cherokees concerning the 1,140 Indian remains stored by the University were never acknowledged or ruled upon by either court. In the case TVA argued that the remains belonged to TVA, were the property of the government and that only the federal government could decide the ultimate disposition of the remains. TVA argued that only those remains which could be traced to living descendants were eligible by law to be reinterred. TVA refused to discuss the number of non-Indian remains which were reburied as a result of the Tellico project, merely denying that the reburial of all non-Indian remains constituted racial discrimination. Affairs concerning reburial of the Indian remains were ignored by then Assistant Secretary of Interior Forest Gerard. All letters, telegrams and

Indian Religions

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what if the Mormon Tabernacle in Salt Lake City were expropriated by the federal government, and the congregation told that they could no longer hold religious services there now that it was public land? Such an act would be contrary to law, and the public outcry would be deafening.

The Navajos are seeking the same sanctity and respect for religious worship at Rainbow Bridge—their religious sanctuary. It is therefore difficult to comprehend why the Navajos, in this instance, failed in their attempt to have their religious interest respected and protected.

Shortly after the U.S. Supreme Court's refusal to review the adverse lower court decisions in *Badoni v. Higginson*, a federal court ruled against the interest of traditional Navajo and Hopi religious practitioners who are seeking to protect important religious sites located in the Coconino National Forest, the destruction of which has been mandated by the National Forest Service in authorizing the continued operation and planned expansion of the Arizona Snow Bowl, a ski resort. The lawsuit was filed in the district court in Washington, D.C., by the Hopi Indian Tribe and the Navajo Medicinemen's Association against officials of the U.S. Department of Agriculture who have the authority to manage national forest land. Like the Navajo petitioners in *Badoni*, the plaintiffs in *Navajo Medicinemen's Association and Hopi Tribe v. Block* sought relief from the present operation of the Arizona Snow Bowl and its planned expansion based upon the First Amendment of the U.S. Constitution which guarantees to all Americans the right to practice their religion free from governmental infringement, and upon the American Indian Religious Freedom Act. The plaintiffs also alleged violations of several other federal statutes, including the Endangered Species Act, the National Environmental Protection Act, and the National Historic Preservation Act.

The main thrust of *Navajo Medicinemen's Association v. Block*, however, is the infringement upon traditional Navajo and Hopi religions resulting from the existence and planned expansion of the Arizona Snow Bowl,

which is located in a mountain formation known as the San Francisco Peaks. To the Navajo, the mountain is one of four sacred mountains and is itself a holy being. Indeed, an entire body of traditional Navajo religion is based on the mountain. Thus the soil, water, and animal and plant life found on the San Francisco Peaks have ritualistic significance. Moreover, the Navajo consider the digging into or erection of structures on the mountain as a violation which is offensive to the holy being. Similarly, the Hopi consider specific sites on the San Francisco Peaks as sacred shrines. The Peaks are also the home of various Hopi kachinas (spirit beings) during certain months of the year.

The lawsuit which was brought by the Navajo and Hopi as a result of the decision of the U.S. Forest Service to greatly expand the Arizona Snow Bowl ski area in the San Francisco Peaks contends that the interference with the natural order at the ski area site desecrates and defiles the Peaks as an entity, and furthermore interferes with the religious practices and beliefs of Navajo and Hopi religious leaders by, for example, forcing them to abandon the use of specific sacred sites and precluding the gathering of sacred herbs and making religious offerings. The U.S. Forest Service, in its decision to expand the ski resort at issue, in effect concluded that there was no infringement of the plaintiffs' religious rights and that in any event, the public's right to recreate was more important than the right of Indians to continue practicing their religion.

