



# INDIGENOUS WISDOM: CENTURIES OF PUEBLO IMPACT IN NEW MEXICO

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Title of Unit: Pueblo Advocacy in Contemporary Times

Content Area: Language Arts/Social Studies: NM History and  
US History

Grade Level: 9-12

HIGH SCHOOL CURRICULUM



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INDIAN PUEBLO  
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# A PUEBLO-BASED EDUCATIONAL CURRICULUM

## Section A: Introductory Materials

**Name:** Christine P. Sims

**Title of Unit:** Pueblo Advocacy in Contemporary Times

**Content Area:** Language Arts/Social Studies – NM History and US History

**Grade Levels:** High School (9-12)

### **Rationale:**

The protection of land, natural resources, and cultural patrimony have all been an important part of Pueblo existence in New Mexico for centuries, but this has not always been respected or understood by the general public, or by foreign entities or policy makers in state and the U.S. federal government. In fact, over the course of 100 years of state and federal policies impacting the lives of Pueblo people, it has been increasingly the case that state and federal regulations concerning land, water, the use of sacred sites, and the repatriation of cultural artifacts have become some of the key challenges to Pueblo sovereignty. Within the last decade, Pueblo advocacy has been especially critical in bringing about public awareness and gathering state and federal support for cultural protection issues. In 2010, for example, New Mexico Governor Bill Richardson signed Executive Order 2010-047 to encourage protection of the Zuni Salt Lake, to promote a collaborative relationship between state agencies and the Zuni Pueblo, and to safeguard the unique historical and cultural significance of this sacred place.

This Unit will introduce students to two specific examples of contemporary advocacy that have forced Pueblo people to come together to fight for the protection of cultural sites and the return of cultural objects to their rightful place in the Pueblo world. The protection of Mt. Taylor as a sacred site and its significance to Pueblo people will be explored as well as the advocacy leading to its designation as a New Mexico *Traditional Cultural Property* (TCP), something that had never been done to protect a New Mexico mountain.

A second example of Pueblo advocacy at work is the recent issue of Pueblo cultural objects being removed from their original sites and sold for profit by foreign auction houses in Europe. The efforts of Acoma Pueblo and its advocacy work with other tribes for the return of sacred objects and how this has led to congressional support for passage of federal legislation such as the *Safeguard Tribal Objects of Patrimony* (STOP) Act will be examined. Both of these examples reflect the determination of Pueblo People to protect what is rightfully theirs, but also to inform students about the significance of why such cultural objects, sites and cultural resources are important to their cultural survival. The Pueblo core values of respect, love, and faith are embedded throughout these lessons. This Unit includes:

- An overview of local advocacy by the Pueblos to protect Mt. Taylor as a sacred site and why its significance to Pueblos and other tribes served as the foundation for efforts to designate this mountain as a TCP.



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- An introduction to contemporary issues pertaining to the return of sacred objects that belong to Pueblos and the advocacy work of Pueblos such as Acoma and other activists and supporters to thwart their illegal sale.
- An overview of emerging Congressional legislation that have been introduced by New Mexico's congressional delegation to help support the protection of cultural objects that have been illegally removed from Pueblos, Tribes and Nations across the U.S.

### **Unit Goals:**

- Students will be able to identify the significance of land, natural resources and cultural objects to Pueblo core values of respect and love for the well-being of their people.
- Students will be able to examine the opposition and challenges facing Pueblos and the core values of faith at work in leadership efforts to protect sacred sites, natural resources and return cultural patrimonial objects to their people.
- Students will be able to explain how the advocacy of Pueblo leaders and congressional supporters has helped bring public awareness to issues of protecting sacred sites, natural resources and the return of patrimonial objects and as a way to re-establish balance in the Pueblo world.



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### Standards:

CCSS -	NMCS
Key Ideas and Details CCSS-ELA-LITERACY.RI.9-10.1 CCSS-ELA-LITERACY.RI.11-12.1 CCSS-ELA-LITERACY.RH.9-10.2 CCSS-ELA-LITERACY.RH.11-12.2	SS.9-12 SS.9-12 SS.9-12
Craft and Structure CCSS-ELA-LITERACY.RI.9-10.4 CCSS-ELA-LITERACY.RI.11-12.4 CCSS-ELA-LITERACY.RH.9-10.4 CCSS-ELA-LITERACY.RH.11-12.4	
Integration of Knowledge and Ideas CCSS-ELA-LITERACY.RI.9-10.7 CCSS-ELA-LITERACY.RI.11-12.7 CCSS-ELA-LITERACY.RH.9-10.7 CCSS-ELA-LITERACY.RH.11-12.7	
Reading and Level of Text Complexity CCSS-ELA-LITERACY.RI.9-10.10 CCSS-ELA-LITERACY.RI.11-12.10	

## A PUEBLO-BASED EDUCATIONAL CURRICULUM

### Section B: Lesson Plan One

**Title:** Mt. Taylor: A Traditional Cultural Property

**Duration:** 60-minutes

**Grade Level:** 9-12

#### Lesson Objectives:

- Students will be able to identify on a map, the location of Mt. Taylor and the surrounding Pueblos and Tribes for whom this mountain is deemed sacred.
- Students will identify the core values reflected in Pueblos' concern for protecting Mt. Taylor as a sacred site.

#### Prerequisite Skills and Prior Knowledge:

- Students should be familiar with researching information from an assigned article and/or website/internet sources to locate map information.
- Students should be able to work independently and collaboratively on joint projects and assignments.

#### Materials and Resources:

- Lesson 1 Handout #1 Introductory Reading: Mt. Taylor, A Sacred Site.
- Lesson 1 Handout #2 Think-Pair/Share-Create: Mt. Taylor, A Sacred Site.
- Lesson 1 Attachment #1 Sample topo map of the Mt. Taylor area is provided. However, other options for close-up views and more detail, including nearby towns and villages can be found at:  
[https://www.earthworksaction.org/voices/detail/mount\\_taylor](https://www.earthworksaction.org/voices/detail/mount_taylor)
- Additional topographic maps may be viewed or downloaded from various sites including the following:  
<https://www.topoquest.com/map.php?lat=35.22393&lon=-107.58544&datum=nad27&zoom=16&map=auto&coord=d&mode=pan&size=xl>
- Additional sources to Google are: Cibola National Forest, U.S. Forest Service, or do a direct Google search for: **Mt Taylor NM** where you will find numerous photos and various types of maps to select from.
- National Trust for Historic Preservation website provides a few photos of Mt. Taylor and explains the reason why it is considered endangered.  
<https://savingplaces.org/places/mount-taylor#.WD9UCoVKA7B>

#### Guiding Questions:

1. What is the cultural significance of Mount Taylor to New Mexico Pueblos and Tribes?
2. How are the lives of Pueblo people linked to this mountain today?

**Core Values:** Respect and Love



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### Procedure:

1. (3 min.) As an introduction to this lesson, ask students if they are familiar with the location of Mt. Taylor. Have they ever visited this mountain? For what purpose? If there are Native American students in this class, maybe some are familiar with the Native names for this mountain.
2. (5 min.) Provide Handout # 1. Give students time to read the text or read it together as a large group.
3. (5 min.) Provide Handout # 2 THINK-PAIR/SHARE-CREATE. Have students form pairs and work together to complete the writing activity in Handout #2. Tell students they will have 5 minutes for step one: Think.
4. (5 min.) Next, have students compare their answers to the first prompt (THINK) and write down what are similar or different responses. Tell students they will have 5 minutes to complete step two: PAIR/SHARE.
5. (10 min.) Last, have students CREATE a statement that they will craft together in response to the questions in the third box.
6. (10 min.) Have students read aloud the statements they have created.
7. (15 min.) To close out the lesson and situate the location of Mt. Taylor and the surrounding communities, go online to view, print out or project a topographical image of Mt. Taylor (sample attached) and have students locate the San Mateo Mountain range, nearby towns of Grants and Milan; the Spanish land grant and village of Seboyeta, and the Acoma and Laguna Pueblo reservations. Other websites are listed for the teacher to review depending on what additional information you want students to research. For example, additional basic information e.g. Mt. Taylor elevation, vegetation, and wildlife descriptions may be found on U.S. Forest Service sites. Other sites may contain geological or mineral resources information. Depending on students' familiarity with different types of maps, select maps that are appropriate to level of students.

### Assessment:

1. Individual completion of Handout #2

### Modifications/Accommodations:

- Pair students needing assistance, with a designated reader for written information presented in hard copy.
- Pair student with a student needing assistance.
- Provide extra time to complete website readings, hard copy handouts and the mapping activity.
- Provide students needing assistance with a copy of the vocabulary identified in today's lesson; or have another student assist by starting a simple journal vocabulary entry for the student needing help.



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## Notes to Teacher:

Depending on the maps you choose to introduce to students, the teacher may want to extend Step 7 in this lesson to another 60-minute session focused primarily on map reading and retrieving different types of information about Mt Taylor. Sources are provided for previewing such materials.



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### Lesson 1, Handout 1: Mt. Taylor, a Sacred Site

Many people might ask why a mountain such as Mt. Taylor, located in western New Mexico, has to be protected or respected as a special place in this day and age. Some might say that this mountain is no different than any other mountain in our state and that it exists for no other purpose except for recreational use or as a place where people can take advantage of all the natural resources that can be found there. Still others might think that such a mountain has no real significance in people's lives today; that it is *just* a mountain.

Pueblo people, however, might think otherwise about such ideas and in fact, do have very different perspectives about the importance of land, water, and geographical sites, such as mountains. These natural resources and sites are closely linked to their way of life, their beliefs, and the values they hold about the sacredness of these places. The care and respect that Pueblo people believe should be afforded to such places comes from the belief that these have been given as gifts by the Creator to humankind and in return, must be cared for and protected from abuse and exploitation. In the Pueblo world, this mountain has always been known by traditional Pueblo names, as well as in other tribal languages as shown below:

*Kaweeshtima* in the Acoma-Keres language,  
*Tsibina* in the Laguna-Keres language,  
*Tsiipiya* in the Hopi language,  
*Dewankwin Kyaba:chu Yalanne* in the Zuni language, and  
*Tsoodzil* in the Navajo language.

The love and reverence for such places as Mt. Taylor, also stems from a deep reverence Pueblo people have for such sites where cultural traditions are still practiced and where life and sustenance are provided. The presence and relationship between humans and the wildlife, plant life, and watersheds in this mountain, are examples of what makes this mountain a living entity; they all play a connecting role in the survival of one another and that is why this mountain must be protected for present and future generations. Mr. Leigh Kuwanwiswma, a member of the Hopi tribe and Director of the Hopi Cultural Preservation Office, recounts the significance of Mt. Taylor to his people in this way:

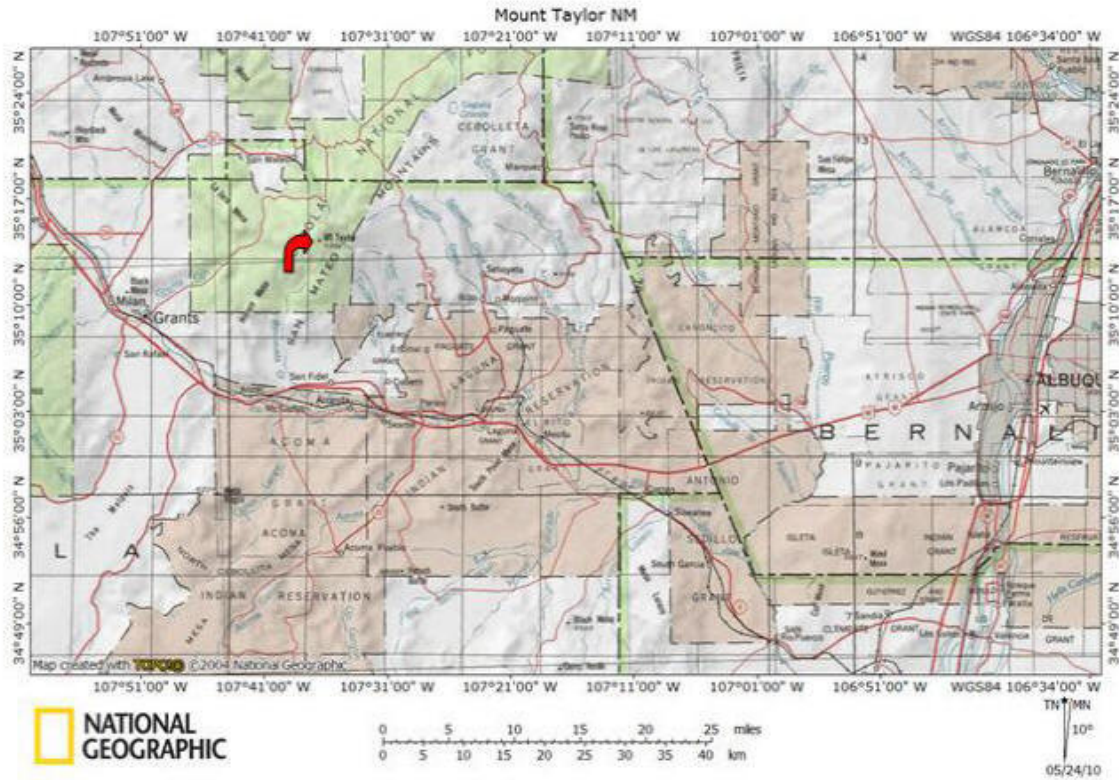
“These lands contain the testimony of our ancestors’ stewardship through thousands of years, manifested in the prehistoric ruins, the rock “art” and artifacts, and the human remains of our ancestors, *Hisatsinom*, People of Long Ago, who continue to inhabit them. Mount Taylor is known and remembered in our songs, Mount Taylor is known and remembered in our ceremonies, and Mount Taylor is known and remembered in our shrines. *Hopisinom* [Hopi People] and *Tsiipiya* are inseparable.”

Source: *Letter to the National Trust for Historic Preservation* by L. Kuwanwiswma (January 5, 2009).



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## Attachment 1: Mount Taylor Topographic Map





## A PUEBLO-BASED EDUCATIONAL CURRICULUM

### Lesson 1, Handout 2: THINK-PAIR/SHARE-CREATE: Mt. Taylor, a Sacred Site

Directions: After reading the text, Mt Taylor A Sacred Site, take time to THINK about the question that is provided in the first box below and write your response. Next, pair up with a partner to SHARE. In this step, you will compare your written responses to see any similarities or differences and write these in the middle box. Lastly, after discussing your responses with your partner, CREATE a new response that combines your thoughts and expresses your agreement on the statement you will write in the last box.

THINK: Why is Mt. Taylor considered a sacred site to Pueblo people?

SHARE: Compare your response with your partner's response. How were your responses similar and how did they differ?

Points that were similar:

Points that were different:

CREATE: Work with your partner to write a new response that addresses these questions: What do you think Mr. Kuwanwiswma means when he says: "Hopi people and Tsiipiya are *inseperable*?" How does this statement reflect the idea that Mt. Taylor is a sacred site?



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

### Lesson Plan Two

**Title:** Protecting Mt. Taylor: Pathway to the New Mexico Supreme Court

**Duration:** Three 60-minute sessions

**Grade Level:** 9-12

### Lesson Objectives:

- Students will be able to explain the major steps leading to the designation of Mt. Taylor as a *Traditional Cultural Property (TCP)* by the New Mexico Cultural Review Committee.
- Students will be able to identify the competing challenges to the protection of Mt. Taylor as a sacred site.
- Students will be able to identify the TCP area surrounding Mt. Taylor

### Prerequisite Skills and Prior Knowledge:

- Students should be familiar with locating information from technical texts.
- Students should be familiar working with different types of maps and locating information on designated websites.
- Students should be able to work independently and collaboratively on joint projects and assignments.

### Guiding Questions:

- What opposing interest groups posed the greatest challenge to the protection of Mt. Taylor as a sacred site?
- What collaborative advocacy was needed among NM Pueblos and Tribes to ensure that Mt. Taylor was designated a *Traditional Cultural Property (TCP)*?
- What does a TCP designation mean for Mt. Taylor and to NM Pueblos and Tribes?

**Core Values:** Respect and Love

### Materials and Resources:

- Lesson 2 Attachment #1 Mt. Taylor: A Traditional Cultural Property, provides website links as background information for the teacher and sites for maps that can be downloaded as needed.
- Lesson 2 Attachment #2 Uranium Briefing Paper (Background Information for Teacher)
- Lesson 2 Attachment #3 Current Plans for Uranium Exploration (Background Information for Teacher)
- Lesson 2 Handout #1 Introductory Reading. Pathway to Protecting Mt. Taylor: Pueblo Advocacy at Work



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- Lesson 2 Handout #2 TCP Map. Mt. Taylor Boundaries
- Lesson 2, Handout #3, 2009 *High Country News* article “Dueling Claims” written by Laura Paskus.
- Lesson 2 Handout #4 Discussion Worksheet Mt. Taylor Interest Groups
- Lesson 2 Handout #5 NM Supreme Court Opinion
- Lesson 2 Handout #6 Worksheet. Pathway to Mt. Taylor: A Traditional Cultural Property (TCP). Source: *Rayellen Resources, Inc. v. New Mexico Cultural Properties Review Committee*, 2014-NMSC-006. Available at: <http://www.nmcompcomm.us/nmcases/nmsc/slips/SC33,497.pdf>

### Procedure:

1. (3min.) Ask students if they familiar with the term *Traditional Cultural Property* (TCP) and what they think this means in the case of a mountain such as Mt. Taylor?
2. (5-7 min.) Explain that today they will explore the path that was taken to protect Mt. Taylor; they will also learn about the challenges that Pueblo and other advocates faced in taking action to ensure that this mountain was protected as a TCP. As a general background to the controversy surrounding Mt. Taylor as a TCP have students take turns reading aloud each section of **Lesson 2 Handout #1 Introductory Reading**. Stop as needed to ask about unfamiliar words and their meaning such as: *exploitation, flank, milling, consultation, resolution, exploratory, watershed, executive order, subsistence, antiquated, contention, impact, designation, advocacy*. Have students add these words to a word bank or journal for future reference and use in a culminating project.
3. (3-5 min.) Hand out copies or project on the wall/screen **Lesson 2 Handout #2 Mt. Taylor Boundaries TCP Map**. Have students note that there are two sets of boundary lines that were drawn at the time of the first nomination of Mt. Taylor as a TCP: the red lines designated by the nominating tribes and the yellow lines designated by the U.S. Forest Service. Explain to the students that these boundary lines would be a key area of contention when a court suit was later filed by competing interest groups.
4. (20 min.) If internet access is available, bring up the following website link to show students what competing drilling interests in Mt. Taylor were at work at the time the first concerns were raised about this site. This website provides a brief overview of uranium mining interests in the Mt. Taylor area with information about specific companies linked to previous mining operations and future proposed mining. A map of the Mt. Taylor area is provided with options to view the area close up, in more detail, showing nearby towns and villages:  
[https://www.earthworksaction.org/voices/detail/mount\\_taylor](https://www.earthworksaction.org/voices/detail/mount_taylor)



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If internet access is not possible, download information for students to review, read, and discuss regarding mining interests in Mt. Taylor. Ask students to identify mining companies, proposed mining locations, and any environmental or economic impacts these might have on nearby populations.

