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To: The United States Senate Committee on Indian Affairs  
Washington, DC 20510-6450

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Re: Testimony regarding the protection of Bear Butte, a sacred place

Just off the Northeast corner of the Black Hills in western South Dakota lies a small mountain rising 1300 feet above the surrounding plains. It is separated from the rest of the mountains called the Black Hills by approximately 8 miles of prairie. Called Bear Butte by non-Lakota people, and Paha Mahto by Lakota speakers, this sacred place has been used for thousands of years by many tribes from the United States and Canada as a place to receive spiritual guidance. Rather than a flat topped butte with vertical sides, the formation looks like a bear laying on its side with its head to the northeast, thus, the name Bear. The Lakota word, paha, meaning hill or mountain, was evidently misinterpreted as butte.

Today, Bear Butte is known throughout the world as one of the most sacred places on the Earth. The spiritual effects of this place can be felt by almost everyone. Visitors from as far away as Europe and Australia fly into the airport at nearby Rapid City, SD, rent cars if friends don't pick them up, and drive the 40 miles to Bear Butte. They hike, sometimes only part way up the small mountain, and sit or stand to experience a unique, special connection with the Earth and the sky in this special place. Some hike all the way to the top which can be reached in less than an hour depending on how fast a person is walking. The view is tremendous, but something else also touches their spirit. It is unexplainable in human language.

For thousands of years, Lakota, Cheyenne, Arapaho, and people from more than thirty other nations traveled to Bear Butte to pray. Mount Sinai was the place to which Moses went and received the ten commandments that are used by Christians, Moslems, and Jews. At the time Moses did this, his people were living in tents. Is it so inconceivable that American Indians, who also on the Plains lived in tents, did not have a sacred place to go to in which to receive guidance? Their sacred place was Bear Butte, a tiny mountain on the northeast corner of the larger, sacred Black Hills.

The Cheyenne's' story of their connection to Bear Butte is much more known to the public as it has been written in books. They had been going to Bear Butte to pray long before their spiritual leader, Sweet Medicine, received special messages and special gifts at that holy place. Since that time, more than 4,000 years ago, the Cheyenne have passed down, through generation after generation, the messages and gifts that were given to their ancestor. To put this in a better perspective, Christianity has only been around 2,000 years, half the time since the Cheyenne received their messages through Sweet Medicine. Another perspective, the United States has only been around a little over 200 years.

The Cheyenne, who continue to keep their sacred messages, need to be commended for their diligence, their patience, their perseverance. They have endured the splitting of their nation by the United States over a hundred years ago with half of their sacred gifts being taken care of in Montana and the other half being kept in Oklahoma. Yet, these people have continued to come to Bear Butte every year to pray. Isn't it time that the United States, who claims to stand for religious freedom, try to rectify this situation? Protecting Bear Butte could be a beginning.

The City of Sturgis, which is about ten miles from Bear Butte, has also become known worldwide for its motorcycle rally. Senator Campbell, the Chairman of this Committee, has been known to attend that auspicious occasion once or twice. Hundreds of thousands of motorcycle enthusiasts travel from throughout the world to ride their motorcycles through the streets of the tiny town of Sturgis and through the Black Hills. Of course, there are not enough motel rooms in western South Dakota for such an influx of people, so campgrounds with innumerable tents can be seen around the entire area. Needless to say, the presence of hundreds of thousands of people also attracts vendors of all sorts.

Establishments selling alcoholic beverages, locally called "biker bars", made of rough cut lumber, have sprouted up in the Sturgis area similar to what occurred in the boom towns following the miners in the late 1800s. They open in June, July, and August, and have reputations that most American small towns would not want. However, they bring seasonal jobs and millions of dollars to the local economy, nevermind what they do to the local environment. As soon as the Bike Rally is over, the bars close and Sturgis, once a small market town for ranchers, again begins preparing for the bikers that will come the next year. But does anyone ever consider that this is all done within a few miles of one of the most sacred places on the Earth?