The federal district court agreed with the decision of the defendant U.S. Forest Service regarding that agency's interpretation of the Free Exercise clause of the First Amendment. After concluding that the existence and planned expansion of the ski area do not interfere with religious practices of the Navajo and Hopi, the district court went on to hold that in any case, the government was forbidden from taking the steps sought by the plaintiffs since such affirmative action by the government would violate the Establishment clause of the First Amendment. Once again the Establishment clause has been misapplied in order to deny Indians their religious rights as guaranteed by the U.S. Constitution.



photo by Abigail Adler

Navajo Woman Standing by Parents' Burial Site

The Establishment Clause prohibits government management or endorsement of any single religion; it was enacted to protect the minority from a majority religion. Since the enactment of the Establishment Clause, the Supreme Court has, however, not required a rigid adherence to the separation of church and state, but rather has interpreted that clause to allow and even require government action which accommodates the religious beliefs and practices of Americans where their beliefs and practices come into conflict with government programs, regulation, and policies. As in the case of *Badoni v. Higginson*, where the Navajo plaintiffs were seeking to practice their traditional religion at Rainbow Bridge free from public intrusion and to protect their sacred shrine from destructive, sacrilegious tourists use, the court in *Navajo Medicinemen's Association* has applied a unique interpretation of the Establishment clause to Indian religious practitioners. Once again a federal court has ignored past Supreme Court decisions which would authorize affirmative governmental action to accommodate the religious practices of the Navajo and Hopi plaintiffs and instead has concluded that the Establishment Clause precludes any accommodation of the plaintiffs' religious practices. Clearly, the Indian population of the United States is not so large that to accommodate its religious beliefs and practices would present any threat to the religious beliefs of other Americans. The lawsuit is now on appeal.

Since enactment of AIRFA four major lawsuits have been litigated on behalf of Indian religious practitioners: *Sequoyah v. TVA*, *Badoni v. Higginson*, *Navajo Medicinemen's Association v. Block*, and *Pueblo of Jemez v. Watt*. (The latter case is pending in the U.S.

District Court of the District of Columbia but is about to be dismissed since the federal geothermal project at issue has been abandoned by the government for technical reasons.) What is particularly disturbing is that in three of the four lawsuits, *Sequoyah*, *Badoni*, and *Navajo Medicinemen's Association*, the federal courts have subordinated the right of Indians to practice their traditional religions to the right of tourists to enjoy a recreation area: *Sequoyah*, an artificial lake; *Badoni*, a rock formation; and *Navajo Medicinemen's Association*, a ski resort. Furthermore, in apparent contradiction of its previous position, the U.S. Supreme Court has refused to review the adverse lower court decisions in *Sequoyah* and *Badoni*.

Despite the enactment by Congress of AIRFA, with its strong language which indicates Congress' intention to ensure the survival of Indian religions and practices in this country, federal agencies continue to ignore the First Amendment religious interests of Indians, and the federal judiciary continues to uphold the adverse land management decisions of the federal agency defendants, also ignoring the First Amendment and AIRFA. As a result, traditional Indian religions are being eroded and their very survival seems doubtful. With them will die the Indian way of life.

Portions of the preceding article have appeared in past issues of ABC.

National Indian Youth Council Inc.

201 Hermosa N.E., Albuquerque, New Mexico 87108 (505) 266-7966

I support you in your efforts to right the wrongs inflicted on Native Americans — to safeguard their inherent right to worship as they see fit. Enroll me as a member of the National Indian Youth Council. Enclosed is my annual membership contribution of \$20.00. Be sure to send me *Americans Before Columbus* to keep me informed about NIYC activities.

I want to help even more. Total of my check is for:

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Please make your checks payable to NIYC. Your membership contribution is tax deductible.



America as Holy Land

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The natives' and newcomers' environmental doctrines struck sparks from the first, and still do. This century's most dramatic clash over sacred geography began in 1906 in northern New Mexico. That year the ancestral, sacred lands of the Taos Pueblo, containing Blue Lake, the destination of the community's August pilgrimage, and numerous shrines, were appropriated by the Theodore Roosevelt administration and developed as Carson National Forest. Immediately the pueblo launched its resolute, Gandhian campaign to retrieve the territory. As one reviews their testimonies before Congressional committees, in the 20's, the 40's, the 60's, it becomes one painstaking effort to explain what could only be felt, to put into English what could not really be translated and understood, to portray what could not be seen, to defend what could not be proven: the continuous sanctity of place.

Venerable legislators, like New Mexico's Senator Clinton Anderson, could never understand why Taos still needed all that acreage to pray in. "Now may I ask a question?" said one committee chairman in 1943 in a discussion over subsurface resources. "Do you have any place in that territory that is yours where you would not object to drilling?" And Taos Council member Ferlino Martinez answered, "Every inch of our land is religious land, a place of sacred shrines, and there is no place you would put a dam without hurting the Indians." "Well, what about 'exploratory' drilling? Wasn't there some place where they could test for minerals which would not offend the Taos religion?" And Martinez answered, "Whether you put a little sugar on this bill or not, it still would not taste good to us."