5. (15 min.) Provide a copy of **Lesson 2, Handout #3, 2009 High Country News article “Dueling Claims”** written by Laura Paskus. The article highlights some of the tensions the TCP designation raised among local groups and the role of individuals outside the community who were outspoken opponents. It also describes a highly racialized incident that may have been a residual outcome of this controversy. Facilitate an oral reading with the class having individuals take turn reading paragraphs, discussing and clarifying important points. Make note of specific vocabulary/phrases that students may encounter, such as: *tenuous, galvanizing, rhetoric, front-end investments, oppressive, contentious, hate crimes, racist-based, media hype*, etc.. Add these to a word bank where all can refer to during this lesson.
6. (10 min.) End this session with **Lesson 2 Handout #4 Discussion Worksheet. Mt. Taylor Interest Groups**. Use the handout to help students identify key players as mentioned in the Paskus article above, plus any information they find on the internet (if accessible) and discuss opposing interests which will be the subject of the next two sessions.

### Assessment:

1. Individual completion of Lesson 2 Handout #4 Worksheet.

### Modifications/Accommodations:

- Pair students needing assistance, with a designated reader for written information presented in hard copy.
- Pair student with a student needing assistance.
- Provide extra time to research website information, or provide hard copy handouts for any of the mapping activities.
- Provide students needing assistance with a copy of the vocabulary identified in today’s lesson; or have another student assist by starting a simple journal vocabulary entry for the student needing help.

### Note to the Teacher:

Laura Paskus is a freelance writer who wrote the article, “Dueling Claims” and is a former High Country News editor. If time permits, students can listen to her audio interview about this story at: <http://www.hcn.org/articles/deconstructing-dueling-claims>. The interview is about 8 minutes long.



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### Second 60-minute session

1. (1 min.) This next step in Lesson 2 can be done in a 60-minute session if needed. Start by reviewing briefly with students, who they identified in the previous lesson as some of the key players and their interests in Mt. Taylor.
2. (1 min.) Explain to students that now they will be looking more closely at the timeline of events leading to the designation of Mt. Taylor as a TCP. They will be looking for this information in a text that comes from a 2014 New Mexico Supreme Court Opinion. This was written in response to a suit filed in state courts by opposing interest groups and individuals who disagreed with the decision made by the New Mexico Cultural Properties Committee, a state agency responsible for making TCP designations.
3. (3 min.) As an introduction to the language found in this document, first show students the first 3 pages *only* of **Lesson 2 Handout #5 Supreme Court Opinion-SC33,497**. Draw students' attention to the format in which such court documents are formally written.
4. (3 min.) Explain that the original Supreme Court Opinion was written in response to a group of individuals (plaintiffs) who filed suit against the New Mexico Cultural Properties Committee (defendants). Ask who the plaintiffs were in this court case? Do these names reflect any of the competing interests found on the mining website link they may have researched earlier or individuals they may have read about in prior articles? Who were the defendants? Which Pueblos took the lead in being named as intervenors in the court case? What is the meaning behind this term?
5. (2 min.) Have students identify and define specialized terms from the cover pages 1-3, to include in a word bank or journal such as: *defendants, plaintiffs, appellees, appellants; intervenors*, etc.. These words can be used in a later culminating project.
6. (30 min.) Move to **Lesson 2 Handout #6 Pathway to Mt. Taylor: A Traditional Cultural Property (TCP)**, providing each student a copy. Have students work in pairs to answer each of the 12 questions included in Handout #6.
7. (10 min.) End this session by having students summarize the key events and identify the key players involved along the way in designating Mt. Taylor as a Traditional Cultural Property.

### Assessment:

1. Individual completion of Lesson 2 Handout #6 Pathway to Mt. Taylor.



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### **Modifications/Accommodations:**

- Pair students needing assistance, with a designated reader for written information presented in hard copy.
- Pair student with a classmate needing assistance with reading or writing.
- Read aloud text selections in worksheets to student needing assistance.
- Provide students needing assistance with a copy of the vocabulary identified in today's lesson; or have another student assist by starting a simple journal vocabulary entry for the student needing help.

### **Note to the Teacher:**

If necessary, a variation of Step 6 above could be to conduct the exercise as a whole group reading activity. Project Handout #6 large enough on a screen that all students can follow along as they take turns reading each numbered section and corresponding question. Use a highlighter to highlight specific phrases in the text which students will identify or paraphrase as answers to the questions.



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### Lesson 2, Attachment 1: Mt. Taylor: A Traditional Cultural Property

#### Facts about Mount Taylor:

Mount Taylor is a stratovolcano in northwest New Mexico, northeast of the town of Grants. It is the high point of the San Mateo Mountains. Named after President Zachary Taylor. The elevation of Mt. Taylor is 11,305 feet and is located in the San Mateo Mountain Range.

Many of the links about Mt. Taylor, including the suggested ones listed below, can be found by first going to this website:

<http://www.preservationnation.org/travel-and-sites/sites/southwest-region/mount-taylor.html>

1. This website link provides a brief overview of uranium mining interests in the Mt. Taylor area with information about specific companies linked to previous mining operations and future proposed mining. A map of the Mt. Taylor area is provided with options to view the area closeup in more detail, showing nearby towns and villages:

[https://www.earthworksaction.org/voices/detail/mount\\_taylor](https://www.earthworksaction.org/voices/detail/mount_taylor)

For a brief background on the controversy the TCP designation raised, there are two links, one to a 2009 issue of *High Country News* and the other to an audio clip featuring an interview of the author who wrote the feature article about the designation of Mt. Taylor as a TCP. The teacher should read and listen to these beforehand for background information and to get a sense of the controversy sparked by the TCP designation.

1. The article "Dueling Claims" in *High Country News* is provided as a handout in Lesson 2 but can also be found at:

<http://www.hcn.org/issues/41.21/dueling-claims>

2. The 8-10 minute audio clip of the interview conducted by Marty Durlin, with Laura Paskus, the author who wrote the cover story for the December 7, 2009 issue of *High Country News* can be heard at:

[http://www.hcn.org/articles/deconstructing-dueling-claims/print\\_view](http://www.hcn.org/articles/deconstructing-dueling-claims/print_view)



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### Lesson 2, Handout 1:

#### Introductory Reading: Pathway to Protecting Mt. Taylor: Pueblo Advocacy at Work

In 2008, Pueblo advocates started down a long road to protect Mt. Taylor from possible exploitation by uranium mining companies intent on drilling into the western flank of this mountain. Mt. Taylor sits atop one of the richest locations where uranium ore can be found. Uranium mining was especially important in this area during the 1950s and 1970s but the demand and monetary value of this mineral resource eventually dropped, causing most mining activities to cease for nearly two decades. By the mid-2000s the price of uranium rose again and the high demand for uranium resulted in a renewed interest by mining companies to explore possible sites for future mining. In 2008 alone, 163 proposals to explore, mine and begin milling operations were submitted to the New Mexico Mining and Minerals Division. This is what prompted the concern of local Pueblos and tribes, when they discovered that permits had been issued to mining companies for drilling near Mt. Taylor, without their consultation or notification.

The All Indian Pueblo Council representing all 19 Pueblos of New Mexico passed a Resolution in 2007 pointing out the failure of the New Mexico Energy, Minerals and Natural Resources Department to consult with the Pueblo of Acoma and other tribes about the potential impact exploratory uranium drilling might have on the physical, cultural, and natural resources of Mt. Taylor. Uranium exploration permits issued by this state agency would have allowed such drilling to take place in two sites potentially impacting the watershed that nearby Pueblos rely on for clean, healthy water sources. In their resolution, the 19 Pueblos cited an Executive Order signed in 2005 by then Governor Bill Richardson that called for meaningful involvement of tribes and upholding their cultural rights to lands traditionally used for subsistence and cultural activities.

Antiquated mining laws established in the late 1870s, coupled with modern-day mining permits issued by state agencies, have created much contention and have been a source of conflict between mining companies that often argue how mining has potential economic benefits for nearby towns and local areas with high unemployment rates, On the other hand, tribes that oppose drilling have expressed their concerns for environmental and cultural impacts, as well as the health risk associated with such mining activities. In New Mexico, one option for protecting special sites from such threats is to petition the New Mexico Cultural Properties Review Committee to list a site to the **State Register of Historic Places**. A similar designation exists at the national level where the **National Trust for Historic Preservation** also accepts nominations for special sites to be designated as one of *America's 11 Most Endangered Historic Places*. Acoma Pueblo was successful in obtaining this designation for Mt. Taylor in 2008.

The designation of Mt. Taylor as a *Traditional Cultural Property* (TCP) in New Mexico, was successfully obtained in 2008 on an emergency basis for one year





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through the advocacy of several Pueblos including Acoma, Laguna, Zuni and Hopi and the Navajo Nation. They later sought a more permanent listing for Mt. Taylor in 2009 following an intensive year of hard work and collaboration among all five tribes. Many members from the nearby tribal communities and their supporters attended public hearings conducted in Grants, New Mexico in June, 2009, by the NM Cultural Properties Review Committee. They spoke on behalf of their communities and the concern they had for the protection of Mt. Taylor. Representatives of other interest groups in the surrounding areas also attended these hearings, including individuals from outside the community representing the uranium mining, oil and gas industries. They spoke up in strong opposition against the designation of the mountain as a *Traditional Cultural Property* (TCP).

In preparing the application for submission to the NM Cultural Properties Review Committee, all five tribes provided extensive information about the significance of the mountain to their oral histories, cultural traditions and sacred practices. This involved extensive interviews of elders and tribal leaders from the different communities. It also involved the gathering of important archeological data documenting the pre-historic habitation and use of the Mt. Taylor area by early and present-day Pueblo and Navajo cultures. This information was compiled into a lengthy report that was submitted for consideration of Mt. Taylor as a TCP.

In the end, the inclusion of Mt. Taylor as a TCP recognized the significance this mountain has to many tribes and based on this designation, tribes now have the opportunity to be consulted any time development is proposed in the Mt. Taylor TCP area. The boundaries of this area are now clearly established and can be viewed on a TCP map.

### Sources:

*All Indian Pueblo Council Resolution 2007-12*

*National Trust for Historic Preservation*





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## Lesson 2, Handout 3:

Dueling Claims - High Country News

[http://www.hcn.org/issues/41.21/dueling-claims/print\\_view](http://www.hcn.org/issues/41.21/dueling-claims/print_view)

# High Country News

FOR PEOPLE WHO CARE ABOUT THE WEST

## Dueling Claims

*A tribal attempt to protect Mount Taylor sparks a battle over ancient claims to the land*

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**Laura Paskus** | Dec. 2, 2009 | *From the print edition*

Over the course of 10 days last June, at least five Navajo men were brutally beaten in Grants, N.M. The attackers, described by some of the victims as "Mexicans," used rocks and baseball bats, ambushing one man with a pellet gun and hitting another with a brass-knuckle-handled knife. One victim -- who was found in an abandoned house, covered in dried blood and insects -- was airlifted to an Albuquerque hospital.

None of the victims lived in town, although they have homes and families on the nearby Navajo Reservation. As word of the attacks spread, the Navajo Nation Human Rights Commission broadcast public service announcements on the radio, urging Navajos to track down missing family members and make sure they were OK.

At first, the five victims, and two others who had not gone to the police, hesitated to talk. Some feared retaliation; others had had previous run-ins with the law. But with the human rights commission there to overcome the language barrier, the police uncovered some troubling clues. One of the men heard his attacker yell something to the effect of, "You got Mount Taylor, now you're mine."

Mount Taylor -- a dormant volcano northeast of the town -- is sacred to at least five Southwestern tribes, including the Navajo. Its lower reaches also host uranium ore, and the Grants Mineral Belt supported active mines from the 1950s through the 1980s, when mines were shuttered and mills demolished. But when uranium prices began climbing again, companies snatched up old leases and claims. Now, some are drilling exploration wells, and a few are planning new mines. This has kindled economic hope in struggling nearby towns like Grants and Milan. Some locals, however, recall a tragic history of environmental contamination and radiation illness and want nothing to do



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with yellowcake.

Just three days before the beatings began, the state of New Mexico had decided to place Mount Taylor and some of its surrounding lands on the State Register of Cultural Properties as a traditional cultural property, or TCP. The decision ended a 16-month-long process that became a battle pitting Native Americans and environmentalists against mining companies, Anglo ranchers and Spanish land grant communities. The new TCP covers 400,000 acres -- an unprecedented size -- and many locals worried that it would prevent uranium development and even restrict use of the mountain by anyone not Native American.

Then, at the end of June, police apprehended one of the alleged attackers: 22-year old Shawn Longoria was charged with six counts of aggravated battery as well as robbery and aggravated burglary -- all felony charges. Local TV and print reports noted that an anonymous caller had told officers that Longoria boasted of beating up the men "because the Native Americans had got Mount Taylor and now they owed him."

With several unidentified assailants still at large, it's impossible to know exactly why the Navajos were attacked; the connection between Mount Taylor and the beatings is tenuous. But what's clear is that the tribes' attempt to protect the mountain tapped into a dark reservoir of old tensions that underlies this busted boomtown.

**From the top of Mount Taylor**, mountains, valleys and mesas unfold into the hazy blue distance; on clear days, you can see all the way to Arizona. The Navajo call the 11,301-foot-tall peak *Tsoodzil*, and say it marks one of the four directional boundaries of their spiritual world. The Acoma, who call it *Kaweshtima*, believe it was created by two sisters who also gave life to plants and animals; it's still home to beings such as Shakak, the Spirit of Winter and the North. To the Zuni, the mountain is *Dewankwin Kyaba:chu Yalanee*.

"People may think it's just a physical entity, that it sits there, and Zunis or Acomas or others, they only go there sometimes," says Jim Enoté, executive director of the *A:shiwí A:wán* Museum and Heritage Center at Zuni. "But people only go to Mecca once in their life, or Mount Sinai once in their life, or the Vatican once in their life."

The mountain is sacred, he says, home to shrines and a place for gathering certain plants and minerals. "It is extremely important, and the people who go to Mount Taylor, to *Dewankwin Kyaba:chu Yalanee*, are doing so to help maintain an entire cosmological



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process," he says. "They are doing it for the benefit of all humanity."

So, two years ago, the Zuni joined the pueblos of Acoma and Laguna, Arizona's Hopi Tribe and the Navajo Nation in asking the state of New Mexico to protect this hodgepodge of federal, state and private lands as a traditional cultural property.

The tribes were seeking official acknowledgement of their stake in the development of their sacred lands, particularly when it comes to the state's authority to issue uranium-mining permits. The uranium boom supported Grants and Milan from the 1950s through the 1980s, but it also left a legacy of contaminated waters and sickened workers. And the mills have proven particularly problematic: Despite more than two decades of cleanup work, contamination from the Homestake Mining Company mill site in Milan, just west of Grants, has spread to five aquifers.

The TCP designation seemed like the best way to protect the mountain because it doesn't restrict public access, says Theresa Pasqual, historic preservation officer for Acoma Pueblo, the lead sponsor. The mountain remains open for everything from grazing and wood-gathering to hiking, snowmobiling and mountain biking. Under the TCP designation, the state's Historic Preservation Division -- and its mining division -- are required to review permit requests for development on Mount Taylor. It also requires that developers consult with tribes during the permitting process. It does not, however, afford tribes veto power over projects. Final decision-making remains with the state and the U.S. Forest Service, which oversees most of the mountain's acreage. Under the law, TCPs -- or any other protected property, including archaeological sites or historical buildings -- can even be destroyed if development is in the public's best interest. Pasqual says that the tribes chose this option knowing full well that it didn't guarantee protection.

Even so, the proposal didn't sit right with many local landowners. It violates private property rights, says Joy Burns, whose family has been running cattle on Mount Taylor for generations. Today, her family's Elkins Ranch spreads across some 16,000 acres on the east side of the mountain, right below the summit --smack-dab within the TCP's boundaries. "If I file the necessary papers and get the necessary permits, I don't think that any group should be able to tell us about my property," she says. The issue of uranium mining aside, she fears the designation will affect her family's ability to log or hunt on their own lands. It's not fair, she says.

Indeed, as the process moved along, it started rumors of a "land grab." Tempers began



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to simmer. Then, into the midst of this growing furor, stepped a Christian self-help author who promotes energy development in the name of the Lord.

**In early 2008, the five tribes** submitted paperwork asking the state to consider temporary protection for Mount Taylor. The request became public a few weeks later, on Feb. 22. At an emergency meeting, the New Mexico Cultural Properties Review Committee announced that it would protect the mountain for one year while considering whether it merited permanent status as a protected traditional cultural property. The uranium industry, local landowners and the surrounding communities felt blindsided.

Marita Noon, who is executive director of the nonprofit Citizens' Alliance for Responsible Energy (CARE), attended that first meeting. "There were a bevy of (uranium company) attorneys who were against the TCP decision, who are normally articulate and able to present their case, and they were basically just begging for a two-week delay so that they could read the TCP nomination -- because no one had seen it," she says. "Then, you have Native Americans -- I may sound racist, but I don't mean to be -- but they are not the people who are naturally public speakers; they don't have a lot of experience at putting their thoughts together and articulating them. But they stood up with prepared, written-out statements." Something, she says, was fishy, and when the committee did not grant a two-week extension, Noon took up the cause with a vengeance. She left the meeting "outraged by the sham of democracy" she had witnessed. After a sleepless night, she pounded out the first of many op-eds.

Noon, an ebullient woman with fluffy blonde hair, is a popular speaker and the author of 19 books on Christianity and relationships under the pen name Marita Littauer, including *The Praying Wives Club*, *Talking So People Will Listen* and *Tailor-Made Marriage*. Her organization, CARE, seeks to communicate "the positive side of the energy industry to the media and the public." Founded by Mark Mathis, a consultant to the Independent Petroleum Association of New Mexico, it receives funding from oil and gas producers. *The Albuquerque Journal* frequently runs Noon's commentaries calling for the elimination of the state's Oil Conservation Division or dismissing the creation of green jobs as "happy talk."

Noon lacks a professional background in energy issues or science. "But as I've learned and understood the issue, it has clearly become a passion for me," she says. "And I really have studied the issue: That everything we hold dear in America is threatened by



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threats to energy."

She claims that 90 percent of the uranium currently used in the U.S. is imported, most of it from Russia -- "an increasingly unfriendly Russia," at that. That's why it's so important for mining to proceed near Grants, she says in her speeches. "When we have sources to get the base fuel supplies in America, why on earth are we giving our money to foreign countries?"

The TCP designation may not totally block uranium mining, but, she argues, it adds an extra layer of regulation that has driven some companies out. And the people of Grants, which she compares to a Third World country, can't afford to lose this chance for economic development.

