

# **On the Ground: A Western Shoshone Defense Project publication**

**March 2006**

## **Western Shoshone Victorious at United Nations!!**

On March 9th in Geneva, Switzerland, in an historic and strongly worded decision by the United Nations Committee on the Elimination of Racial Discrimination (CERD) the United States was urged to "freeze", "desist" and "stop" actions being taken or threatened to be taken against the Western Shoshone Peoples of the Western Shoshone Nation. Whereas indigenous peoples have been active at the United Nations for several decades, the decision today also brings a breath of hope to indigenous communities across the U.S. and globally where the negative effects of U.S. policy and influence reach. In its decision, made public on March 10th, CERD stressed the "nature and urgency" of the Shoshone situation informing the U.S. that it goes "well beyond" the normal reporting process and warrants immediate attention under the Committee's Early Warning and Urgent Action Procedure.

This monumental action challenges the US government's assertion of federal ownership of nearly 90% of Western Shoshone lands. Western Shoshone rights to the land were recognized by the United States in 1863 by the Treaty of Ruby Valley, but the U.S. now claims these same lands as "public" or federal lands through an agency process and has denied fair access to U.S. courts through that same process. The land base has been and continues to be used by the United States for military testing, open pit cyanide heap leach gold mining and nuclear waste disposal planning. The U.S. has placed restrictions on Shoshone hunting, fishing and gathering, and engaged in military style seizures of livestock, trespass fines in the millions of dollars and ongoing armed surveillance of Western Shoshone who continue to assert their original and treaty rights.

Based upon these actions and a dramatic escalation of new actions threatening "irreparable harm to Western Shoshone and their environment", last year, with the support of the Univ. of Arizona Indigenous Law and Policy Program, a renewed legal action was filed at the United Nations CERD. In addition to evidence of the United States' conduct, the delegation also delivered over 13,000 signatures from citizens across Western Shoshone territory and the United States of America supporting the Western Shoshone action to CERD. This petition was a result of a campaign organized by the rights-based development organization Oxfam America to demonstrate the widespread concern for the Western Shoshone peoples to the United Nations.

CERD rejected the U.S.' argument that the situation was not "novel" and therefore should wait to be reviewed until the U.S. submits its Periodic Report – past due since 2003. The Committee informed the U.S. that "[a]lthough these are indeed long-standing issues...they warrant immediate and effective action... [and] should be dealt with as a matter of priority." The United States was "urged to pay particular attention to the right to health and cultural rights of the Western Shoshone...which may be infringed upon by activities threatening their environment and/or disregarding the spiritual and cultural significance they give to their ancestral lands."

CERD presented its decision to the Western Shoshone on March 10th. The decision details the U.S.' actions against the Western Shoshone and calls upon the United States to immediately:

- o Respect and protect the human rights of the Western Shoshone peoples;
- o Initiate a dialogue with the representatives of the Western Shoshone peoples in order to find a solution acceptable to them, and which complies with their rights;
- o Adopt the following measures until a final decision or settlement is reached on the status, use and occupation of Western Shoshone ancestral lands in accordance with due process of law and the U.S.' obligations under the Convention. The measures that they must adopt are:
  - o Freeze all efforts to privatize Western Shoshone ancestral lands for transfer to multinational extractive industries and energy developers;
  - o Desist from all activities planned and/or conducted on Western Shoshone ancestral lands;
  - o Stop imposing grazing fees, livestock impoundments, hunting, fishing and gathering restrictions and rescind all notices already made.

The decision is historic in that it is the first time a United Nations Committee has issued a full decision against the U.S. in respect to its highly controversial Federal Indian law and policy. The decision expressed particular concern that the U.S.' basis for claiming federal title to Western Shoshone land rests on a theory of "gradual encroachment" through a "compensation" process in the Indian Claims Commission. The decision highlights that this same process was found by the Inter-American Commission on Human Rights to violate "international human rights norms, principles and standards that govern determination of indigenous property interests." When the U.S. last appeared before the Committee in 2001, Committee members expressed alarm and concern that U.S. laws regarding indigenous peoples continue to be based on the outdated, colonial era "doctrine of discovery."

The Committee gave the U.S. a July 15, 2006 deadline to provide it with information on the action it had taken. The decision issued today demonstrates a solid commitment by the United Nations human rights system to make the Western Shoshone's struggle a priority.

To obtain a full copy of the decision please email our office at [wsvp@igc.org](mailto:wsvp@igc.org), or call to have one faxed or mailed.