Another Taoseno testified, "Now we have very good friends among the white people and then we have some bad enemies too among the white people. Some want to find out what are the sacred shrines...the only answer to that would be foolish. It would be to send a telegram to Jesus Christ to find out, and then when you get the answer, then the Indians can be notified and then you will know as to why and how those most sacred places are planned for the Indians."

Over a quarter century later, their spiritual leader, Juan de Jesus Romero, delivered the environmental gospel according to Taos: "Our Blue Lake wilderness keeps our water holy, and by the water we are baptized. If our land is not returned to us, if it is turned over to the government for its use, then that is the end of Indian life. Our people will scatter as the people of other nations have scattered. It is our religion that holds us together."

When Senator Anderson worried that the Taos claim might set a dangerous precedent, witnesses reassured him that this was highly unlikely since its strength lay in the verifiable antiquity of Taos; few tribes could make such a case because they had not been in one location long enough to mythologize and sanctify their landscape. It was not surprising this would mollify a non-Indian legislator locked into a secular, chronological continuum. The criterion of time is America's closest approximation to sacredness. Her "cultural history resources" — the U.S. Forest Service's sole category for such special environmental protection — cover "buildings, sites, areas, architecture, memorials and other artifacts...relating to past human life." The archeologist now becomes the judge of viable heritage. As anthropologist Thomas Buckley has pointed out, sacred sites thus become aggregates of past "things," not constellations of present "power," and contemporary Indian religious practitioners are penalized for not having lived five hundred years ago.

If the antiquity criterion applied in the case of Taos, it was no help in 1971 when traditionalist Navajos appealed to the Museum of Northern Arizona on behalf of Rainbow Bridge Canyon in the northwestern sector of their reservation which was threatened by the rising waters of Lake Powell. Of the over 250 mapped Navajo sacred sites, Rainbow Bridge is what non-Indians would call the most recent. Unlike the Taos tribespeople, who are descendants of older Southwestern cliff-dwellers, it is fairly well established that the Navajo arrived in the Southwest no earlier than the 12th century. Navajos themselves readily admit never having seen Rainbow Bridge — just behind one of their four sacred peaks, Navajo Mountain, which they know as *Naatsis'aaan* (Head of Earth Woman) — before 1863. The date is burned into their memories as the year when the United States dispatched "Kit" Carson and Ute mercenaries to round up their entire tribe for internment. A man named Blind Salt Clansman, from a breakaway band who evaded capture, found sanctuary for his people in the narrow canyon protected by the solidified rainbow.

Today a site plaque credits a Paiute guide for Anglo explorers with discovering the location in 1909. By that time, however, Blind Salt Clansman himself, perhaps in an effort to discourage further inquiry, told the Wetherill brothers that few Navajos visited it anymore: "They used to go for ceremonies, but the old men who knew the prayers are gone." Thus within less than two generations the place has been totally appropriated into Navajo mythology. The rocky spires and springs of the canyon had been absorbed into the Navajo pantheon of spirits. The

alignment of the site with Navajo Mountain had become part of a meditative pilgrimage, a power vector lining up sacred canyon spring and holy peak. As Museum of Northern Arizona anthropologist Karl Luckert was introduced to the spirits of the canyon by the Navajo delegation, it reinforced what Thomas Buckley had grown convinced of through his investigation of Yurok Indian medicine-training and meditation spots in the Northern California Siskyou range: "...not only the sites themselves must be protected, but the entire aural, visual and social (i.e., private) context of the sites needs protection as well, if the efficacy of the sites is to be preserved."