Noon has a knack for galvanizing crowds, but her rhetoric has a tendency to be somewhat loose with the facts. According to the federal Energy Information Administration, for example, 86 percent of the uranium used in the U.S. is indeed imported. But nearly half of that, comes from Australia and Canada, while 33 percent comes from Kazakhstan, Russia and Uzbekistan. The *Farmington Daily Times* and the blog *Heath Haussamen on New Mexico Politics* have recently pulled Noon's commentaries, citing inaccuracies.

In the case of the TCP, though, Noon didn't need to twist the facts to win people to her cause. The state had botched the process badly enough to help do the job for her.

**Three months after** the February meeting, the New Mexico attorney general's office announced that the state's Office of Cultural Affairs had failed to adequately notify nearby private property owners about the meeting, although it did provide proper notice in the media. The meeting -- and by default, the designation -- had therefore violated the state's Open Meetings Act.

The Historic Preservation Division scheduled a new meeting for June 14, 2008, at Grants High School. By then, both sides were up to speed on the proposal. But rumors about everything from the number of acres involved to how the designation might affect local land-users were stoking anger and suspicion. The state police attended the meeting; officers from local departments came as well.

When the day came, protesters gathered with hand-lettered signs bearing slogans that ranged from "Mount Taylor is public land, not reservation" to "Save Our Sacred



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Mountain."

Following a Cibola County commissioners meeting in April, the governor of Zuni Pueblo, Norman Coeoyate, and the governor of Laguna had written to New Mexico Gov. Bill Richardson, requesting a neutral location for the meeting due to the "level of hostility and potential air of racism experienced by our council/community members and as exhibited by local community members of Grants and Milan."

But that request was denied. And as an estimated 700 people filed into the gymnasium and took seats in facing bleachers, the divisions became all too clear: There was "an eerie sense of cowboys and Indians facing off," *Gallup Independent* reporter Helen Davis wrote, "because many Native observers wore traditional clothing and cowboy hats dominated head gear in the stands across the gym." Those were the "pro-uranium people," says Coeoyate. "And you had all the people who were against uranium on the other side -- and that included a lot of what we call ourselves, the brown faces."

As the five hours of testimony unfolded, opponents repeatedly disrupted statements by Native Americans, Coeoyate says. "They jeered, they sneered, they booed every time there was a comment that was made from the tribal leadership or any of the people that supported us."

But other locals complained that the state was giving Native Americans preferential treatment. Opponents also criticized the involvement of environmental groups, saying it proved that the tribes were using religion and tradition to block mining altogether. They expressed fears that the tribes were trying to take over public lands.

After the meeting, Coeoyate says, some TCP opponents yelled obscenities at tribal elders in the parking lot.

As the final meeting -- set for May 15, 2009, in Santa Fe -- approached, even the all-weather notebook at the summit of Mount Taylor reflected community anxiety. Many of the comments simply described trips up the mountain -- JR and Douglas cleared trees off the trail while riding their Arctic Cat 700 ATVs, folks on New Year's Eve braved the wind, and one man and his 6-year-old son took six hours and 13 minutes to snowshoe up the trail in March. Others, however, denounced the designation. "TCP still sucks, mountain belongs to us all, not just the Indians," was not an uncommon sentiment.





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**Native Americans may have** staked a claim to Mount Taylor, but the mesas and canyons below it have long been home to Spanish communities, as well. Throughout New Mexico, parcels of land were granted to Spanish individuals and communities as far back as 1598; they were recognized by the 1848 Treaty of Guadalupe Hidalgo and by Congress in the 19th century. Many of these remain community lands, although others have been privatized and incorporated.

On the Juan Tafoya Land Grant east of Grants, life has been bleak since the local uranium mine and mill closed. Ranching and farming no longer sustain families, and young people lack opportunities.

Some 15 families still live part-time in Marquez, a village in Juan Tafoya that no longer hosts its own post office. The nearest schools are 40 miles away on the Laguna Reservation. Life is difficult; James Martinez, one of the village's four full-time residents, spends two days a week in Albuquerque, seeking more lucrative work than ranching.

Though uranium prices are still fluctuating -- at \$43 per pound as of Nov. 23, they're down from last year's \$55 -- they're far above the \$7 per pound they hit in 1991. And with the nuclear power industry poised to profit from federal climate-change policy, Martinez believes a mining resurgence could provide new opportunities for local young people. Uranium, after all, supported his father, who lived in Marquez until his death at 78.

For its part, the uranium industry is showing interest. Neutron Energy -- the company nearest to getting development under way in the area -- hopes to begin exploration at its Marquez Canyon Mine site on the Juan Tafoya, which is now a privatized corporation. The high-quality ore there is still mostly untouched, though the Tennessee Valley Authority, Kerr McGee and Exxon sank some 700 exploratory holes before the bust.

The industry isn't a threat, Martinez says, because the people here are good stewards of the land. He disputes the notion that Native Americans are the only ones with deep spiritual ties to the region. His family has lived on this land grant for eight or nine generations -- more than 300 years. "We have saints in the area," he says, "and my great-great-grandfather was born in the caves right below Mount Taylor, in Canon de Marquez. My father, and his father, distilled in us: Protect what you have. But also make it grow and prosper from what you have. We have some common sense, we will not let our stuff get destroyed." Today, his 20-year-old son, Amadeo Martinez, still runs



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cattle on the land grant. One of the last children baptized at the Catholic church in Marquez, he is majoring in earth and planetary sciences at the University of New Mexico and hopes to work in the mining industry.

The younger Martinez has a Native American girlfriend and believes the return of mining could actually heal some of the divisions that were so starkly revealed at the Grants meeting. The Marquez Mine proposal lies outside the TCP, after all: "When our people open the mine, it will provide jobs for their people." And then, he says, they can become a united community, rather than two cultures.

But here, too -- outside the TCP boundary -- mining has torn a deep rift. Worried that the mine will contaminate groundwater and harm culturally significant springs, the Pueblo of Acoma opposes the project.

During a November 2008 public hearing for Neutron's exploration permit, some of the crowd erupted again, recalls New Mexico Environmental Law Center attorney Eric Jantz, who has been working with the Acomas. "There's an element, I think, of revisionist history: One of the land grant people made a public comment to the effect that they were there first, and the tribal folks had no right," he says. "Then there were a number of Anglo ranchers who got up and testified, pretty angrily, about how their property rights were being infringed upon in various ways, and if there were minerals or any things that could make them money off their land, then they ought to have the right to exploit those resources without any government interference."

And then Marita Noon took the microphone. God placed mineral wealth under the earth for us to use, she preached, and the tribes were getting in the way of America's greatness by forcing us to rely on imported energy, including uranium from Russia. "That," says Jantz, "turned things particularly ugly."

**Marquez is unique** for its long history and geographic isolation, but the town of Grants has also seen better days. Double-stacked trains tear through town, barely slowing. A few modern motels greet travelers pulling off the highway for the night, but the road into downtown hosts a string of shuttered motor lodges -- the Franciscan, the Desert Sun, the Wayside -- with cracked doors and weedy lots. Streets and sewers are crumbling as the tax base shrinks, and the town now relies on prisons, including the Cibola County Detention Center and the state women's correctional facility.

Visitors to the mining museum can ride an elevator underground to a mock uranium



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mineshaft, but there's little else to explore within the town itself. There is, in fact, little in Grants to conjure even a whiff of nostalgia for those boom days. Grants never truly built itself up in the first place, and like Marquez, it has never recovered from the bust.

George Byers, vice president of Neutron Energy, believes all that could change. In addition to the Marquez Mine site, Neutron has acquired leases on the Cebolleta Land Grant on the east side of Mount Taylor and on private lands west of it, all in the last few years. The Marquez Mine alone could bring more than 225 jobs to Grants, Byers says, while a complete resurgence of the industry in the area could create about 8,000 jobs, with an economic impact of about a billion dollars.

Byers' company fought the TCP designation, testifying in 2008 that the emergency listing was unwarranted, given the fact that there were no immediate plans for mining within its boundaries. Most of his company's plans are slated for private land, including Spanish land grants.

And although he now says the designation shouldn't affect Neutron's plans, it does add another layer of regulation and consultation. "Instead of getting a permit to do exploration in several weeks -- which you can do in any other state -- on private land, it took us over 14 months" for the Marquez site, he says. "That was unnecessary. It wasted a lot of time, it wasted a lot of money."

Before the TCP designation, most projects were able to go through a streamlined "minimal impact" permit process, explains New Mexico Mining and Minerals Division director Bill Brancard. Now, projects -- even those on private lands -- within the TCP boundary no longer qualify for that. Instead, they must undergo the regular exploration permitting process, which takes longer.

For the most part, however, the designation changes little because almost all the projects are planned for U.S. Forest Service lands. The state's TCP process was more controversial because it became public first, says Brancard, but the Forest Service was already planning to add its Mount Taylor lands to the National Register of Historic Places. Now, any projects proposed for those federal lands must undergo a thorough environmental impact analysis.

Ultimately, though, despite all the fuss, it may not matter what kind of designation the mountain receives.



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Companies are "proceeding fairly deliberately because New Mexico has some real pluses and minuses when it comes to uranium mining," says Brancard. The resources are here, he says, but developing them would require significant front-end investments. Most importantly, someone would need to build a mill -- an expensive commitment that no one appears willing to make at this point.

**Before the final TCP hearing** in May 2009, the state prepared for controversy. Gov. Richardson's director of policy and issues, Bill Hume, sent an e-mail to the Historic Preservation Division, suggesting consultation with the secretary of New Mexico's Department of Public Safety: "I expect a comfortable -- but not oppressive -- showing of uniformed officers at the hearing would be appropriate," he wrote, "with possibly some reinforcements stashed out of sight nearby."

But the meeting went off without a hitch, and on June 5, 2009, the state announced that Mount Taylor had received permanent designation as a traditional cultural property. Some 89,000 acres of private lands within the boundary were exempted from protection. Still, the contentious process had left open wounds. In October, some local landowners and uranium mining companies -- including RayEllen Resources, Rio Grande Resources Corporation, Strathmore Resources, Laramide Resources, Roca Honda Resources and the Cebolleta Land Grant -- filed a legal challenge to the mountain's protected status. "The grounds are basically due process," says attorney Jon Indall. "It's not an appeal on whether they're cultural or not -- it's an appeal on the process that was undertaken to get there."

The suit came as a surprise to designation supporters. The tribes had expected opposition, but few TCP supporters anticipated how emotional and even hysterical things would become. Certainly no one could have guessed that the process would be implicated in the spate of violence against Navajos.

The June beatings prompted the Federal Bureau of Investigation to open a hate crimes investigation. But even on the surface, the situation was far from cut and dry. "We have Native blood in us," Longoria's mother told television news crews as she joined friends and family to protest outside the Cibola County Judicial Complex. "The fight was not racist-based."

The Grants Police Station resembles a strip mall and lies just off the road that leads from Grants to Mount Taylor. On a crystalline day in September, Grants Police Chief Steve Sena -- stocky, with a neat mustache and clean-shaven head -- talks about the



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beatings. Although the FBI investigation is ongoing, Sena says his department has determined that Longoria's actions were not racially motivated. They were "an act of stupidity," he says, that is all. Sena, who has more than two decades on the force, doesn't believe that the violence in his town was related to the TCP designation and the controversy that followed. Media hype and suggestions to the contrary don't help: "It's been very hurtful," he says, "very hurtful to the community."

Despite Sena's certainty, distrust remains. Some fault the tribes for seeking to protect Mount Taylor, while others blame an industry that never atoned for the sins of its past. And many locals say outsiders were responsible for the blow-ups, whether environmentalists or industry boosters like Marita Noon. But history has shown that life is seldom easy in a place like Grants, where four Indian reservations bump up against Spanish land grants and Anglo ranching towns. Old communities have long memories, and grudges are often passed down through the generations.

Violence is not unusual in the Southwest's reservation border towns. In the 1970s, Farmington, N.M., a community on the edge of the Navajo Nation, earned the moniker "the Selma, Ala., of the Southwest" after three white teenagers charged with beating three Navajos to death were sent to reform school instead of prison. Though things have vastly improved since then, the Navajo Nation Human Rights Commission -- which was founded, with the 1970s beatings in mind, after the fatal shooting of a Navajo man by a white Farmington police officer in June 2006 -- stays busy, tracking discrimination and organizing public hearings. At the same time, it tries to reach out to local police departments, as it did following last June's beatings.

The media's interest in the beatings may have faded, but the communities are left to grapple not only with the stigma of border-town violence, but also the cultural divisions so clearly and painfully revealed. The TCP process was clearly botched -- throughout the entire series of meetings, the state repeatedly fumbled or passed up opportunities to educate the public and keep the lines of communication open. Yet despite everything, Mount Taylor also offers an opportunity. The struggle has forced the communities to face their history -- their intertwined cultural heritage as well as their economic and environmental legacies -- giving them a chance to work together to decide what the future holds.

Outside Sena's office, officers take turns meeting with a Hispanic woman who has come to talk about her daughter's problems with other kids at the high school. A tall young



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Native American officer stands before the woman, who sits with her daughter and mother. As she talks about the problems, about her neighborhood, he murmurs in understanding and reminds her to remain respectful and calm, even in the face of threats of violence from the other family. If she stoops to their level, he says, she will be accused of escalating the situation. After a while, Sena comes out and, with words punctuated by easy smiles, reassures her. Everything, he says, is going to be fine.

*Laura Paskus is a freelance writer and a former HCN editor. You can also listen to her audio interview (<http://www.hcn.org/articles/deconstructing-dueling-claims>) about this story.*

*This story was funded by grants from the McCune Charitable Foundation and the David and Lucile Packard Foundation.*

### **For more information:**

*-The New Mexico Historic Preservation Division Department of Cultural Affairs: documents related to the nomination and designation of Mount Taylor as a traditional cultural property. (<http://www.nmhistoricpreservation.org/cprc.php>)*

*(<http://www.nmhistoricpreservation.org/cprc.php>)*

*-New Mexico's mineral industry, annually  
(<http://www.emnrd.state.nm.us/MMD/Publications/NMMinInd.htm>)*

*-New Mexico mining permit applications (<http://www.emnrd.state.nm.us/MMD/MARP/MARPNewPermitApplicationsandCloseoutPlans.htm>)*

*-General information on uranium in the U.S. (<http://www.eia.doe.gov/fuelnuclear.html>)*

*-The (<http://www.nmhistoricpreservation.org/cprc.php>)Navajo Nation Human Rights Commission site (<http://www.nnhrc.navajo.org/>)*

*- (<http://www.emnrd.state.nm.us/MMD/MARP/MARPNewPermitApplicationsandCloseoutPlans.htm>)Citizens' Alliance for Responsible Energy (<http://www.responsibleenergy.org/default.asp>)*

*-The Southwest Research and Information Center (<http://src.org/>)*

*-New York Times coverage of race-related violence (<http://query.nytimes.com>)*



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

### Lesson 2, Handout 4:

#### Mt. Taylor Interest Groups

After reading the introductory information about Mt. Taylor and its significance to Pueblos and Tribes in New Mexico, think about them and other competing interest groups you have also read about, who have Mt. Taylor in mind as a resource site. Think of a way to visualize these competing groups and their interests around the centerpiece, Mt. Taylor. Share your work with the class and explain your visual.



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**Lesson 2, Handout 5:**

**IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

**Opinion Number: \_\_\_\_\_**

**Filing Date: February 6, 2014**

**Docket No. 33,497**

**RAYELLEN RESOURCES, INC.,  
DESTINY CAPITAL, INC., LYNNE E.  
ELKINS, PAULA D. ELKINS, JOY BURNS,  
CEBOLLETA LAND GRANT, FERNANDEZ COMPANY  
LTD., JUDITH WILLIAMS PHIFER, individually and as  
Personal Representative of the Estate of JAMES H. WILLIAMS,  
ORIN CURTIS CLEVE WILLIAMS, RIO GRANDE RESOURCES  
CORPORATION, STRATHMORE RESOURCES (U.S.) LTD., LARAMIDE  
RESOURCES (U.S.A.) LTD., ROCA HONDA RESOURCES, LLC,**

**Plaintiffs-Appellees,**

**and**

**HON. PATRICK H. LYONS, Commissioner of Public Lands for the  
State of New Mexico,**

**Plaintiff,**

**v.**

**NEW MEXICO CULTURAL PROPERTIES REVIEW COMMITTEE  
and ALAN “MAC” WATSON, individually and as Chairman of  
the New Mexico Cultural Properties Review Committee,**

**Defendants-Appellants,**

**and**

**PUEBLO OF ACOMA and PUEBLO OF  
LAGUNA, federally recognized Indian Tribes,**

**Intervenors.**

**CERTIFICATION FROM THE NEW MEXICO COURT OF APPEALS  
William G. W. Shoobridge, District Judge**





## A PUEBLO-BASED EDUCATIONAL CURRICULUM

Long, Pound & Komer, P.A.  
John Bennett Pound  
Santa Fe, NM

for Appellants

The Simons Firm, L.L.P.  
Frank M. Bond  
Kelcey C. Nichols  
Santa Fe, NM

for Appellees Rayellen Resources, Inc. and Destiny Capital, Inc.

Comeau, Maldegen, Templeman & Indall, L.L.P.  
Michael J. Moffett  
Jon J. Indall  
Santa Fe, NM

for Appellees Lynne E. Elkins, Paula D. Elkins, Joy Burns, Strathmore Resources (U.S.) Ltd., Laramide Resources (U.S.A.) Ltd., and Roca Honda Resources, LLC.

Olsen, Parden & Crow, P.C.  
Brett Justin Olsen  
Albuquerque, NM

Albuquerque Business Law, P.C.  
Sarah L. Maestas Barnes  
Albuquerque, NM

for Appellee Cebolleta Land Grant

Cavin & Ingram, P.A.  
Stephen Dean Ingram  
Albuquerque, NM

for Appellee Fernandez Company Ltd.

