

Internationally Recognized Principles Needed for the Protection of Eagle Rock: Six Articles of the United Nations Declaration on the Rights of Indigenous Peoples

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Article 11: "Indigenous peoples have the **right to practise and revitalize their cultural traditions and customs**. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and **historical sites**, artefacts, designs, **ceremonies**, technologies and visual and performing arts and literature.

Article 12: "Indigenous peoples have the **right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies**; the right to maintain, protect, and have **access in privacy to their religious and cultural sites**; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

Article 24: "Indigenous peoples have the **right to their traditional medicines** and to maintain their health practices, including the **conservation of their vital medicinal plants, animals and minerals**."

Article 25: "Indigenous peoples have the **right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard**.

Article 26: "1. Indigenous peoples have the **right to the lands, territories and resources which they have traditionally owned, occupied or otherwise acquired**. 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional

occupation or use, as well as those which they have otherwise acquired. 3. **States shall give legal recognition and protection to these lands, territories and resources.** Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerns.

Article 40: "Indigenous peoples have the **right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties,** as well as **effective remedies for all infringements of their individual and collective rights.** Such a decision shall give **due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned** and international human rights.

Status of U.S. Position on the UN Declaration on the Rights of Indigenous Peoples

The UN Declaration on the Rights of Indigenous Peoples was adopted by the General Assembly on September 13, 2007 after more than two decades of debate and hard work of indigenous peoples and supporters in the international community. It is a landmark declaration outlining the rights of an estimated 370 million indigenous peoples throughout the world. The Declaration itself is a non-binding text, and supporting States must adopt the declaration within their national frameworks. It was approved by 143 Member States, 11 abstained, and 4 voted against the text: Australia, Canada, New Zealand and the United States. Subsequently, New Zealand, Australia and Canada have signed the Declaration.

The United States of America is currently reviewing the Declaration. On December 16, 2010, President Barack Obama announced the U.S. will be lending its support to the Declaration at the White House Tribal Nations Conference in Washington, DC.

Glenn Morris, a Shawnee professor of political science at the University of Colorado at Denver and director of the Fourth World Center for the Study of Indigenous Law and Politics, has shared critical insights on the United State's position on the Declaration in a [February 19 article in Indigenous Peoples Issues and Resources](#). He notes that many people are likely unaware of a [simultaneous State Department document](#) released after Obama's "lending support" statement which reveals the U.S. plan to domesticate the document and reject fundamental elements of the Declaration. Essentially, Morris argues that the U.S. intends to endorse the Declaration only to the degree that it is consistent with existing U.S. federal Indian law.

Nevertheless, it is a positive development that the U.S. has announced it's support and is reviewing the Declaration. It is an important new tool and marks a significant moral change in course of international norms in respect to indigenous peoples.

Updating the OECD Guidelines for Multinational Enterprises to Incorporate Recognition of Indigenous Rights

[The OECD \(Organization for Economic Cooperation and Development\) Guidelines](#) are recommendations by governments covering all major areas of business ethics, including corporate steps to obey the law, observe internationally-recognised standards and respond to other societal expectations. Forty-two adhering countries will [discuss the draft updated text](#) at meetings in February and March 2011 with a view to finalising the update by May 2011.

On January 25, 2011, James Anaya, United Nations Special Rapportuer on the Rights of Indigenous Peoples, stressed to a group of state delegates in Paris that the update of [OECD Guidelines for Multinational Enterprises should advance compliance with the United Nations Declaration on the Rights of Indigenous Peoples](#). Indigenous peoples are

often directly affected by multinational enterprises, especially those seeking to extract the natural resources found within their traditional territories.

Rio Tinto's Eagle Mine in Michigan's Upper Peninsula

Rio Tinto is the multinational mining corporation currently planning the Eagle Mine in Michigan's Upper Peninsula. Rio Tinto, based in the UK and Australia, is subject to the recognized principles and standards for responsible business conduct as expressed in the OECD Guidelines, wherever they operate. What the company's website will not disclose is the fact that this mine deeply offends the traditional customs and indigenous rights of the Ojibwa people whose historically significant sacred place, *Migi zii wa sin* (Eagle Rock), is currently fenced off and slated to be blasted into for the use of Rio Tinto's mine portal into an underground sulfide ore body.

In November 2010, the National Congress of American Indians adopted a resolution calling for Federal and State action to guarantee the protection and preservation of Eagle Rock from the consequences of mining operations by Kennecott Eagle Minerals Corporation (a subsidiary of Rio Tinto). Degradation of Eagle Rock is a loss of a place of worship in exchange for another use, mining, which subsequently creates new risks and hazards for local residents in exchange for short-term jobs and long-term environmental change after the mining company leaves. Sacred sites are an important resource for Native peoples and their protection should supersede decisions to take the minerals.

Persistent local citizen opposition against Rio Tinto's Eagle Mine includes additional concerns such as water quality (underground aquifer waste-water injection, wetlands and Lake Superior), potential for irreversible acid mine drainage, ecosystem degradation, cumulative impacts from additional mines, Native American treaty rights, disrespect for the rule of law, and the technical likelihood of mine collapse. One hundred faith community leaders signed a petition against metallic sulfide mining in favor of clean water. Two hundred medical professionals organized to petition opposition to metallic

sulfide mining due to serious environmental health concerns. Ten thousand local citizens signed a petition requesting a USGS Hydrology study.