On December 15, 1970, President Richard Nixon signed into law full restoration of Taos' sacred 48,000 acres in perpetuity. But the Dakota pipe-stone quarry and Taos victories were token bows to the earth spirits, legislative pacifiers to avoid a bad press. A recently-passed American Indian Religious Freedom Act vows that Indian religious needs will be "incorporated into the Land Management plan of the area" and that Indian religious use requests will be "carefully considered." But what is needed to safeguard the equally sacred geographies of the Hupa, the Yurok, the Cree, the Dakota, the Seminole and many other Native American nations is the same kind of unequivocal legislation which Israel had to write when its conquests brought those Christian and Islamic places of pilgrimage under its dominion. On June 27, 1967, the Israeli Knesset enacted a Protection of Holy Places Law which read: "(1) the Holy Places shall be protected from desecration and any other violations and from anything likely to violate the freedom of access of the members of the various religions, and to places sacred to them or their feelings with regard to those places, and (2) whoever desecrates or otherwise violates a Holy Place shall be liable to imprisonment for a term of seven years" (emphasis mine).

As for most of us, there is no translating the Indian reality of a landscape alive; it is not a "land ethic" which can be likened to a Sierra Club manifesto. My pipesmoking seat companion will never, for all his longing, wander any territory like a Swampy Cree, stopping ten times a day at significant places and speaking their names to make an oral map spring into life, seeing instantly where those named come from, where their spirits live. Such personification is the license of poets, not the architects, engineers, surveyors and sub-dividers who handle our earth.

Those connections were never established in the beginning; Plato's advice was lost in the doctrine of progress. A gridwork of contamination — Jung's "American Rationalism" — holds sway



John Lansa, Hopi Religious Leader

from sea to sea. No weekend backpacker would defend his favored recreational spot as if he had been jumped in an alley and were fighting for his life. The best we can do is to take Indian peoples at their word and not usurp their claims with glib, sentimental comparisons between native attitudes and ours, nor by self-consciously inventing reinhabitory rituals for land worship which won't stand up in court. Most of us remain strangers in a strange land, canoeing down rivers whose voices are mute to us. The earth is not our mother nor the sky our father. We cannot ask the Indians to defend their "feelings" through our categories and criteria; we must listen to them for a change, and not count beer cans along reservation backroads. We can ask to be shown the sacred places, but even then, we must be willing, unlike the explorer George Catlin, to take no for an answer, and still have the decency to promise that desecration of other people's sacred lands stops now.

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THIS IS WHAT YOU CAN DO NOW to help stop the destruction of Indian religions: contact the key public officials listed below and tell them that you are concerned about the steady erosion of Indian religions as a result of federal land management decisions in violation of the American Indian Religious Freedom Act (AIRFA), P.L. 95-341, and that you seek additional affirmative government action through executive orders, legislation and administrative regulations which will guarantee the full implementation of AIRFA.*

President Ronald Reagan
1600 Pennsylvania Avenue
Washington, D.C. 20500

Sen. William Cohen
U.S. Senate
Washington, D.C. 20510

Sen. John Melcher
U.S. Senate
Washington, D.C. 20510

Rep. Morris Udall
U.S. House of Representatives
Washington, D.C. 20515

Rep. John Seiberling
U.S. House of Representatives
Washington, D.C. 20515

Rep. Phillip Burton
U.S. House of Representatives
Washington, D.C. 20515

Rep. Edward Markey
U.S. House of Representatives
Washington, D.C. 20515

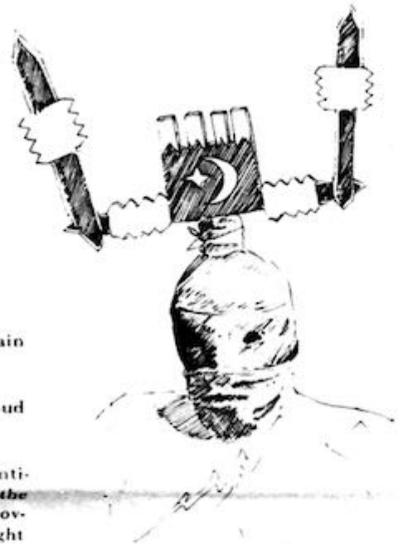
James Watt, Secretary
U.S. Department of Interior
Washington, D.C. 20240

John Block, Secretary
U.S. Department of Agriculture
Washington, D.C. 20250

*Articles in this issue of ABC may give you more specific ideas about the content of your message.

About the Photos...

Most of the photographs appearing in this special edition of ABC are by Abigail Adler. Her photographs are included in the collection of the Museum of the American Indian, New York City; the Wheelwright Museum, Santa Fe, New Mexico; and the Canyon de Chelly National Monument, Tsaile, Arizona; and have appeared in many southwestern publications. Ms. Adler is currently an arts and news reporter for KGGM-TV, Albuquerque, New Mexico.