Modrall, Sperling, Roehl, Harris & Sisk, P.A.  
Stuart R. Butzier  
Marte D. Lightstone  
Albuquerque, NM

for Appellees Judith Williams Phifer and Orin Curtis Cleve Williams



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

Modrall, Sperling, Roehl, Harris & Sisk, P.A.  
Larry P. Ausherman  
Stanley N. Harris  
Albuquerque, NM

for Appellee Rio Grande Resources Corporation

Chestnut Law Offices  
Ann Berkley Rodgers  
Peter C. Chestnut  
Albuquerque, NM

for Intervenor Pueblo of Acoma

June Lynne Lorenzo  
Pagate, NM

for Intervenor Pueblo of Laguna

Rothstein, Donatelli, Hughes, Dahlstrom, Schoenburg & Bienvenu L.L.P.  
Richard Warren Hughes  
Santa Fe, NM

for Amici Curiae All Indian Pueblo Council, American Anthropological Association,  
Association on American Indian Affairs, National Trust for Historic Preservation, Sierra  
Club, Society for American Archaeology, Pueblo of Tesuque, and Thomas Merlan

Hinkle, Hensley, Shanor & Martin, L.L.P.  
Andrew J. Cloutier  
Roswell, NM

Armstrong Energy Corporation  
Ronald D. Hillman  
Roswell, NM

Pittman Law Firm, P.C.  
Jennifer M. Heim  
Roswell, NM

for Amici Curiae New Mexico Cattle Growers Association and New Mexico Farm &  
Livestock Bureau

Brennan & Sullivan, P.A.  
Michael W. Brennan



# A PUEBLO-BASED EDUCATIONAL CURRICULUM

Santa Fe, NM

for Amici Curiae New Mexico Mining Association and New Mexico Oil and Gas Association

Law & Resources Planning Associates, P.C.  
Charles Thomas Dumars  
Albuquerque, NM

Youtz & Valdez, P.C.  
Stephen Curtice  
Albuquerque, NM

for Amicus Curiae New Mexico Land Grant Council

Elizabeth S. Merritt  
William J. Cook  
Washington, DC

for Amicus Curiae National Trust for Historic Preservation

## OPINION

**DANIELS, Justice.**

### I. INTRODUCTION

{1} We accepted certification from the Court of Appeals to review the decision of the New Mexico Cultural Properties Review Committee to recognize approximately 400,000 acres of public land on Mount Taylor as a registered cultural property under the New Mexico Cultural Properties Act. We affirm in part the Committee’s decision and hold that the Mount Taylor listing was lawful under the Cultural Properties Act and that the proceedings before the Committee did not violate the constitutional guarantee of due process of law. We reverse the Committee’s inclusion of 19,000 acres of Cebolleta Land Grant property and hold that land grant property is not state land as defined in the Cultural Properties Act.

### II. BACKGROUND

#### A. Factual History and Administrative Proceedings

{2} In February 2008, the United States Forest Service released a report determining that Mount Taylor was eligible for listing on the National Register of Historic Places as a traditional cultural property. The detailed report, written by two archaeologists who spent months working with several of the mountain’s surrounding tribal communities, documents



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the cultural and ethnographic history of Mount Taylor, which, at more than 11,000 feet, is the highest point in the San Mateo Mountains of New Mexico. The report chronicles the history of the mountain and its importance to various cultures, noting prehistoric archaeological sites predating 500 A.D. and rock inscriptions from Spanish settlers who may have passed through the area as early as 1540 with the historic Francisco Vasquez de Coronado expedition.

{3} The report concludes that Mount Taylor satisfies three out of four possible criteria for National Register listing based on the mountain’s “significant contributions to the broad patterns of our history,” its association with “persons significant in our past,” and its past and potential future yield of information about our history. *See* 36 C.F.R. § 60.4 (2008) (providing the four “National Register criteria,” each of which qualifies a site for National Register listing). The report also concludes that Mount Taylor meets the overall “integrity” criterion for National Register listing because the property was, and still is, integral to the tribal communities’ practices, from traditional gathering of plants and minerals to performing pilgrimages and ceremonies, noting that the mountain’s physical features that historically have attracted various cultures still exist today. *See* 36 C.F.R. § 60.4 (requiring “integrity of location, design, setting, materials, workmanship, feeling, and association” as the “quality of significance” for each candidate property); *accord Nat’l Register Bulletin 38* at 11-12 (rev. 1998), <http://www.nps.gov/nr/publications/bulletins/pdfs/nrb38.pdf>.

{4} Ten days after the report’s release, the Pueblos of Acoma, Laguna, and Zuni, the Hopi Tribe, and the Navajo Nation (collectively, the Nominating Tribes) submitted an emergency application to the New Mexico Cultural Properties Review Committee, requesting that Mount Taylor be temporarily registered as a cultural property under Section 12 of the New Mexico Cultural Properties Act, NMSA 1978, §§ 18-6-1 to -17 (1969, as amended through 2013), our state’s counterpart of the National Historic Preservation Act.

{5} Under the Cultural Properties Act, the Committee is allowed to approve an emergency listing “for not more than one year, during which time the [C]ommittee shall investigate the property and make a determination as to whether it may be permanently placed on the official register” of New Mexico cultural properties. Section 18-6-12. Once a property is listed, other state departments must consult the New Mexico historic preservation officer before taking any action “which may affect a registered cultural property . . . so as to preserve and protect, and to avoid or minimize adverse effects on, registered cultural properties.” Section 18-6-8.1. A consultation requirement also comes into effect when a property is deemed eligible for National Register listing, as in the Mount Taylor case in 2008 upon the release of the Forest Service report. *See, e.g.*, 19.10.6.602(D)(13)(i) NMAC (requiring permits for new mining operations to indicate all sites included in the permit area that are “on or eligible for listing on either the National Register of Historic Places and/or the State Register of Cultural Properties”); *but see* 19.10.3.302(D)(2) NMAC (requiring permits for “minimal impact” mining operations to indicate locations of only those cultural resources actually listed on either the national or state registers).



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{6} On February 22, 2008, eight days after the Nominating Tribes submitted the emergency application, the Committee approved a one-year temporary listing. Although the Nominating Tribes included the Forest Service report as supporting documentation for the emergency application, the state nomination was slightly different from the Forest Service Report. The Forest Service relied on topography, delineating boundaries of the traditional cultural property based on the mountain's summit and its surrounding mesas, but the Nominating Tribes focused on elevation, drawing a demarcation line around the summit at 8,000 feet because, according to the Nominating Tribes, private landowners became more numerous below this elevation. The Nominating Tribes asked the Committee to recognize 422,840 acres consisting of federal land managed by the Forest Service and the Bureau of Land Management, Indian trust and Pueblo land, New Mexico state lands, and the Cebellota Land Grant common lands. The Nominating Tribes asked that any private land above 8,000 feet be identified and excluded from the listing. On June 14, 2008, following a public comment period, the Committee again approved the emergency listing of the specified property at the top of Mount Taylor.

{7} On April 22, 2009, fourteen months after submitting their emergency petition, the Nominating Tribes nominated the same land on Mount Taylor for permanent listing under the Cultural Properties Act. In response, the Committee scheduled a public comment period that included a public hearing on May 15, 2009, the submission of written comments through May 20, 2009, and a final vote on June 5, 2009. As with the emergency petition, private land was explicitly excluded from the proposed listing as noncontributing, but the Nominating Tribes changed the listing's outer boundaries to be consistent with the topographic boundary used by the Forest Service after agreeing that it better reflected the individual tribes' shared use of the mountain.

{8} At the close of the May 15, 2009, hearing, the Committee asked the Nominating Tribes to revise the nomination and resubmit it by May 23, 2009, in order to include a gross acreage figure for both contributing and noncontributing properties, among other clarifications. The Committee asked private land owners to verify private property exclusions by submitting notarized copies of their property deeds to the Historic Preservation Department. On June 4, 2009, the Committee released an updated estimate on the proposed permanent listing, explaining that 434,767 acres of public land would be included and 89,939 acres of private land would be excluded as noncontributing. On June 5, 2009, the Committee voted unanimously to permanently list Mount Taylor as a cultural property on the state historic register, issuing a final order on September 14, 2009.

### **B. Judicial Proceedings**

{9} One month after the Committee issued its final order, Rayellen Resources, Inc., and numerous other parties including the Cebolleta Land Grant (the Rayellen parties) appealed the order to the Fifth Judicial District Court under Rule 1-075 NMRA, which provides for district court review of a final agency decision. The Pueblo of Acoma, which joined the Committee in defending the listing, challenged whether the Rayellen parties who are private



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landowners had standing to appeal because they were explicitly excluded from the listing, an argument the district court rejected.

{10} In reaching the merits of the case in its February 2011 decision and order, the district court found that the listing did not violate constitutional protections against the establishment of religion and that the Committee did not violate due process guarantees by following federal guidelines for the listing. The district court reversed the listing nevertheless on the grounds that personal notice of the permanent listing’s public comment period was not provided to all affected property owners, including mineral rights holders, in violation of due process guarantees, and that both the mountain’s sheer size and the private property exclusions made it impracticable to comply with provisions in the Cultural Properties Act relating to integrity of place, required inspections, and required maintenance. The district court also reversed the inclusion of the 19,000 acres of Cebolleta Land Grant common lands in the listing because land grant common lands are not subject to regulation as state land under the Cultural Properties Act.

{11} Acoma Pueblo petitioned for certiorari in the Court of Appeals on the three listing issues which the district court reversed, and the Rayellen parties cross-petitioned on other issues as to which they had not prevailed in the district court. The Court of Appeals granted those petitions as well as motions to intervene from Laguna Pueblo and the Committee. Without deciding any of the issues, the Court of Appeals then certified the entire case to this Court as presenting “an issue of substantial public interest that should be determined by the supreme court.” NMSA 1978, § 34-5-14(C)(2) (1972).

### III. DISCUSSION

{12} Preliminarily, we note that the parties have not challenged the constitutional powers of the Legislature either to enact any of the provisions of the Cultural Properties Act or to delegate to the Committee the administrative responsibility of determining which properties should be designated as deserving of the protections embodied in the Act. The challenges in this case relate more specifically to whether the Committee exercised its authority in a lawful manner.

#### A. Standing

{13} The parties who sued to block the listing of Mount Taylor as a cultural property represent a variety of arguably different interests, including interests in surface properties excluded from the listing, mineral interests only, and interests in Cebolleta surface property specifically included in the designation. Various challenges have been directed at the standing of most of the parties. *See ACLU of N.M. v. City of Albuquerque*, 2008-NMSC-045, ¶ 19, 144 N.M. 471, 188 P.3d 1222 (holding that to establish standing a party bringing suit must “show that he is injured or threatened with injury in a direct and concrete way”).

{14} Because the parties generally concede that Cebolleta does have standing to raise the



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same substantive issues raised by other interests, and because, like the Court of Appeals in certifying this appeal to us, we view this unusual application of the New Mexico Cultural Properties Act as a matter of substantial public importance, we will not engage in the non-outcome-determinative exercise of identifying which of the numerous individual challengers did and did not have standing to raise issues that we should address in any event. Regardless of whether traditional standing requirements have been met, in appropriate cases “this Court has exercised its discretion to confer standing and reach the merits . . . due to the public importance of the issues involved.” *Id.* ¶ 9. We determine that this is such a case.

### B. Standard of Review

{15} The standards for our appellate review of the Committee’s administrative decision are well settled in New Mexico law. “[W]e apply the same administrative standard of review as the district court sitting in its appellate capacity.” *Sais v. N.M. Dep’t of Corrs.*, 2012-NMSC-009, ¶ 15, 275 P.3d 104 (alteration in original) (internal quotation marks and citation omitted). In doing so, we must determine if the Committee’s decision was “arbitrary, capricious, or an abuse of discretion; not supported by substantial evidence in the record; or, otherwise not in accordance with law.” *Id.* (internal quotation marks and citation omitted); *accord* Rule 1-075(R) NMRA.

{16} “A ruling by an administrative agency is arbitrary and capricious if it is unreasonable or without a rational basis, when viewed in light of the whole record.” *Rio Grande Chapter of Sierra Club v. N.M. Mining Comm’n*, 2003-NMSC-005, ¶ 17, 133 N.M. 97, 61 P.3d 806. “In making these determinations, we must remain mindful that in resolving ambiguities in the statute or regulations which an agency is charged with administering, the Court generally will defer to the agency’s interpretation if it implicates agency expertise.” *Id.* (internal quotation marks and citation omitted). “It is not the function of the trial court to retry the case . . . or substitute its judgment for that of [an administrative agency].” *Id.* (alteration in original) (internal quotation marks and citation omitted). “However, we will not defer to the [agency’s] or the district court’s statutory interpretation, as this is a matter of law that we review de novo.” *Id.* (alteration in original) (internal quotation marks and citation omitted).

### C. The Committee Provided Sufficient Notice of the Public Comment Period for Its Review of the Permanent Mount Taylor Nomination

{17} The Rayellen parties argue that the Mount Taylor permanent listing violates due process because the Committee failed to provide personal notice to all affected property owners, including all mineral rights holders, before depriving them of a property right, relying on *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950), and *Uhdén v. New Mexico Oil Conservation Commission*, 1991-NMSC-089, ¶¶ 9-10, 112 N.M. 528, 817 P.2d 721. Specifically, the Rayellen parties argue that some in the Williams group who hold subsurface mineral rights to property in or near the listing did not receive personal notice of the Committee’s hearings and that notice by publication was insufficient—a conclusion reached by the district court. For the reasons that follow, we disagree.



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{18} Article II, Section 18 of the New Mexico Constitution provides, “No person shall be deprived of life, liberty or property without due process of law . . . .”); *see also* U.S. Const. amend. XIV (stating that no state shall “deprive any person of life, liberty, or property, without due process of law”). We review de novo whether due process has been denied, a question of law, and apply substantial-evidence review to the findings of fact. *Bd. of Educ. of Carlsbad Mun. Schs. v. Harrell*, 1994-NMSC-096, ¶ 52, 118 N.M. 470, 882 P.2d 511. “Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Jones v. N.M. State Racing Comm’n*, 1983-NMSC-089, ¶ 20, 100 N.M. 434, 671 P.2d 1145.

{19} Procedural due process requires notice and the opportunity to be heard before a deprivation by the state can occur. *See Maso v. State Taxation & Revenue Dep’t, Motor Vehicle Div.*, 2004-NMSC-028, ¶ 10, 136 N.M. 161, 96 P.3d 286 (“Due process requires notice and an opportunity for a hearing before the State can suspend or revoke a person’s driver’s license.”). “Due process does not require the same form of notice in all contexts; instead, the notice should be ‘appropriate to the nature of the case.’” *Id.* (quoting *Mullane*, 339 U.S. at 313); *see also Mullane*, 339 U.S. at 314 (“An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.”).

{20} Nothing in *Mullane* or its progeny establishes that personal notice is required in all cases. Rather, this Court has made clear that the opposite is true: “[I]t is well settled that the fundamental requirements of due process in an administrative context are reasonable notice and opportunity to be heard and present any claim or defense.” *TW Telecom of N.M., L.L.C. v. N.M. Pub. Regulation Comm’n*, 2011-NMSC-029, ¶ 17, 150 N.M. 12, 256 P.3d 24 (emphasis omitted) (internal quotation marks and citation omitted). Our inquiry here must be whether the notice provided by the Committee was reasonably calculated under the circumstances to inform interested parties of its action in order to afford them the opportunity to be heard.

{21} None of the parties dispute that the Committee made extensive efforts to provide notice about the public comment period before voting on Mount Taylor’s permanent listing. This effort included general notice by publication in both *The Gallup Independent* and *The Cibola County Beacon* by sending press releases to various print and broadcast media and by making the proposed nomination available on the New Mexico Historic Preservation Division website, [www.nmhistoricpreservation.org](http://www.nmhistoricpreservation.org). The Committee also provided extensive personal notice, sending hundreds of letters along with the meeting agenda to those in its database of property owners, citizens, business owners, and elected officials who had expressed an interest in Mount Taylor’s nomination since the emergency listing hearings in 2008.

{22} Part of this database was the result of the Nominating Tribes’ hiring of research consultants to locate private property owners via tax records in order to provide them with





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personal notice. Because the Cultural Properties Act does not provide notice requirements, the Nominating Tribes relied on the language of the National Historic Preservation Act to discern what notice may be required for the Mount Taylor nomination. *See* § 18-6-2 (stating that the Cultural Properties Act operates “in a manner conforming with, but not limited by, the provisions of the National Historic Preservation Act”). Under the 1966 National Historic Preservation Act, a state is directed by regulations amended in 1983 to create a list of property owners “obtained from either official land recordation records or tax records, whichever is more appropriate,” for notice purposes when private property is being considered for listing. *See* 36 C.F.R. § 60.6(c) (2012); *but see* 36 C.F.R. § 60.6(d) (requiring written notice to local elected officials and only general notice by publication to property owners when a proposed listing involves more than fifty properties). Even though the Mount Taylor nomination explicitly excludes private land, the Nominating Tribes searched tax records in three counties and ultimately identified more than one hundred landowners within the listing in order to provide them with personal notice.

{23} We conclude that these efforts by the Committee complied with *Mullane* in providing notice reasonably calculated to inform interested parties of the Mount Taylor permanent nomination. *See Nat’l Council on Comp. Ins. v. N.M. State Corp. Comm’n*, 1988-NMSC-036, ¶¶ 14, 21, 107 N.M. 278, 756 P.2d 558 (rejecting a due process challenge to an agency action because the notice reasonably informed objectors of the hearing so as to allow them the opportunity to be heard).

{24} Despite these efforts, the Rayellen parties argue that notice was inadequate because the Nominating Tribes relied on county tax records when they should have relied on county land records, because “tax records are useful only for determining who pays property taxes.”<sup>1</sup> Under the Rayellen parties’ argument, if the Committee had performed proper due diligence, it would have discovered the Williams mineral ownership and then provided personal notice to those Williams parties, as the Rayellen parties argue would be required by *Uhdén*, 1991-NMSC-089, ¶ 12 (“[W]hen the names and addresses of affected parties are known, or are easily ascertainable by the exercise of diligence, notice by publication does not satisfy constitutional due process requirements.”).

{25} In *Uhdén*, this Court held that due process was violated when the New Mexico Oil Conservation Commission failed to provide personal notice to a mineral rights owner before hearing an application by Amoco Production Company to increase the spacing for one of its oil and gas wells. *See id.* ¶¶ 4, 6, 13. Although the statute governing the proceeding allowed either personal notice or notice by publication, *see id.* ¶ 4, *Uhdén* held that notice by publication was inadequate because the Commission’s hearing of Amoco’s well application

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<sup>1</sup>We note that neither county tax records, which identify payers of county property taxes who may or may not be the property owners, nor county land records, which identify only those owners of county property to whom conveyance of their titles is recorded with the county clerk, necessarily include a complete record of property ownership in a county.



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was not a rule-making proceeding but, in effect, an adjudication of the mineral rights owner's property right, *see id.* ¶ 7, based on three considerations. First, Amoco needed to support the change in the well spacing by substantial evidence, which it did by presenting witnesses and evidence about the specific well area. *See id.* Second, the Commission's ruling to change the well spacing reduced the owner's mineral rights royalties by half. *Id.* ¶¶ 5, 8. And third, Amoco was aware of the mineral rights owner's identity and whereabouts because for several years the company had been sending the owner royalty payments based on the well's production. *See id.* ¶¶ 3-4, 13. The *Uhdén* Court concluded in a narrow holding:

On these facts, . . . if a party's identity and whereabouts are known or could be ascertained through due diligence, the due process clause of the New Mexico and United States Constitutions requires the party who filed a spacing application to provide notice of the pending proceeding by personal service to such parties whose property rights may be affected as a result.

*Id.* ¶ 13.