Geologists call Bear Butte a laccolith, or a bubble of magma that forced itself up between cracks in the overlying crust of the Earth, but did not complete its eruption as a volcano. They say this activity took place millions of years ago. Yet, it is called Groaning Bear by the Oglala band of the Lakota people. Why would the Oglalas call it Groaning Bear? It appears as a small, quiet mountain in the shape of a sleeping bear. Did the Oglalas hear the intrusive activity taking place within the Earth? Is that the reason they call it Groaning Bear? If so, the Oglala Lakota people have known this place as a sacred place for a long, long time. Could it be for millions of years instead of the 11,000 that anthropologists say? Even so, 11,000 years is also a very long time.

Every year, in all seasons, Lakota people go to Bear Butte to pray. Many famous Lakota leaders such as Sitting Bull and Crazy Horse also went to Bear Butte to pray. There are certain common ceremonial characteristics among tribal people when someone is in prayer. To disrupt someone in prayer, to look at them, or try to talk to them, would never be considered. Prayer is a private conversation between a person and the Creator. Who would be so disrespectful as to disrupt that kind of conversation?

The usual prayer ceremony of Lakota people is called the vision quest. It requires fasting, solitude, and quiet, and can last for several days and nights. It is not an easy task. When

Moses climbed Mount Sinai, that was not an easy task either. Yet, tourists come in the thousands, and because of trails, a road and parking lot, they are able to gawk at those deep in prayer. They pull out their cameras and start snapping shots, talking in loud voices, and pointing to the person praying. If the person praying happens to see this kind of behavior, disrupting their deep meditation, the person may turn away, or sit down to hide behind tall grass or bushes. It is very distressing. I know this from personal experience.

The tourists are able to be so disrespectful because the entire mountain is under the control of SD Game, Fish and Parks Department. In 1983, five years after the passage of the Indian Religious Freedom Act in 1978, a class action lawsuit was filed to stop additional construction of roads, walkways, a parking lot, and other structures. The Indians lost the lawsuit and the construction proceeded. These activities further increased the accessibility by tourists to disrupt people in prayer. Now, the SDGF&P tries to work with American Indian people, and plans are to remove the upper parking lot and road. These taxpayer dollars would not have to be wasted had the SDGF&P listened and been respectful to Lakota people in the first place. How many people in prayer were disturbed by tourists in the past twenty years?

In the mid- to late-1800s, Bear Butte was used as a landmark for prospectors who were illegally entering this area, and by George A. Custer and the US Army who followed them to verify that gold was, indeed, in the Black Hills. These actions, in violation of Treaties, caused the eventual demise of Custer at the Little Big Horn. However, the United States continued its incursion into this Treaty protected territory, and by Presidential Executive Order created Prisoner of War camps which were called reservations, and destroyed the entire life ways of all the American Indian people who came to pray at Bear Butte.

Fort Meade, an Army outpost, was built five miles away from Bear Butte because of the unique landmark which could be seen from the North and East across the plains, guiding prospectors, settlers, and the military. Today, Fort Meade houses a Veterans Administration hospital. Because of its unique shape and historic use by Americans, Bear Butte has been designated a National Historic Landmark.

In May, 2002, the City of Sturgis, and a group of private businessmen called the Sturgis Industrial Expansion Corporation, submitted an application to former Gov. William Janklow (now US Congressman Janklow) for Community Development Block Grant funds to build a sports/complex shooting range about 4 miles north of Bear Butte. Governor Janklow signed the application and they received \$825,000 of Housing and Urban Development (HUD) money stating in their application that all federal requirements had been met. This amount, 20% of the entire 2002 state allocation, was given to this single applicant.

Although the City of Sturgis and the businessmen knew Bear Butte was sacred to many Plains tribes, no tribes were consulted about the plans for the shooting range as required under federal law. The State Historic Preservation Officer told them a number of times in writing that they needed to consult with the Tribes. As this was a violation of a number of federal laws, including the National Historic Preservation Act since Bear Butte is a National Historic Landmark, a law suit has been filed in federal district court in Rapid City, SD. The National Environmental Policy Act is also listed as a cause of action as the only effects to the environment

that were considered was the sound of gunfire, and that by mathematical calculations only. The calculations estimated that the sound of gunfire could be heard on Bear Butte as the sound of a rubber band snapping...every three seconds. Would such a sound disrupt the quiet of a church ceremony?