Interviews

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right here on that (mountain), where the springs are, is where I (used to) have my prayers (shinaahgha).

At times (some years) we did not have get-togethers (for rain ceremonies). No one really came out to say that they were praying for rain. Maybe some did. We respected (respectfully performed) this mainly in summer.

There used to be prayers made at (the side of) Navajo Mountain. These (prayers) go together with (those of) the other four sacred mountains: Blanca Peak, Mount Taylor, San Francisco Peaks, Hesperus Peak. Also included are Huerfano Mountain and Gobernador Knob. These six mountains were prayed to and pleaded with (naokpgh). They also pleaded with Earth and Sky. They pleaded with Head of Earth. They pleaded for their land.—My voice is giving out, my children.

(Concerning Rainbow Bridge), when I was younger I would go there and put down something (as an offering), near the Arch, at a place far from here, a place called Object-sticking-up (t'it'á). My uncle already used to go to Rock-arch (Tse nant'ahigii), see it, and speak there. That place is holy....Yes, I went there a number of times and always placed precious stones there as an offering. The old men used to say that it was Rainbow. It really was the Rainbow. My grandfather and my father used to say that. They knew it from long ago.—My throat is just too bad....Rock-arch was not made in my presence. I just know that it was made (a Rainbow). I just went there periodically...."The Holy People came there," my father used to say. He used to say, "The place is holy." And they took precious stone offerings to them (the Holy People there). They used to pray there a lot. (The gods used to) have a ceremony there, they say. It concerns the prayers.—My throat is really sore.

—Here was a river, and here too was a river. (He draws in sand). Here (by the junction) is where I had my prayers. (The point where the Colorado and San Juan Rivers merged before Lake Powell covered it.) There was rain at places, and I had gone there (to plead) for it.

—(Who was the first Navajo man who found the arch?) There was a Navajo elder (shahastóí) who first came upon it. His name was Blind Salt Clansman (Áshjihí bináá' ádini)—at the place where a horse stood with him. (This refers to a petroglyph, no longer there which commemorated the discovery of Rock-arch by the Blind Salt Clansman.) (It was) many years ago, maybe (He was) my maternal uncle, my mother's older brother. When I was young I became aware of him. I do not know how much older (than my mother) he was. I did see him when I was young.

—(Did you carry water from the Spring by Rock-arch to the top of Navajo Mountain?) I would drink from this water, (but) I never took any of it to the top of Head of Earth. There are many springs around Navajo Mountain. I have drunk from many of them.

—(Can you give us a prayer?—He laughs and begins):

Head of Earth, on the top!
Naatsis'áán bílátahgi!

Head of Earth, by your holy power may I also be holy power.

Naatsis'áán bee diniyinií éí bee dinishyín doo.

With this (power) I will be spared.

Díí bee hadeesdzih.

With this (power) with which you talk, may I talk.

Díí bee yánlití, díí yáshití doo.

Head of Earth, vegetation that grows on top of you.

Naatsis'áán, níkaa'gi hóllónii nanise'.

Black Cloud, Male Moisture.

K'os díhít, níltsp' bikh'.

The One who sits blanketed with darkness.

Ááh díhít yee sídáhi.

The One who sits with the Small Rain Moisture.

Níltsp' joolí yee sídáhi.

The One who sits with the Black Cloud One.

K'os díhít yee sídáhi.

This is the way my prayer goes. It continues until it covers all of him (the Mountain), starting from his feet (moving) upwards. The rest escapes my right now.

—(How does the song go?)

Head of Earth, sitting with Black Cloud.

Naatsis'áán k'os díhít yee sídáhi.

The One who is enveloped by bouncing raindrops and mist....

Tázhool bíl dashoogishí....

And then from there it (the song) moves on to Blanca Peak. It (my sore throat) is stopping me. It is stopping me.

—(What gods are spoken to in songs and prayers?)—The very same names are used. They are Head of Earth-person (Naatsis'áán yee sídáhi). (In the prayer for rain) Black Cloud-person (K'os díhít yee sídáhi) is the main one; (then) Male Rain-person (Níltsp' bikh' yee sídáhi). That is how the prayer goes, it seems.

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