{26} The facts of the Mount Taylor listing are wholly different from those in *Uhdén*. While we agree with the Rayellen parties that they, like the mineral rights owner in *Uhdén*, undoubtedly possess private property rights in both their land and mineral interests, *see, e.g., id.* ¶ 8 (“Mineral royalty retained or reserved in a conveyance of land is itself real property.” (internal quotation marks and citation omitted)), the nature of these rights is not at issue.

{27} Unlike in *Uhdén*, the Committee's review of the Mount Taylor listing was not an adjudication of the Rayellen parties' private property rights. The Committee instead was reviewing the nomination to determine whether Mount Taylor should be recognized as a state cultural property in order to better protect its historical significance. The Committee's action is a regulatory one more akin to general rule-making than adjudication, one undertaken to effectuate the Committee's statutory powers to identify and preserve our state's cultural and historic heritage. *See Timberon Water Co., Inc. v. N.M. Pub. Serv. Comm'n*, 1992-NMSC-047, ¶ 23, 114 N.M. 154, 836 P.2d 73 (distinguishing an administrative action as regulatory when it furthers the public interest under the state's police powers and adjudicatory when it is based on adjudicating a private right rather than implementing public policy); *see also* NMSA 1978, § 10-15-1(H)(3) (1999, amended 2013) (defining an “administrative adjudicatory proceeding” under the Open Meetings Act as “a proceeding brought by or against a person before a public body in which individual legal rights, duties or privileges are required by law to be determined by the public body after an opportunity for a trial-type hearing”). Because no individual property rights were being adjudicated by the Mount Taylor listing, personal notice was not required. If this Court were to require personal notice to every affected party before an agency undertakes rule-making such as this, the notice requirement would be so unduly burdensome and impractical as to be insurmountable, in contrast to the reasonableness standard set forth in *Mullane*. *See also Maso*, 2004-NMSC-028, ¶ 10 (explaining that notice is to be “reasonably calculated to be effective without imposing unrealistically heavy burdens on the party charged with the duty



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of notification” (internal quotation marks and citation omitted)).

{28} Procedural due process is ultimately about fairness, ensuring that the public is notified about a proposed government action and afforded the opportunity to make its voice heard before that action takes effect. *See Uhdén*, 1991-NMSC-089, ¶ 10 (explaining that administrative proceedings must conform to the due process requirements of fairness and reasonableness). In this case, the Committee made extensive efforts to apprise the public about the Mount Taylor nomination by general publication and by going so far as to extend personal notice to hundreds of interested parties, including those private property owners it was able to identify within and around the proposed listing area. As the Rayellen parties acknowledge, the Committee succeeded in its goal to apprise the public based on the fact that every party to this appeal save one received actual notice.

{29} Accordingly, we reverse the district court and hold that the Committee provided sufficient notice of the public comment period to satisfy due process guarantees.

### **D. The Listing Satisfies Statutory Requirements on Maintenance, Inspection, and Integrity**

{30} The district court agreed with the Rayellen parties’ arguments that under the statutory language of the Cultural Properties Act, Mount Taylor is simply too large to be reasonably inspected and maintained and that “such a massive . . . area, whose acreage has yet to be correctly and finally defined . . . can not ‘possess integrity of location[]’ as set out as . . . criteria under federal guidelines followed by the [Committee].”

{31} The Cultural Properties Act directs the Committee “to take such actions as are reasonable and consistent with law to identify cultural properties and to advise on the protection and preservation of those properties.” Section 18-6-5. One of the enumerated duties of the Committee in achieving this directive is to “inspect all registered cultural properties periodically to assure proper cultural or historical integrity and proper maintenance,” § 18-6-5(D), and, “based upon the inspection of a registered cultural property, recommend such repairs, maintenance and other measures as should be taken to maintain registered status,” § 18-6-5(E). Nothing in this statutory language sets a limit as to how large a listed property can be. Although this appears to be the first New Mexico listing of a large geographical area, other sizeable historic sites have been nominated, listed, or declared eligible for National Register listing, such as the San Francisco Peaks in Arizona, *see Nat’l Register Bulletin* 38 at 6; Tahquitz Canyon in California, *see id.* at 13, 17; and Kaho’olawe Island in Hawaii, *see id.* at 14, 17.<sup>2</sup> We see no reason, either in the text of the Act or in logic,

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<sup>2</sup>*See, e.g., An Introduction to the Land-Use History of the Colorado Plateau: San Francisco Peaks, Arizona 2* (John D. Grahame & Thomas D. Sisk eds., 2002), [http://www.cpluhna.nau.edu/Places/san\\_francisco\\_peaks2.htm](http://www.cpluhna.nau.edu/Places/san_francisco_peaks2.htm) (reciting that the Forest Service has requested designation of the San Francisco Peaks in Arizona as a Traditional



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why our state authorities are prohibited from listing a property simply because it is large.

{32} Nor does our review of the record indicate that the Mount Taylor listing, albeit large, is somehow incapable of inspection and maintenance. To the contrary, the Committee argues that eighty percent of the Mount Taylor listing is owned by federal agencies and the State Land Office, both of which have inspection programs that can fulfill the Act’s inspection mandate. Although the Rayellen parties counter that the Committee never made any findings on the feasibility of inspecting or maintaining prior to the Mount Taylor listing, the Act does not make such findings a prelisting requirement. How the Committee intends to inspect and maintain Mount Taylor is a statutory consideration that follows rather than precedes the listing. *See* § 18-6-5(E) (“[B]ased upon the inspection of a registered cultural property, [the Committee shall] recommend such repairs, maintenance and other measures as should be taken to *maintain* registered status.” (emphasis added)).

{33} With regard to the Rayellen parties’ argument that the listing lacks “integrity of location” because of the checkerboard nature of noncontributing private land, 4.10.4.7(C) NMAC defines “integrity” as “the quality or characteristics which make the property eligible for listing in the [N]ew [M]exico register of cultural properties.” *Accord* § 18-6-5(F) (requiring the Committee to issue regulations “pertaining to the identification, preservation and maintenance of registered cultural properties in order to maintain the integrity of those properties”).

{34} In connection with the federal listing, the Forest Service explained in its 2008 report that Mount Taylor met the federal integrity requirement in three respects—location, setting, and association—based primarily on the site’s ongoing relationship with traditional cultural practices and because the physical attributes of the mountain remain largely unchanged. The Nominating Tribes’ May 22, 2009, application for permanent listing of Mount Taylor in the New Mexico State Register of Cultural Properties supported the federal determination of an ongoing relationship, explaining that land-altering activities on the mountain and the exclusion of private property may “cause the Nominating Tribes to adjust some practices, such as the route that community members might follow while on pilgrimage . . . , [but] the scope of change . . . is rather minor. . . . These . . . modifications do not compromise cultural norms or needs.” Property Number 1939 Application for Registration, New Mexico State Register of Cultural Properties, Section 12 at 110. We conclude that substantial evidence supports the Committee’s finding on integrity.

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Cultural Property and has recommended a 74,000-acre mineral withdrawal around the Peaks); *Agua Caliente Band of Cahuilla Indians*, <http://www.planetpalmsprings.com/sovereign-nation/agua-caliente-cahuilla-indians.html> (describing the listed the Tahquitz Canyon area); *Newsletter of the Kaho’olawe Island Reserve Commission* (2004) 2, [http://kahoolawe.hawaii.gov/newsletters/newsletter\\_sum04.pdf](http://kahoolawe.hawaii.gov/newsletters/newsletter_sum04.pdf) (confirming 29,000 acres for Kaho’olawe Island).

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{35} Accordingly, we reverse the district court and hold that the Mount Taylor listing conforms to statutory requirements on inspection, maintenance, and integrity.

### E. Cebolleta Land Grant Common Lands Are Not State Land for Purposes of the Cultural Properties Act

{36} Cebolleta Land Grant urges this Court to affirm the district court’s conclusion that its common lands are not state land for purposes of the Mount Taylor listing. Acoma Pueblo urges reversal, arguing that the common lands should be considered state land because the Land Grants Act was specifically amended in 2004 to recognize community land grants as political subdivisions of the state, which, under the separately enacted Cultural Properties Act, is one of the statutorily recognized categories of state land. The Committee takes no position on the issue, explaining that statutory interpretation is best addressed by this Court and that excluding the lands will not undermine the listing. For the reasons that follow, we agree with Cebolleta Land Grant that its common lands are not state land for purposes of the Mount Taylor listing.

{37} At issue is similar language in the two statutes. The Land Grants Act provides,

All land grants-mercedes in the state or land grants-mercedes described in Section 49-1-2 NMSA 1978 shall be managed, controlled and governed by their bylaws, by the Treaty of Guadalupe Hidalgo and as provided in Sections 49-1-1 through 49-1-18 NMSA 1978 as *political subdivisions of the state*.

NMSA 1978, § 49-1-1 (2004) (emphasis added). Similarly, the Cultural Properties Act defines “state land” as “property owned, controlled or operated by a department, agency, institution or *political subdivision of the state*.” Section 18-6-3(E) (emphasis added). Statutory construction is a question of law that this Court reviews de novo. *See Bishop v. Evangelical Good Samaritan Soc.*, 2009-NMSC-036, ¶ 8, 146 N.M. 473, 212 P.3d 361.

{38} “The first step in any statutory construction is to try to determine and give effect to the Legislature’s intent.” *State v. Nick R.*, 2009-NMSC-050, ¶ 16, 147 N.M. 182, 218 P.3d 868 (internal quotation marks and citation omitted). Despite Acoma Pueblo’s argument that statutory use of the term “political subdivision” in both the Land Grants Act and the Cultural Properties Act requires a conclusion that the legislature intended that common lands be considered state land for purposes of a cultural or historic properties listing, the history of community land grants and the purpose of the Land Grants Act leads us to the opposite conclusion. *See State v. Smith*, 2004-NMSC-032, ¶ 10, 136 N.M. 372, 98 P.3d 1022 (directing a court to examine the history and background of a statute when “a formalistic and mechanical statutory construction” leads to results that are absurd, unreasonable, or contrary to statute’s spirit).

{39} Our courts have long recognized that the common lands of a community land grant are jointly held as private property by the heirs of the land grant. *See Mondragon v. Tenorio*,



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554 F.2d 423, 424-25 (10th Cir. 1977) (addressing a federal civil rights claim under the New Mexico Land Grants Act and explaining that “[t]he common lands are not open to the public; they are private property and may be leased. Only the heirs of the original claimants can use them for wood gathering and similar purposes without lease or consent of the trustees.”), *recognized by Maestas v. Board of Trustees of Anton Chico Land Grant*, 1985-NMSC-068, ¶¶ 8-9, 103 N.M. 77, 703 P.2d 174); *see also* U.S. General Accounting Office, *Treaty of Guadalupe Hidalgo: Findings & Possible Options Regarding Longstanding Community Land Grant Claims in N.M.*, GAO-04-059, 17 (2004), <http://www.gao.gov/assets/160/157550.pdf> (explaining that community land grants differ from individual land grants because of the inclusion of common lands, which were held in perpetuity for the heirs of the community land grant and “could not be sold or otherwise alienated, while an individual grant could be transferred”). Based on the unique nature of the private property rights to these common lands, the New Mexico Territorial Legislature passed the Land Grants Act in 1907, specifying that community land grants create a board of trustees to manage their common lands. *See* NMSA 1915, § 801(I) (1907) (establishing a board of trustees for “[t]he management and control of all . . . land” in the land grant, with the power to “prescribe the terms and conditions under which the common lands . . . may be used and enjoyed”); *see* NMSA 1978, § 49-1-3(A) (2011) (same); *accord Armijo v. Cebolleta Land Grant*, 1987-NMSC-006, ¶ 6, 105 N.M. 324, 732 P.2d 426 (“[A]s a practical matter the Legislature has assumed the function of exercising control over [community land grants] through statutes providing for their administration by boards of trustees.” (second alteration in original) (internal quotation marks and citation omitted)); *Bd. of Trs. of Town of Las Vegas v. Montano*, 1971-NMSC-025, ¶ 16, 82 N.M. 340, 481 P.2d 702 (The “principal function [of the board of trustees] is to hold title to and manage the common lands of the grant.”).

{40} Instead of addressing the history and purpose of the Land Grants Act, Acoma Pueblo argues that the political subdivision language was added to the Land Grants Act in 2004 in order for land grants to become eligible for state funding without violating the New Mexico Constitution’s antidonation clause. *See* N.M. Const. art. IX, § 14 (“Neither the state nor any county, school district or municipality . . . shall directly or indirectly lend or pledge its credit or make any donation to or in aid of any person, association or public or private corporation . . .”). Acoma supports its argument by relying on an advisory letter from the Attorney General’s office that interprets the 2004 amendment. *See* N.M. Atty. Gen. Advisory Letter to Hon. Bernadette M. Sanchez, N.M. State Senate, at 1 (Sep. 26, 2008) (explaining that the 2004 amendment to the Land Grants Act adding the language on political subdivisions of the state “allowed land grants to organize and become eligible for state and federal funding.”). Under Acoma’s theory, if community land grants have been given political subdivision status for the benefit of receiving state money, then they should also bear the burdens of that status for purposes of historical protection under the Cultural Properties Act.

{41} Even if we were to assume that circumventing the antidonation clause was the purpose of the 2004 amendment, recognizing land grants as political subdivisions for purposes of receiving state money does not transform these privately held common lands



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into state land solely because of the language shared between the Land Grants Act and the Cultural Properties Act. This Court has recognized that “property and property rights are held subject to the fair exercise of the police power and a reasonable regulation enacted for the benefit of public health, convenience, safety or general welfare is not unconstitutional ‘taking of property’ in violation of [constitutional protections].” *N.M. Bd. of Exam’rs in Optometry v. Roberts*, 1962-NMSC-053, ¶ 20, 70 N.M. 90, 370 P.2d 811. However, the Legislature gave no indication of any intention to attempt to transform privately held common lands into public land by adding the political subdivision language to the Land Grants Act, even assuming it had any power to do so. A legislative taking would violate the privately held rights to these land grant properties that have existed since the land grant’s inception and have expressly been confirmed by our federal government under the Treaty of Guadalupe Hidalgo. *See Treaty of Peace, Friendship, Limits, & Settlement, U.S.-Mex.*, art. VIII, Feb. 2, 1848, 9 Stat. 922, T.S. 207 (“In the said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it, guaranties equally ample as if the same belonged to citizens of the United States.”). The Treaty’s property rights have been recognized in our Constitution, *see* N.M. Const. art. II, § 5 (“The rights, privileges and immunities, civil, political and religious guaranteed to the people of New Mexico by the Treaty of Guadalupe Hidalgo shall be preserved inviolate.”), and in our statutes, *see* § 49-1-1 (recognizing that the management, control, and governance of community land grants includes those rights recognized by the Treaty of Guadalupe Hidalgo). We construe the two statutes in favor of an interpretation that complies with the international treaty, the New Mexico Constitution, and our long-standing jurisprudence recognizing the private property rights inherent in a community land grant’s common lands. *See Johnson v. N.M. Oil Conservation Comm’n*, 1999-NMSC-021, ¶ 17, 127 N.M. 120, 978 P.2d 327 (“[I]f a statute is susceptible to two constructions, one supporting it and the other rendering it void, a court should adopt the construction which will uphold its constitutionality.” (internal quotation marks and citation omitted)).

{42} Our conclusion is further supported by the Legislature’s action in 2011 amending the Land Grants Act after the Mount Taylor listing specifically to clarify that the 2004 amendment was not intended to change the ownership of these common lands:

The designation of land grants-mercedes as political subdivisions of the state shall not alter the property rights of the heirs in the common lands. The common lands owned or controlled by a land grant-merced shall not be considered to be, designated or treated as state land.

NMSA 1978, § 49-1-11.1(C) (2011).

{43} Accordingly, we affirm the district court’s holding that the Cebolleta Land Grant common lands are not state land for purposes of the Cultural Properties Act.





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### F. The Remaining Issues Raised by the Rayellen Parties in Their Cross- Appeal Are Without Merit

{44} In their cross-appeal, the Rayellen parties challenge the Mount Taylor listing on grounds which the district court found nonmeritorious or on which the district court did not rule.

{45} First, the Rayellen parties argue that the Committee did not follow any fixed procedures or regulations in recognizing Mount Taylor for the state cultural property registry and therefore acted arbitrarily, relying on *Smith v. Board of Commissioners of Bernalillo County*, 2005-NMSC-012, ¶ 33, 137 N.M. 280, 110 P.3d 496 (disallowing “[a]d hoc, standard-less regulation”). Although the Rayellen parties correctly assert that the Committee has not promulgated regulations on the conduct of listings, Section 18-6-2 of the Cultural Properties Act provides that the Committee may list properties “in a manner conforming with, but not limited by, the provisions of the National Historic Preservation Act of 1966 (P.L. 89-665).” The district court rejected Rayellen’s argument, concluding that the Committee’s decision to follow the federal procedure for historic listings was both statutorily permissible and a sufficiently clear guideline to assure the Committee’s listing process was not arbitrary and capricious. We agree with the district court, noting that the Committee made it known throughout the Mount Taylor nomination process that it was following the federal procedure as permitted by statute.

{46} Second, the Rayellen parties argue that even if the Committee could follow federal guidelines, it did not comply with those guidelines because the Mount Taylor listing was for religious purposes, and, under 36 C.F.R. Section 60.4, a property used for religious purposes can only be listed when it meets the additional burden of “deriving primary significance from . . . historical importance,” a finding the Committee never made. The Rayellen parties overlook a crucial point. In this case, the Committee made numerous findings relating to Mount Taylor’s eligibility for listing, including that the nomination satisfied three of the four possible federal criteria because Mount Taylor was associated with significant contributions to our history and with persons significant in our past, and it offers a past and potential future yield of information about our history. Although these findings undoubtedly include a religious component, because religion is part of culture and history, the findings are nonetheless based primarily on historical evidence. For example, the vast number of archaeological sites found on Mount Taylor demonstrates the mountain’s significance to various cultures from prehistory, sites that can shed light on the collective history of all New Mexicans. Consistent with the district court’s finding that the Committee applied the federal criteria in evaluating Mount Taylor’s cultural and historical significance, we hold that substantial evidence supports the Committee’s findings on Mount Taylor’s historic eligibility, making it unnecessary for the Committee to evaluate the listing under the additional requirements of 36 C.F.R. Section 60.4.

{47} Third, the Rayellen parties argue that the Mount Taylor listing is defective because the property listed on the emergency petition is different from the property in the permanent





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petition, in violation of the plain language of NMSA 1978, Section 18-6-12.

{48} Section 18-6-12 states that

[a] cultural property which the [C]ommittee thinks may be worthy of preservation may be included on the official register on a temporary basis for not more than one year, during which time the [C]ommittee shall investigate the property and make a determination as to whether it may be permanently placed on the official register.