A few of the effects of the shooting range will be:

- the sound of an estimated 10,000 rounds per day fired from rifles and handguns which will disrupt the silence and serenity of Bear Butte;
- increased air pollution from vehicles and lead dust caused by the firing of weapons which will be carried on the northwesterly winds which converge on Bear Butte;
- increased pollution to both above ground and underground water from spent bullets;
- adverse impacts to the national bird populations as western South Dakota is an overlap of bird migrations from both East and West coasts;
- increased traffic noise and air pollution to the shooting range by patrons and employees, as a clubhouse, motel, and restaurant are planned;
- adverse impacts to wildlife by the increase sounds and human activities, especially to eagles which nest in the crags of the mountain and are important in Native American spirituality and ceremonies; and
- possible impacts on patients with Post Traumatic Stress Syndrome from the sounds of distant gunfire who are hospitalized at nearby Fort Meade VA Hospital.

A second lawsuit on behalf of the low-income people of Sturgis has been initiated. The HUD funds used to finance the shooting range are designated by federal law to be used for low- and middle-income people. The shooting range is to be non-profit with paid membership. A state law was passed this past winter session which gives tax breaks to private, non-profit shooting ranges within 15 miles of a municipality. The Bear Butte shooting range is 13 miles from Sturgis. Although two other sites were considered, when the local ranchers living near those sites objected, the businessmen found the current site. Although Native American people and many other supporters are strongly objecting, Sturgis and its businessmen are fighting in court rather than moving the complex to a new location. The first lawsuit is asking for a permanent injunction. The second lawsuit is questioning the legality of using HUD-CDBG funds meant for low-income people.

The major portion of the mountain is managed by the South Dakota Game Fish and Parks Department as a state park even though it has National Landmark status. Some of the land immediately adjacent to Bear Butte is owned by the Cheyenne, Arapaho, and the Rosebud Sioux Tribes. The rest is owned by a few ranchers. Housing developments, drag strips, campgrounds, a "biker bar", and other development are also located within a five mile radius of Bear Butte.

The legality of the land ownership of Bear Butte has been questioned for more than a hundred years. This sacred place, which is located in western South Dakota, belongs to the Great Sioux Nation as it constitutes the Great Sioux Reservation according to the peace treaties that were sought by the United States at Fort Laramie in 1851 and 1868. Article VI of the Constitution of the United States says that "treaties are the supreme law of the land." The Fort Laramie Treaties were ratified by Congress and were never legally abrogated. A federal law created on March 3, 1871, further protected the legality of the Treaties. This was three years

after the final treaty, the Fort Laramie Treaty of 1868 was concluded. In 1980, the Supreme Court of the United States reaffirmed what the Sioux people had been saying for over 100 years and declared: "A more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history..." 207 Ct. Cl., at 241, 518 F. 2d, at 1302.

#### Recommendations:

Until the legal land ownership of the area is resolved, which means until the issue of the Fort Laramie Treaties of 1851 and 1868 are resolved by an impartial, international body, then the United States must provide protection for Bear Butte. A five-mile buffer zone around the base of Bear Butte including this sacred mountain needs to be put in place with the entire area under federal protection. This will require negotiations with the state of South Dakota who currently manages the park area, and monetary reparation to the American citizens currently living or doing business in this area.

Is this too much to ask, the protection of a small mountain which has been used for millennia by people who are praying? It is impossible to offer a comparison in the three major religions understood by Americans, namely Christianity, Judaism, or Islam, all of whom follow the sacred guidance known as the Ten Commandments which were given to Moses on Mount Sinai.

The United States has taken so much away from American Indian people. It is time to start giving something back. The protection of a small sacred place in which American Indian people may come to pray is not asking too much. I sincerely hope this Committee will consider federal protection for Bear Butte and the creation of a buffer zone around this unique area.

Respectfully submitted on behalf of Paha Mahto, Bear Butte,

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*Defenders of the Black Hills are volunteers, without racial or tribal boundaries, who work together for the purpose of restoring and protecting the environment of the 1851 and 1868 Fort Laramie Treaty areas. All activities are funded through donations or private grants.*