{49} While Section 18-6-12 refers to “a cultural property” in the singular, nothing in the plain language of the statute requires that the property remain unchanged from the emergency to the permanent designation. Rather, the year between listings affords the Committee time to “investigate the property,” during which time the boundaries of a proposed site could justifiably change, as occurred here. In this case, the Nominating Tribes explained the shift in the site’s outer boundaries from one based on elevation to one based on topography, and the Committee explained that the nomination was being revised as privately held lands were identified and excluded from the listing. For this Court to adopt the narrow interpretation advanced by the Rayellen parties would deny the Committee any discretion to investigate and fine-tune boundaries between an emergency and a permanent listing, rendering the investigation language a nullity and contradicting the overall intent of Section 18-6-12.

{50} Fourth, the Rayellen parties argue that the permanent listing violates due process because of several issues relating to the public comment period: (1) the Rayellen parties were not provided sufficient time to review the revised permanent nomination, which was available to the public only twenty-three days before the May 15, 2009, hearing, (2) the Nominating Tribes’ permanent application was constantly changing as noncontributing properties were identified and excluded, (3) the Committee imposed unfair restrictions on public comment at the May 15, 2009, hearing by limiting speakers to two minutes each while the Nominating Tribes were allowed seventy-five minutes to speak, and (4) the public was not allowed to comment on any revisions submitted after the May 20, 2009, deadline for written public comments before the June 5, 2009, vote. Similar to the Rayellen parties’ due process challenge on personal notice, each of these challenges is premised on the Committee’s action being an adjudication under *Uhdén*, 1991-NMSC-089, ¶¶ 7, 10, for which increased due process protections apply.

{51} As we have already stated, “[d]ue process does not require the same form of notice in all contexts; instead, the notice should be ‘appropriate to the nature of the case.’” *Maso*, 2004-NMSC-028, ¶ 10 (citation omitted); see also *Pamela A.G. v. Pamela R.D.G.*, 2006-NMSC-019, ¶ 12, 139 N.M. 459, 134 P.3d 746 (“The amount of process due depends on the particular circumstances of each case because procedural due process is a flexible right.”). Because the Committee’s review of Mount Taylor for listing was rule-making and not adjudication, the due process standards discussed in *Uhdén* did not apply. Rather, at issue



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here is whether the Committee provided a reasonable opportunity to be heard. *See TW Telecom of N.M.*, 2011-NMSC-029, ¶ 17 (“[T]he fundamental requirements of due process in an administrative context are reasonable notice and opportunity to be heard and present any claim or defense.” (emphasis omitted) (internal quotation marks and citation omitted)).

{52} Although “[n]otice should be more than a mere gesture[,] it should be reasonably calculated, depending upon the practicalities and peculiarities of the case, to apprise interested parties of the pending action and afford them an opportunity to present their case.” *Albuquerque Bernalillo Cnty. Water Util. Auth. v. N.M. Pub. Regulation Comm’n*, 2010-NMSC-013, ¶ 21, 148 N.M. 21, 229 P.3d 494 (rejecting the claim that the New Mexico Public Regulation Commission violated due process by changing the focus of an emergency rate increase hearing after notice was provided). “General notice of the issues to be presented at a hearing is sufficient to comport with due process requirements.” *Id.*

{53} In this case, the Committee mailed notices and advertised the May 15, 2009, hearing more than a month prior to the hearing, providing sufficient public notice that Mount Taylor’s permanent listing was under consideration. Technical detail such as the precise total acreage of excluded property was unnecessary for the Committee or the public in discussing whether Mount Taylor should be recognized as a cultural property.

{54} Similarly, the Committee gave the public sufficient opportunity to provide input by holding the May 15, 2009, hearing at which each member of the public was permitted to speak personally for two minutes and by giving everyone a further opportunity to submit even more extensive comments in writing in the days following the oral presentations. As we noted in *Cerrillos Gravel Products, Inc. v. Board of Commissioners of Santa Fe County*, 2005-NMSC-023, ¶ 28, 138 N.M. 126, 117 P.3d 932, “[i]n administrative proceedings due process is flexible in nature and may adhere to such requisite procedural protections as the particular situation demands.” (internal quotation marks and citation omitted). In *Cerrillos Gravel*, we suggested in dicta that a two-minute time limit on total input before an administrative body could possibly raise due process concerns. *Id.* ¶¶ 3, 28. Unlike the situation in *Cerrillos Gravel*, however, the Rayellen parties were permitted to supplement their oral presentations with written comments, and there is nothing in the record to suggest that they were unable to present all relevant input in one form or the other.

{55} Accordingly, we hold that the Committee provided adequate due process in apprising interested parties of the pending action and affording them an opportunity to present their input.

{56} Fifth, the Rayellen parties argue an issue on which the district court did not rule: that the listing should be reversed because the Committee never voted on the permanent nomination in its final form. At the June 5, 2009, meeting, the State Historic Preservation Officer merely gave a summary presentation on the Mount Taylor listing, which the Committee then passed by a unanimous voice vote. The Committee followed with its written final order on September 14, 2009. The Rayellen parties’ theory is that the Committee’s final



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order was a “post hoc rationalization” and that Committee members had to actually draft the final order prior to voting for it to be legally acceptable, relying on 4.10.3.14(E) NMAC (“At a regular meeting, no member of the [C]ommittee may participate in a final decision in any matter before the [C]ommittee unless he has heard the evidence or has been present for the discussion prior to such decision. Further, *such member must be present at said meeting for actual participation in the final decision . . .*” (emphasis as added by the Rayellen parties)).

{57} The plain language of 4.10.3.14(E) NMAC requires only that a Committee member hear the evidence or be present for the discussion prior to voting on a final decision. Nothing in the law requires the Committee to draft a final order prior to voting on that form of order. Accordingly, the Rayellen parties’ argument that the final order fails to reflect the Committee’s vote is without merit.

{58} Sixth, the Rayellen parties make another argument on which the district court did not rule: that the Committee’s final order incorrectly indicates a total of 434,767 acres instead of 344,828 acres of contributing lands and that the listing is therefore arbitrary and capricious. There is nothing in the record to suggest that the Committee’s failure to exclude nearly 90,000 acres of noncontributing property from the computed total acreage of the listing was anything but a clerical error. Although there is no specific rule on clerical mistakes for administrative agencies, our district court rules recognize that “[c]lerical mistakes in judgments, orders, or parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders.” Rule 1-060(A) NMRA; *accord State v. Hill*, 1918-NMSC-046, ¶ 2, 24 N.M. 344, 171 P. 790 (“Where the sense of an indictment is clear, nice or technical exceptions are not to be favorably regarded; therefore verbal inaccuracies, or clerical errors which are explained and corrected by necessary intendment from other parts of the indictment, are not fatal.”). Because the computational error on the total acreage is correctable and is neither fraudulent nor fatal to the overall intent of the order, we conclude that the Rayellen parties’ argument is without merit.

{59} Finally, the Rayellen parties argue that the listing violates constitutional protections against the establishment of religion based on *Lemon v. Kurtzman*, 403 U.S. 602 (1971), *adopted by this Court in Pruey v. Dep’t of Alcoholic Beverage Control of N.M.*, 1986-NMSC-018, ¶ 12, 104 N.M. 10, 715 P.2d 458, because the purpose of the listing is primarily and impermissibly religious.

{60} *Lemon* establishes that a government action is not violative of the Establishment Clause of the First Amendment to the United States Constitution if it passes a three-part test: “First, [the government action] must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; finally, the [government action] must not foster ‘an excessive government entanglement with religion.’” *Id.* at 612-13 (citation omitted). Here, a whole record review shows that (1) ample evidence exists for listing Mount Taylor as a historical site, including the area’s documented



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archaeological and cultural significance, (2) the primary effect of the listing is to promote historic preservation, not to advance religion, and (3) the listing does not foster excessive government entanglement in religion; the listing merely requires interagency consultation on acts that may have an adverse effect on the historic site. Accordingly, we hold that the Mount Taylor listing does not violate the Establishment Clause under *Lemon*, the same conclusion reached by the district court.

#### IV. CONCLUSION

{61} We reverse the district court in part by holding that the decision of the New Mexico Cultural Properties Review Committee to list Mount Taylor as a cultural property under the New Mexico Cultural Properties Act did not violate due process guarantees or statutory requirements on inspection, maintenance, and integrity. We affirm the district court in part in our holding that the Cebolleta Land Grant common lands are not state land for purposes of the Cultural Properties Act, in our rejection of claims that the listing violates protections against the establishment of religion, and in our rejection of other arguments raised in the Rayellen parties' cross-appeal. We remand the case to the district court with instructions to amend its judgment in conformity with this opinion.

{62} IT IS SO ORDERED.

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CHARLES W. DANIELS, Justice

WE CONCUR:

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PETRA JIMENEZ MAES, Chief Justice

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RICHARD C. BOSSON, Justice

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EDWARD L. CHÁVEZ, Justice

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BARBARA J. VIGIL, Justice

## A PUEBLO-BASED EDUCATIONAL CURRICULUM

### Lesson 2, Handout 6:

### Pathway to Mt. Taylor: A Traditional Cultural Property (TCP)

<p>The following text from a Supreme Court document provides a timeline of events leading to Mt. Taylor’s designation as a TCP. Read each section carefully to answer the questions in the right-hand column.</p>	<p><b>Guided Questions &amp; Your Response</b> (You may record your answers on a separate sheet)</p>
<p>A. Factual History and Administrative Proceedings</p> <p>{2} In February 2008, the United States Forest Service released a report determining that Mount Taylor was eligible for listing on the National Register of Historic Places as a traditional cultural property. The detailed report, written by two archaeologists who spent months working with several of the mountain’s surrounding tribal communities, documents the cultural and ethnographic history of Mount Taylor, which, at more than 11,000 feet, is the highest point in the San Mateo Mountains of New Mexico. The report chronicles the history of the mountain and its importance to various cultures, noting prehistoric archaeological sites predating 500 A.D. and rock inscriptions from Spanish settlers who may have passed through the area as early as 1540 with the historic Francisco Vasquez de Coronado expedition.</p>	<p>Mt. Taylor was first listed on a <i>National Register of Historic Places</i> in 2008 as an endangered site which required an extensive report of its significance.</p> <p>Q1: Who was involved in compiling the required report?</p> <p>Q2: What were the important aspects about Mt. Taylor that were included in this report?</p>
<p>{3} The report concludes that Mount Taylor satisfies three out of four possible criteria for National Register listing based on the mountain’s “significant contributions to the broad patterns of our history,” its association with “persons significant in our past,” and its past and potential future yield of information about our history. See 36 C.F.R. § 60.4 (2008) (providing the four “National Register criteria,” each of which qualifies a site for National Register listing). The report also concludes that Mount Taylor meets the overall “integrity” criterion for National Register listing because the property was, and still is, integral to the tribal communities’ practices, from</p>	<p>Q3: The US Forest Service Report concluded that Mt. Taylor met 3 out of 4 criteria to be eligible for listing on the National Register. What were they? What do you think is meant by “integrity” as used here?</p>



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<p>traditional gathering of plants and minerals to performing pilgrimages and ceremonies, noting that the mountain’s physical features that historically have attracted various cultures still exist today.</p>	
<p>{34} In connection with the federal listing, the Forest Service explained in its 2008 report that Mount Taylor met the federal integrity requirement in three respects—location, setting, and association—based primarily on the site’s ongoing relationship with traditional cultural practices and because the physical attributes of the mountain remain largely unchanged. The Nominating Tribes’ May 22, 2009, application for permanent listing of Mount Taylor in the New Mexico State Register of Cultural Properties supported the federal determination of an ongoing relationship, explaining that land-altering activities on the mountain and the exclusion of private property may “cause the Nominating Tribes to adjust some practices, such as the route that community members might follow while on pilgrimage . . . ,</p>	<p>Q4: Mt. Taylor is referred to as having an “on-going relationship with traditional cultural practices?” What is meant by this?</p>
<p>{5} Under the Cultural Properties Act, the Committee is allowed to approve an emergency listing “for not more than one year, during which time the [C]ommittee shall investigate the property and make a determination as to whether it may be permanently placed on the official register” of New Mexico cultural properties. Section 18-6-12. Once a property is listed, other state departments must consult the New Mexico historic preservation officer before taking any action “which may affect a registered cultural property. . . so as to preserve and protect, and to avoid or minimize adverse effects on, registered cultural properties.” Section 18-6-8.1. A consultation requirement also comes into effect when a property is deemed eligible for National Register listing, as in the Mount Taylor case in 2008 upon the release of the Forest Service report.</p>	<p>Q5: The Committee referred to in this section is the NM Cultural Properties Review Committee. What are their duties under the NM Cultural Properties Act?</p> <p>Q6: Once a property is listed as a NM cultural property what protection does it have?</p>
<p>{6} On February 22, 2008, eight days after the Nominating Tribes submitted the</p>	<p>Q7: In February, 2008, the Nominating tribes applied for an</p>



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<p>emergency application, the Committee approved a one-year temporary listing. Although the Nominating Tribes included the Forest Service report as supporting documentation for the emergency application, the state nomination was slightly different from the Forest Service Report. The Forest Service relied on topography, delineating boundaries of the traditional cultural property based on the mountain’s summit and its surrounding mesas, but the Nominating Tribes focused on elevation, drawing a demarcation line around the summit at 8,000 feet because, according to the Nominating Tribes, private landowners became more numerous below this elevation. The Nominating Tribes asked the Committee to recognize 422,840 acres consisting of federal land managed by the Forest Service and the Bureau of Land Management, Indian trust and Pueblo land, New Mexico state lands, and the Cebellota Land Grant common lands. The Nominating Tribes asked that any private land above 8,000 feet be identified and excluded from the listing. On June 14, 2008, following a public comment period, the Committee again approved the emergency listing of the specified property at the top of Mount Taylor.</p>	<p>emergency designation of Mt. Taylor as a cultural property. What important boundary information was included in the state nomination and why?</p>
<p>{7} On April 22, 2009, fourteen months after submitting their emergency petition, the Nominating Tribes nominated the same land on Mount Taylor for permanent listing under the Cultural Properties Act. In response, the Committee scheduled a public comment period that included a public hearing on May 15, 2009, the submission of written comments through May 20, 2009, and a final vote on June 5, 2009. As with the emergency petition, private land was explicitly excluded from the proposed listing as noncontributing, but the Nominating Tribes changed the listing’s outer boundaries to be consistent with the topographic boundary used by the Forest Service after agreeing that it better reflected the individual tribes’ shared use of the mountain.</p>	<p>Q8: What key events led to the permanent listing of Mt. Taylor as a TCP?</p> <p>Q9: What final TCP land boundaries were set for Mt. Taylor?</p>
<p>{8} At the close of the May 15, 2009, hearing, the</p>	<p>Q10: What do you think is meant</p>



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<p>Committee asked the Nominating Tribes to revise the nomination and resubmit it by May 23, 2009, in order to include a gross acreage figure for both contributing and noncontributing properties, among other clarifications. The Committee asked private land owners to verify private property exclusions by submitting notarized copies of their property deeds to the Historic Preservation Department. On June 4, 2009, the Committee released an updated estimate on the proposed permanent listing, explaining that 434,767 acres of public land would be included and 89,939 acres of private land would be excluded as noncontributing. On June 5, 2009, the Committee voted unanimously to permanently list Mount Taylor as a cultural property on the state historic register, issuing a final order on September 14, 2009.</p>	<p>by the terms “contributing” and “non-contributing” properties to the Mt. Taylor TCP?</p> <p>Q11: What group of landowners were excluded from the boundaries set for the Mt. Taylor TCP?</p> <p>Q12: What was the land acreage designated as the Mt. Taylor TCP?</p>
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# A PUEBLO-BASED EDUCATIONAL CURRICULUM

## Lesson Plan Three

**Title:** Protecting Mt. Taylor: A Final Court Decision

**Duration:** Two 60-minute sessions

**Grade Level:** 9-12

### Lesson Objectives:

- Students will be able to identify different interest groups and analyze the opposing opinions regarding the protection of Mt. Taylor as a sacred site.
- Students will trace the path leading to the NM Supreme Court case upholding the designation of Mt. Taylor as a Traditional Cultural Property.
- Students will identify key arguments and final decisions by the New Mexico Supreme Court Opinion in *Rayellen Resources, Inc. v. New Mexico Cultural Properties Review*.
- Students will use a word bank of terms from previous lessons to create a description of Pueblo advocacy at work.

### Prerequisite Skills and Prior Knowledge:

- Students should be familiar with locating information from a variety of texts and documents, including newspaper op-ed pieces, website sources, resolutions, testimonies, court opinions, etc..
- Students should be able to work independently and collaboratively on joint projects and assignments.
- Some familiarity with the state court system in New Mexico.

### Guiding Questions:

- What competing opinions were represented among various groups for and against the designation of Mt. Taylor as a TCP?
- What collaborative advocacy did NM Pueblos and Tribes take to ensure that Mt. Taylor was designated a *Traditional Cultural Property* (TCP)?
- What were the arguments addressed in the New Mexico Supreme Court Opinion regarding the decision of the New Mexico Cultural Properties Review Committee?
- Who filed suit against the New Mexico Cultural Properties Review Committee? What was the outcome?
- What does a TCP designation for Mt. Taylor mean for NM Pueblos and Tribes?

### Materials and Resources:

- Lesson 3 Handout #1 Flow Chart Path to the New Mexico Supreme Court



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- Lesson 3 Handout #2 Worksheets. Supreme Court Opinion (Pp. 1-11). Source: *Rayellen Resources, Inc. v. New Mexico Cultural Properties Review Committee*, 2014-NMSC-006. Available at: <http://www.nmcompcomm.us/nmcases/nmsc/slips/SC33,497.pdf>
- Lesson 3 Handout #3 Worksheet Differing Opinions about Mt. Taylor
- Lesson 3 Handout #4 Newspaper article: “A Radioactive Struggle” written by V.B. Price in *The New Mexico Independent*. (July 2, 2008).
- Lesson 3 Handout #5 Article. Mt. Taylor A Sacred Site. (Can also be downloaded from [www.manataka.org/page2469.html](http://www.manataka.org/page2469.html) )
- Lesson 3 Handout #6 All Indian Pueblo Council Resolution 2007-12
- Lesson 3 Handout #7 Testimony of B.H. Nuvamsa, Chairman, Hopi Tribe to Cultural Properties Review Committee.
- Lesson 3 Handout #8 Ramah Navajo Community Position Statement on Tsoodzil To Be Designated as a Traditional Cultural Property.
- Lesson 3 Handout #9 Competing Interests in Mt. Taylor.
- Lesson 3 Handout #10 Program Celebrating Mt. Taylor as a Traditional Cultural Property (TCP).

**Core Values:** Respect , Love, Faith

### **Procedure:**

1. (2 min.) Introduce this lesson by going over **Handout #1 Flow Chart** with students. Working from the bottom up, draw students’ attention to the administrative process that was followed by the Pueblos and Tribes in nominating Mt. Taylor as a TCP. Draw attention to the fact that they worked together to obtain this designation, following the appropriate channels.
2. (5 min.) Next point out that certain parties were not pleased with the TCP designation approved by the NM Cultural Properties Review Committee. At this point in the chart, ask who they appealed this decision to? (The 5<sup>th</sup> District Court). The grieving parties (plaintiffs) are named on the left side of the flowchart. Ask students who they think these groups represented? Have them think back to the Parkus article in Lesson 2 for example. Note that the District Court ruled on 5 issues. These will be reviewed in more detail later on in the lesson. Ask students who was named in the suit as the defendant and who were parties that agreed to be included (intervenors) in the suit?
3. (5 min.) The next Court shown in the flow chart is the NM Court of Appeals. They determine whether a case should be referred to a higher court, namely the NM Supreme Court. The basis on which they ruled that this was necessary is mentioned briefly in the upper right hand side of the flow chart. Ask students what they think is meant by the phrase “an issue of substantial public interest.” Why would the case of Mt. Taylor designated as a TCP fit this description? Tell students that they will now examine some of the specific arguments in this case and how the Supreme Court ruled in the end.



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4. (30-45 min.) The next set of worksheets, **Lesson 3 Handout #2 Worksheets Supreme Court Opinion** follows each of the arguments and the final opinions of the Supreme Court in response to each. The texts are directly from the case: *Rayellen Resources, Inc. v. New Mexico Cultural Properties Review Committee*, 2014-NMSC-006. These are dense text excerpts that should be introduced first as a whole group activity using pages 1-2. Once this has been done, the remaining pages (Pp.3-11) can be assigned to pairs or groups of three to answer questions about the Supreme Court decision regarding this court case.
5. Note in the text, any unfamiliar words or phrases that students may not understand. Identify and define these words together in an on-going list that's available to the class as they work through the Supreme Court Opinion.
6. (3 min.) At the end of the session, congratulate students that they have worked through parts of an actual legal court document to find some important facts about how the Mt. Taylor TCP designation successfully prevailed in the end. Reiterate that the core values of love and respect for this site and the faith that was exercised by the people working together to protect Mt. Taylor was at the heart of their commitment and advocacy. Even in the face of lawsuits which threatened to overturn the TCP designation, they continued to work together to the end.

### Assessment:

1. Individual and/or team completion of Lesson 3 Handout #2 Worksheets Supreme Court Opinion (Pp. 1-11)

### Notes to the Teacher:

Based on the reading level of the students, this session may be broken further into two sessions in order to complete the Supreme Court Opinion worksheets.

### Second 60-minute session

### Procedure:

1. (10 min.) In this session, students will review some of the competing interest groups and their opinions regarding the designation of Mt. Taylor as a TCP. Have students read aloud each of the two opposing opinions included in **Lesson 3 Handout #3 Differing Opinions about Mt. Taylor**. Then have them work in pairs or small groups to answer the questions, making sure to draw their attention to the difference between fact and opinion and how erroneous assumptions can lead to misinformation and misunderstanding about important issues. Have students share and discuss their answers with the whole class.



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

2. (30-35 min.) Next, pass out copies of the following texts for students to read and discuss. These too are examples of statements and opinions written about Mt. Taylor. They will use **Lesson 3 Handout #9** to summarize and identify competing interest groups that have been mentioned in these and other articles, documents, or websites from previous lessons. Point out the different types of texts these represent such as: Opinion pieces, articles, formal organization resolutions, and testimonials submitted in formal public hearings.
  - Lesson 3 Handout #4 Newspaper article: “A Radioactive Struggle” written by V.B. Price in *The New Mexico Independent*. (July 2, 2008).
  - Lesson 3 Handout #5 Article. Mt. Taylor A Sacred Site. (Can also be downloaded from [www.manataka.org/page2469.html](http://www.manataka.org/page2469.html) )
  - Lesson 3 Handout #6 All Indian Pueblo Council Resolution 2007-12
  - Lesson 3 Handout #7 Testimony of B.H. Nuvamsa, Chairman, Hopi Tribe to Cultural Properties Review Committee.
  - Lesson 3 Handout #8 Ramah Navajo Community Position Statement on Tsoodzil To Be Designated as a Traditional Cultural Property.
3. (5 min.) Once students have completed these readings and the worksheet, Ask students to reflect on what the challenges were for this work. What was unique about this collaborative work? What did they achieve in the end?
4. (10 min.) To end this session, read aloud **Lesson 3 Handout #10 Program Celebrating Mt. Taylor as a TCP**. This 2014 event was a culminating celebration of seven years of advocacy work by New Mexico Pueblos and Tribes on behalf of Mt. Taylor. What key words would they choose from their word banks or journals that would best describe this collaborative advocacy work? How might they combine these words with a visual representation of this historic work for a possible culminating activity?

### Assessment:

1. Individual completions of **Lesson 3 Handout #3 Differing Opinions about Mt. Taylor**
2. Individual completion of **Lesson 3 Handout #9 Competing Interests in Mt. Taylor**
3. Individual completion of a mural or other visual representation of Pueblo Advocacy at Work in protecting Mt. Taylor, using cumulative bank of vocabulary from all three lessons in this unit and other relevant information.

### Modifications/Accommodations:

- Pair students needing assistance, with a designated reader for written information presented in hard copy.
- Pair student with a student needing assistance with reading or writing.



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- Provide dictation for students who are unable to write.
- Provide extra time to complete readings, hard copy handouts.
- Provide students a copy of today's vocabulary with definitions.

### Notes to Teacher:

While the documents provided in this lesson are not the only available resources on this topic, the teacher is encouraged to research additional resources as needed for lessons or to guide students in conducting this research themselves.

### Culminating Activity:

In the following poem, Acoma author and poet expresses the perspective of Acoma people in their belief that there is a sacred obligation to protect this mountain they call *Kaweeshtima* in their Native Keres language.

1. As students read this poem ask them to THINK about the visual landscape of Mt. Taylor and THINK about the relationship between Mt. Taylor and the Acoma people that Ortiz explains.
2. Have students identify line references in Ortiz' poem that describe Acoma's connection to Mt. Taylor. Why and how do they depend on this mountain for life?
3. What aspects of this relationship stand out most for the students? Have them SHARE their answers with the class. With members of their groups have them CREATE a visual picture illustrating these ideas in a mural or in some creative fashion while also using some of the key terms or specialized vocabulary they have learned as part of all three lessons on Mt. Taylor.

### We Have Been Told Many Things but We Know This to be True

1. The land. The people.
2. They are in relation to each other.
3. We are a family with each other.
4. The land has worked with us.
5. And the people have worked with it.
6. This is true:
7. Working for the land
8. and the people—it means life
9. And its continuity.
10. Working not just for the people,



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

11. but for the land too.
12. We are not alone in our life;
13. we cannot expect to be.
14. The land has given us our life,
15. and we must give back to it.
16. The land has worked for us
17. to give us life—
18. breathe and drink and eat from it
19. gratefully—
20. and we must work for it
21. to give it life.
22. With this relation of family,
23. it is possible to generate life.
24. This is the work involved.
25. Work is creative then.
26. It is what makes for reliance,
27. relying upon the relation of land and people.
28. The people and the land are reliant
29. upon each other.
30. This is the kind of self reliance
31. that has been—
32. before the liars, thieves, and killers—
33. and this is what we must continue
34. to work for.
35. By working in this manner,
36. for the sake of the land and people
37. to be in vital relation
38. with each other,
39. we will have life,
40. and it will continue.
41. We have been told many things,
42. but we know this to be true:
43. the land and the people. [Ortiz 1992b:324-325]

Have students think about the following quote:

*When all the trees have been cut down, when all the animals have been hunted, when all the waters are polluted, when all the air is unsafe to breathe, only then will you discover you cannot eat money. (Cree Prophecy)*

As students reflect on Ortiz' poem and this quote, have them discuss how outside development could endanger Mt Taylor. How could one be a "caretaker" of this mountain? Have them create a poster with members of their group that illustrates their ideas.

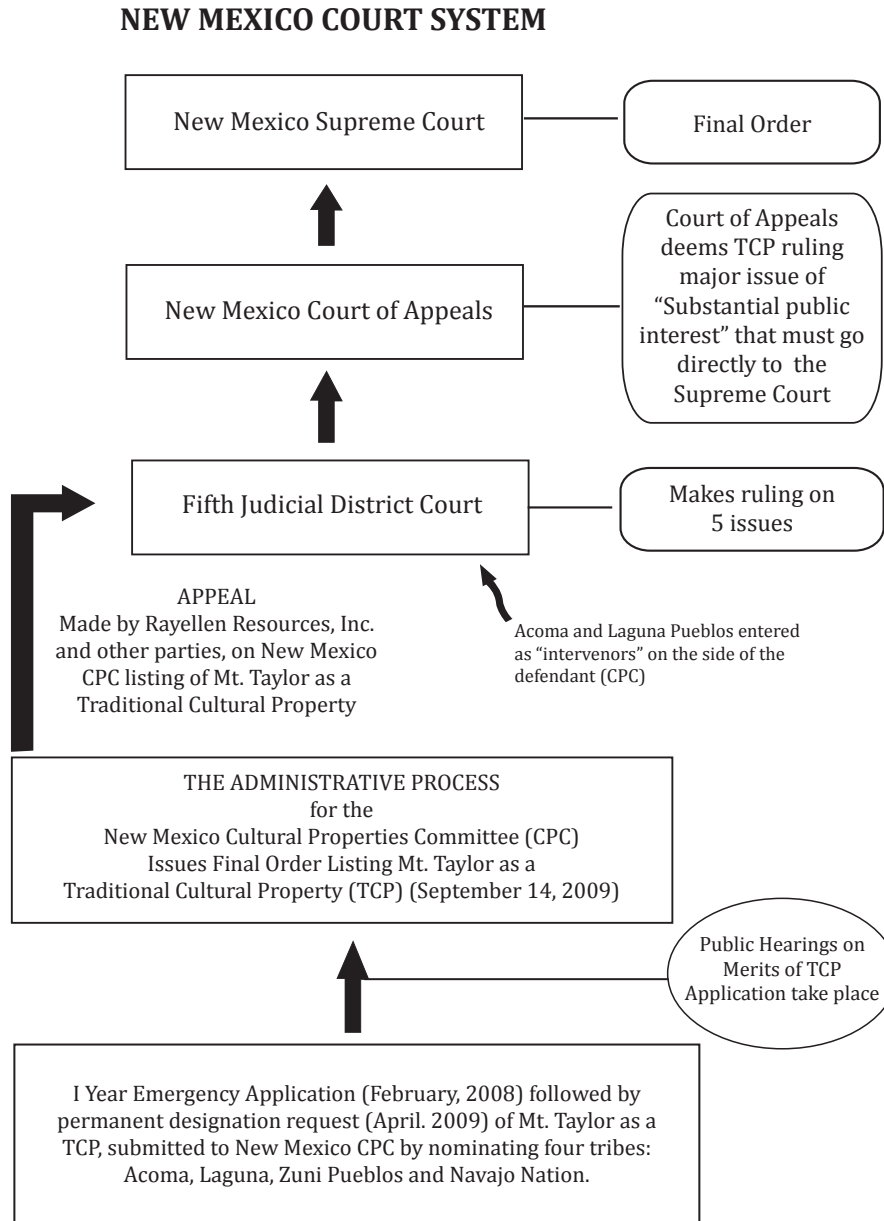
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# A PUEBLO-BASED EDUCATIONAL CURRICULUM

## Lesson 3, Handout 1:

Handout #1: Path to New Mexico Supreme Court



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

### Lesson 3, Handout 2:

#### Supreme Court Decision

<p>The following text comes from the New Mexico Supreme Court Opinion that made its final ruling in <i>Rayellen Resources, Inc. v. New Mexico Cultural Properties Review Committee</i>, 2014-NMSC-006. Read these excerpts to identify the arguments and the final decisions of the Supreme Court in this case.</p>	<p style="text-align: center;"><b>Guided Questions &amp; Your Response</b></p> <p style="text-align: center;">(You may record your answers on a separate sheet)</p>
<p>{28} Procedural due process is ultimately about fairness, ensuring that the public is notified about a proposed government action and afforded the opportunity to make its voice heard before that action takes effect. In this case, the Committee made extensive efforts to apprise the public about the Mount Taylor nomination by general publication and by going so far as to extend personal notice to hundreds of interested parties, including those private property owners it was able to identify within and around the proposed listing area. As the Rayellen parties acknowledge, the Committee succeeded in its goal to apprise the public based on the fact that every party to this appeal save one received actual notice.</p> <p>{29} Accordingly, we reverse the district court and hold that the Committee provided sufficient notice of the public comment period to satisfy due process guarantees.</p>	<p>Q1: The opposing side to the Mt. Taylor TCP are referred to as the Rayellen parties in this court case. What was their argument in {28}?</p> <p>Q2: What was the decision of the Supreme Court regarding this argument?</p>
<p>{30} The district court agreed with the Rayellen parties’ arguments that under the statutory language of the Cultural Properties Act, Mount Taylor is simply too large to be reasonably inspected and maintained and that “such a massive . . . area, whose acreage has yet to be correctly and finally defined . . . can not ‘possess integrity of location[]’ as set out as . . . criteria under federal guidelines followed by the [Committee].”</p> <p>{31} The Cultural Properties Act directs the Committee “to take such actions as are</p>	<p>Q3: A lower court, the district court, had agreed with the Rayellen parties concerning this argument about Mt. Taylor as a TCP. What was that argument {30}?</p>





## A PUEBLO-BASED EDUCATIONAL CURRICULUM

reasonable and consistent with law to identify cultural properties and to advise on the protection and preservation of those properties.” Section 18-6-5. One of the enumerated duties of the Committee in achieving this directive is to “inspect all registered cultural properties periodically to assure proper cultural or historical integrity and proper maintenance,” § 18-6-5(D), and, “based upon the inspection of a registered cultural property, recommend such repairs, maintenance and other measures as should be taken to maintain registered status,” § 18-6-5(E). Nothing in this statutory language sets a limit as to how large a listed property can be. Although this appears to be the first New Mexico listing of a large geographical area, other sizeable historic sites have been nominated, listed, or declared eligible for National Register listing, such as the San Francisco Peaks in Arizona, see Nat’l Register Bulletin 38 at 6; Tahquitz Canyon in California, see id. At 13, 17; and Kaho’olawe Island in Hawaii, see id. At 14, 17.<sup>2</sup> We see no reason, either in the text of the Act or in logic, why our state authorities are prohibited from listing a property simply because it is large.

{32} Nor does our review of the record indicate that the Mount Taylor listing, albeit large, is somehow incapable of inspection and maintenance. To the contrary, the Committee argues that eighty percent of the Mount Taylor listing is owned by federal agencies and the State Land Office, both of which have inspection programs that can fulfill the Act’s inspection mandate.

Q4: What was the counter argument cited by the Supreme Court in {31} and {32} ?



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

### Lesson 3, Handout 3:

#### Differing Opinions About Mt. Taylor

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What are the competing opinions in designating a mountain such as Mt. Taylor a Traditional Cultural Property? Read the two commentaries below that come from public posted online comments and discuss the questions below each.

##### Opinion 1:

I was at several of the hearings the Cultural Property Review Committee (CPRC) held on the Traditional Cultural Property (TCP) designation of Mount Taylor. I do not live in Grants and I am not in the uranium business. I do not own property on the mountain, nor do I hunt there. The decision has no direct connection to my life except for the fact that I am an American and I value the uniquely American way of life. I have worked all over the world—living as an ex-pat for the last 40 years. In my senior years, I wanted to return to my homeland. Sadly much of what has made America great in the past has been eroded—one piece at a time. This decision is one example of how America has been undergoing incremental change.

With that said, Director of New Mexico's Historic Preservation Division, Ms. Slick, and the entire CPRC have committed near treason for their un-American acts. They have given control of state and federal lands—which should be held in trust for all of us—to foreign sovereign powers on the basis of religious and cultural bias. She seems unaware that bureaucrats such as she are there to serve all the people. Also, she ignored the foundation set in the Mining Act.

Slick, a bureaucrat, and the CPRC, political appointments—both non-elected—have scrapped the notion of separation of church and state. The entire TCP is predicated on “religious” preference. The tribes claim the area has “spiritual” significance.

If the sacred locations are really the issue—not blocking development, it would be far more effective to designate the specific locations not the entire mountain. This would allow for all people to continue to use the mountain as they have in the past. With the TCP as it is written, Americans will have to go, hat in hand, to a foreign, sovereign power for permission to develop state and federal lands as well as the private land that are in the 400,000 acre TCP. The mere size of this area and the fact that it includes private land should alarm most Americans who believe their home and land rights are secure.

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## A PUEBLO-BASED EDUCATIONAL CURRICULUM

1. The writer of this opinion states s/he is an “ex-pat” who is not from the local county. What does this term mean? How does his/her status as an outsider seem to influence his opinions?
2. This writer states that the decision to list Mt. Taylor as a TCP is “un-American” and a “near treason” act. On what basis does the writer make his/her argument and what evidence does the writer provide to back up his/her opinion? Do you agree that this is an accurate description of the action the New Mexico Cultural Properties Review Committee took? Why or Why not?
3. What erroneous assumptions does this writer make about “religious” preference in the TCP designation? What did the New Mexico Supreme Court actually decide in this matter?
4. What overgeneralization did this writer make in stating that, “Americans will have to go, hat in hand, to a foreign, sovereign power for permission to develop state and federal lands...including private land that are in the 400,000 acre TCP?” What is *not* true about this statement? What is the actual process the TCP designation provides to surrounding Pueblos and tribes in matters regarding the Mt. Taylor TCP acreage?



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

### Opinion 2:

I think you may have missed the point. We as Native American people who are directly affected by the uranium companies who destroy the air, water, land we live on or nearby the mining companies never told people the mining uranium was dangerous. Many people have become sick and died over the uranium companies who do not seem to care about people and only care about the profits they will be making. They are making profits over the people who died from previous exposure to contamination from the uranium and many more people, which includes children, who are still suffering from the effects over uranium. Navajo people live practically right next door to those mines which have yet to be cleaned up, and the pueblo people who are downwind are still being affected today. Once the uranium contaminates the water, the water cannot be brought back to the pristine levels they once were. How do people survive in all that contamination? The problem is they don't. If money is the only issue you are thinking of, try living on these reservations and see what it does to you. Thousands of Native American Indians live on these reservations, these places are their homes. They have the right to live in a place that is not killing them. Tell me sir what would be your solution? Obviously you do not live near the uranium mines, maybe if you did you would not be so quick to judge. So please read up on the issues of mining and the effects the companies have done to Native American people and I hope you come away with a better understanding of what is really going on.

- 
1. The writer of this opinion makes a counter argument to the previous writer about the importance of designating Mt. Taylor as a TCP. What does this writer infer based on his statements about uranium mining in the area?
  2. For this writer, the health concerns of uranium mining are of high concern. Does he make an effective argument about the impact these types of activities will have in the Mt. Taylor area? Why or why not?
  3. In the final opinion that the NM Supreme Court issued upholding the decision that the NM Cultural Properties Review Committee made, there was never any direct mention of health concerns surrounding mining activities in the Mt. Taylor area. However, if you were able to link water or soil contamination to such activities, how might this also affect the cultural lifeway of nearby Pueblos and tribes, in addition to health concerns?
- 



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

### Lesson 3, Handout 4:

**Source:** The New Mexico Independent

#### **A radioactive struggle**

**By V.B. Price 07/02/2008**

Uranium and New Mexico seem like a good fit to some, and like a absolute horror show to others. The bloom is off the Uranium boom at the moment. And not everyone is crestfallen by any means.

The price of uranium has dropped by 50 percent over the last year, going from about \$120 a pound to only \$60 a pound last month, as speculations of speedy development of multi-billion dollar new nuclear power plants loses momentum. Sizable investments aren't forthcoming, waiting, perhaps, to see if nuclear advocate John McCain wins the presidency.

Uranium mining companies are scaling back their plans to open old mines near and on Native American lands in New Mexico. This gives Navajo, Pueblo, and other opponents of uranium mining a momentary breather in which to continue to strengthen their legal and moral opposition to uranium mining and the disastrous impacts it's had on the health of miners, their families, and Native American populations in general.

In the classic political equation that assesses who profits and who is burdened by public policies, Native Americans have been burdened beyond bearing, and profited almost not at all, except for wage labor, from the nuclear age. In all the talk about so-called "green" nuclear energy and its potential role in battling global warming, no mention is ever made of the physical, social, and cultural costs to those who mine nuclear power's basic material.

The recent cries of unfairness and economic shortsightedness directed at the New Mexico Cultural Properties Review Committee when it designated, on an emergency basis for one year, much of Mt. Taylor, west of Albuquerque, as a protected Traditional Cultural Property, came mostly from mining interests.

The Navajo Nation, Acoma, Laguna, Zuni and Hopi pueblos, along with the Sierra Club, backed the designation and have supported it vigorously, maintaining that it strikes a balance between historic preservation and economic development. For them, the decision is a reprieve from uranium mining exploration.

There seems to be no end to the insults and burdens born by Native Americans for other people's profits.



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

Uranium has plagued New Mexico tribes since the Cold War. In the recent uranium boom last year, Navajos at Crownpoint and Church Rock have opposed “in situ leaching” of uranium from the only drinking water supply of more than 15,000 people, fearing the water will become contaminated as it has in similar situations in Wyoming.

In 1979, the worst radioactive accident in American history occurred near Gallup at the United Uranium Church Rock tailing pond when the dam broke sending some 93 million gallons of radioactive waste down the Rio Puerco with such force that it popped manhole covers in Gallup. Navajos maintain that widespread cancer and other illnesses followed the spill.

Navajos, Lagunas and Acomas have had been burdened by over 1,200 abandoned uranium mines and their toxic, cancer-causing tailings west of Albuquerque for the better part of 50 years. Native American miners and their families continue to suffer terrible health problems from exposure to radon, radium and heavy metals in tailings. The Navajo Nation went so far as to ban all uranium mining on its lands in 2005, though mining companies are contesting in court the tribe’s right to do so.

The uranium boom ended in the 1980s, and bottomed out in 2001 when the price of processed uranium yellowcake was \$7 dollars a pound.

The designation of Mt. Taylor as a traditional cultural property comes five years after Zuni Pueblo won a long and costly struggle against an Arizona power company that proposed opening a coal mine near Fence Lake. Zuni feared the mining would damage the aquifer that feeds nearby Zuni Salt Lake, among the most sacred sites in the Pueblo world.

The power company backed off when the New Mexico Congressional delegation supported the Zuni position, belatedly but effectively.

The Pueblo of Acoma was not so fortunate in its lengthy and exhausting effort to keep ownership of the volcanic Malpais near its Sky City. When El Malpais National Monument, all 114,277 acres of it, was taken from Acoma Pueblo by an act of Congress in a outright land grab to help the busted uranium economy of Grants in 1987, it was over lengthy, serious and well argued Acoma objections, based in large part on religious grounds. A land swap was offered, but the Acomas refused, not wanting to be muscled out of their own land with its sacred sites.

The entire Native American world in New Mexico opposed the highway extension of Paseo del Norte through the Petroglyph National Monument which is looked upon as a vast religious shrine by tribal peoples. Despite their strenuous opposition, they lost their battle when the road opened in 2007.



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

When mining companies and others complain about the Mt. Taylor decision on the grounds of fairness, they seem to have a mental block about the vast environmental injustices suffered by New Mexico's tribes. If the "market place" is truly competitive, why shouldn't Native Americans do everything in their power fighting to retain the land in which their history, culture, and livelihood is rooted?



# A PUEBLO-BASED EDUCATIONAL CURRICULUM

## Lesson 3, Handout 5:

Mount Taylor: A Sacred Site

<http://www.manataka.org/page2469.html>

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### SACRED SITES:



## Mount Taylor

**America's Most Endangered Historic Places.**

Mount Taylor is *Tsoodzil*, the turquoise mountain, one of the four sacred mountains marking the cardinal

directions and the boundaries of the Dintah (Navajo) the traditional homeland of the Navajo tribe.

Mount Taylor marks the southern boundary, and is associated with the direction south and the color blue; it is gendered female. In Navajo mythology, First Man created the sacred mountains from soil from the Fourth World, together with sacred matter, as replicas of mountains from that world. He fastened Mount Taylor to the earth with a stone knife.

The supernatural beings Black God, Turquoise Boy, and Turquoise Girl are said to reside on the mountain. Mount Taylor is sacred to the Acoma, Laguna, Zuni and Hopi tribes.

The National Trust for Historic Preservation lists Mt. Taylor as the one of the ten most endangered historic sites in America. Mount Taylor gets named to the National Trust for Historic Preservation's **America's Most Endangered Historic Places.**

This year there's a good chance Mount Taylor, one of New Mexico's most imposing and mysterious mountains, will be returned to the spiritual care of the pueblos of Acoma, Laguna, and Zuni; the Hopi Tribe and the Navajo Nation; and, by extension, the rest of New Mexico's Native American community.





## A PUEBLO-BASED EDUCATIONAL CURRICULUM

This does not mean that Mount Taylor would be closed to the rest of us, or to property owners on the mountain. It does mean, though, that the mountain would be respected as a sacred realm by New Mexico law.

And that's as it should be. Mount Taylor is a holy place of pilgrimage for Pueblo and Navajo people and has been since long before written history. It is theirs by right of tradition. It is as spiritually important to them as the shrines of any religion are to those who worship and believe.

Mount Taylor has been shamefully expropriated in the past, particularly during the Cold War when uranium mining dominated government thinking.

Last June, in a 4-2 decision, the state's Cultural Properties Review Committee granted an emergency one-year listing to Mount Taylor above 8,000 feet as a Traditional Cultural Property.

This June the four Pueblos and the Navajo Nation will seek to make that status permanent.

The Cultural Properties Review Committee took a brave stand. In confronting heated economic arguments, it privileged deep cultural values and religious meanings over short-term economic gain.

The "emergency" that the tribes were trying to avert was another period of deadly pollution, cultural disrespect, and general destruction that would come to the Mount Taylor sanctuary with a new uranium boom in the Grants Mineral Belt where Mount Taylor is situated.

The emergency designation was met with fierce opposition. The Cibola County Commission voted 4-1 against the designation in April 2008. That meeting has been described as "very heated," "sometimes racially charged ... attended by hundreds of people." The [Traditional Cultural Property designation](#) will require "mining interests to obtain a standard permit and a full review by the state Historic Preservation Division before exploratory drilling can begin."

In June 2007, the All Indian Pueblo Council passed a resolution calling for the protection of sacred sites on the mountain, "deploring" drilling and exploration permitted by the New Mexico Energy, Minerals and Natural Resources Department without consulting the state's 19 pueblos and other affected tribes.

After decades of open-pit uranium mining in the area around Acoma and Laguna pueblos and the town of Grants — decades spent of dealing with diseases associated with tailings; water discharges; and mine holes, most of which remain unmonitored and open to the



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

winds — the pueblos had had enough.

And Acoma Pueblo had had enough as well, I'm sure. It was the victim of outright land theft some 30 years ago by the federal government, which created the Malpais National Monument out of Acoma land to benefit the slumping economy of Grants when the uranium boom petered out in the early 1980s.

When the pueblos and Navajos [petitioned the state Historic Preservation Officer](#), Katherine Slick, for emergency traditional cultural property status, they wrote that "this emergency listing is necessary to give the nominating Tribes the ability to fulfill their sacred duty to protect the ... mountain and the people."

Eons before the mountain was named for president Zachary Taylor, it was known to the Acoma as Kaweshtima, to the Hopi as Tsiipiya, to the Zuni as Dwankwi Kyabachu Yalanne, and to the Navajo Nation as Tsoodzil.

In their petition, the tribes argued that "without a listing, it is impossible for them to protect vital cultural and natural resources." They said that federal and state agencies issue mining permits on small parcels of land without consulting them. "Without notice there can be horrible consequences. This has already happened." One permit was issued without notification at the site of "a reburial pursuant to the Native American Graves Protection and Repatriation Act."

The tribes said that exploratory mining and drilling causes greater harm to the land than it seems, by constructing roads for drilling equipment and the construction of the exploratory sites themselves. This work disturbs surface soil and various plant species used medicinally and for ritual purposes. "For many plant species growing in the wild, restoration is not an option," the tribes said.

The tribes also contended that the "last mining boom brought disastrous consequences to the pueblos of Acoma and Laguna."

Along with uranium sickness and death, the population boom at the time caused the pueblos to suffer "the contamination of their farmlands in the Rio San Jose Valley due to inadequate infrastructure in the city of Grants. Raw sewage contaminated the land and the major water storage facility on the river for Acoma and Laguna, Acomita Lake. It took a major lawsuit and several years of work to make the river, its associated aquatic resources, land and reservoir usable again."

If the Traditional Cultural Property listing is made permanent this year, it will give all New Mexicans a boost in public confidence. There are things more important than money in this world, life itself



# A PUEBLO-BASED EDUCATIONAL CURRICULUM

Mount Taylor: A Sacred Site

<http://www.manataka.org/page2469.html>

for one, and what makes life both bearable and meaningful — the spiritual reality of our connectedness to the land and to each other.

**Sources:**

<http://www.preservationnation.org/travel-and-sites/sites/southwest-region/mount-taylor.html>

<http://newmexicoindependent.com/18977/mount-taylors-spiritual-and-cultural-value-merit-new-protection>

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# A PUEBLO-BASED EDUCATIONAL CURRICULUM

## Lesson 3, Handout 6:



ALL INDIAN PUEBLO COUNCIL Office of the Chairman

Joe Garcia, Chairman Amadeo Shije, Vice Chairman John Gonzales Secretary/ Treasurer

### ALL INDIAN PUEBLO COUNCIL RESOLUTION 2007 - 12

**TITLE: COMPANION RESOLUTION FOR THE PROTECTION OF MT. TAYLOR AND ALL SACRED SITES AND CULTURAL PROPERTIES RELATED TO THE PUEBLOS OF ACOMA AND LAGUNA. AND THE NINETEEN PUEBLOS OF NEW MEXICO**

**WHEREAS,** the All Indian Pueblo Council (AIPC) is comprised of the nineteen Pueblos of New Mexico including the Pueblos of Acoma, Cochiti, Isleta, Jemez, Laguna, Nambe, Ohkay Owingeh, Picuris, Pojoaque, San Felipe, San Ildefonso, Sandia, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Zia and Zuni; and

**WHEREAS,** Indian tribes possess inherent government authority and sovereignty over their reservation lands; and

**WHEREAS,** this resolution should be read in tandem with All Indian Pueblo Council Resolution No. 2006-19; and

**WHEREAS,** Governor Bill Richardson has declared 2007 to be the Year of Water in New Mexico and has acknowledged the Pueblo of Acoma and her sister Pueblos as one of the oldest water managers in the region with an expansive knowledge of the hydrologic cycle in the Rio San Jose watershed; and

**WHEREAS,** Governor Bill Richardson further recognized that the knowledge and traditional cultural practices of each Pueblo within its respective watershed has enabled the continued survival of each Pueblo through the centuries in their respective homelands; and

**WHEREAS,** Governor Bill Richardson has directed the New Mexico Environment Department, the Energy, Minerals and Natural Resources Department, and the Office of the State Engineer, among others, to consult with the Pueblo of Acoma and other affected tribes regarding major state actions with the potential to impact the cultural, social and physical concerns of tribes in New Mexico. *Executive Order No. 2005-003 Statewide Tribal Consultation Policy on the Protection of Sacred Places and Repatriation;*

2401 12<sup>th</sup> Street NW Albuquerque, New Mexico 87104  
Telephone: 505 881-1992 Fax 505 883-7682 www.19pueblos.org

## A PUEBLO-BASED EDUCATIONAL CURRICULUM

- WHEREAS,** the New Mexico Energy, Minerals and Natural Resources Department has failed to meaningfully consult with all affected Tribes on uranium exploration permits in the Mt. Taylor region; and
- WHEREAS,** the New Mexico Energy, Minerals and Natural Resources Department has *not* performed an environmental analysis of the significant, permanent and irreparable damage to the regional hydrologic balance, drinking water sources, and cultural resources which will result from the issuance of uranium exploration permits in the Mt. Taylor District; and
- WHEREAS,** the New Mexico Energy, Minerals and Natural Resources Department was obligated to meaningfully consult with all affected tribes under Executive Order 2005-003; and
- WHEREAS,** by failing to consult with the nineteen Pueblos and other affected tribes on uranium and coal mining developments around Mt. Taylor, the cultural significance of the mountain to the affected tribes and resulting disproportionate impact to Native American cultures was not adequately documented and as a result, no attempts to mitigate the adverse effects of the exploration and other mining activities through a Memorandum of Agreement with the affected tribes was undertaken; and
- WHEREAS,** Governor Bill Richardson issued Executive Order 2005-056 to afford all residents of New Mexico meaningful involvement in the development, implementation and enforcement of environmental laws, regulation and policies under environmental justice principles ensuring that low-income communities of color would have a voice in these decisions; and
- WHEREAS,** the cultural rights of tribes to lands traditionally used for subsistence and cultural activities from time immemorial should be protected under religious freedom and environmental justice principles, and
- WHEREAS,** the United States Mining Law of 1872 is an unjust and outdated law that sacrifices indigenous cultures and their sacred sites to environmentally and culturally destructive mining companies, and
- WHEREAS,** the drilling of exploration wells throughout the watersheds of Mt. Taylor violates the religious freedom of the First Nations of the Southwest, including the Hopi Tribe, the Navajo Nation and Jicarilla Apache Tribe, who hold the Mt. Taylor region and source water originating therefrom sacred and indispensable to their traditional cultural practices.

2401 12<sup>th</sup> Street NW Albuquerque, New Mexico 87104  
Telephone: 505 881-1992 Fax 505 883-7682 [www.19pueblos.org](http://www.19pueblos.org)



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

**WHEREAS,** significant and irreparable cultural and religious damages have resulted from exploratory drilling and the failure of the New Mexico Energy, Minerals and Natural Resources Department to consult with Acoma, the nineteen Pueblos, and other affected tribes prior to issuance of Roca Honda Exploration Project, Permit No. MK014EM and La Jara Mesa Exploration Project, Permit No. C1008EM

**NOW THEREFORE BE IT RESOLVED,** the nineteen Pueblos support Acoma's demand for consultation with all regulatory agencies to determine probable impacts to regional groundwater, the La Jara and San Mateo Creek drainage areas, and cultural properties within the Acoma Cultural Province resulting from exploratory drilling; and

**NOW, THEREFORE BE IT RESOLVED THAT,** the All Indian Pueblo Council urges the appropriate federal and state agencies seek Congressional authorization to declare the land around Mt. Taylor, within the Acoma Cultural Province, unsuitable for mining activities due to its widespread cultural significance as a sacred site by all regional Tribes, including the nineteen Pueblos and the unique value of the area's hydrologic resources to northwestern New Mexico; and

**BE IT FURTHER RESOLVED THAT,** the All Indian Pueblo Council requests the Nuclear Regulatory Commission, the United States Forest Service, the New Mexico Environment Department, the Energy, Minerals and Natural Resources Department, the Office of the State Engineer and others to incorporate these concerns into its environmental assessment of adverse effects to traditional cultural properties and regional water resources triggering the need for an environmental impact statement to examine these significant impacts, and

**BE IT FINALLY RESOLVED THAT** AIPC does hereby advocate for changes to the 1872 Mining Law to recognize and protect sites sacred to indigenous communities throughout the United States and its territories, as well as environmental health and the well-being of all affected communities.

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# A PUEBLO-BASED EDUCATIONAL CURRICULUM

## CERTIFICATION:

I, Chairman of the All Indian Pueblo Council, hereby certify that the foregoing Resolution 2007-12

was considered and adopted at a duly called council meeting held on the 21 day of June, 2007, and at which time a quorum was present and the same was approved by a vote of 13 in favor, 0 opposed, 0 abstained and 0 absent.

ALL INDIAN PUEBLO COUNCIL

*/s/ Amadeo Shije for,*

\_\_\_\_\_  
Joseph A. Garcia, Chairman

## ATTEST:

*/s/ John Gonzales*

\_\_\_\_\_  
John Gonzales, Secretary/Treasurer

2401 12<sup>th</sup> Street NW Albuquerque, New Mexico 87104  
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## A PUEBLO-BASED EDUCATIONAL CURRICULUM

### Lesson 3, Handout 7:

Testimony of Benjamin H. Nuvamsa, Chairman, The Hopi Tribe  
to the Cultural Properties Review Committee of the State of New Mexico  
as Petitioner at the Re-hearing for the Emergency Listing of Mount Taylor,  
on the State of New Mexico Register of Historic Places  
June 14, 2008, Grants, New Mexico

*Loima.* Good afternoon. My name is Benjamin H. Nuvamsa, I am a member of the Bear Clan from the Village of *Songoopavi* on the Hopi Indian Reservation. I am Chairman of the Hopi Tribe. On behalf of the Hopi people, it is my responsibility to be here today to express the Hopi tribal government's and *Hopi'sinmuy*, or Hopi people's support as Petitioner for the Emergency Listing of Mount Taylor, *Tsiipiya*, on the State of New Mexico Register of Historic Places.

Hopi people emerged into this World at the Grand Canyon. With our emergence, *Hopi'sinom* entered into a sacred Covenant with the Earth Guardian in which it is our responsibility to be preservers and protectors, or Stewards of the Earth. In accordance with that Covenant, some of our ancestors' clans migrated to and settled on the lands around Mount Taylor, and then migrated to Hopi.

These lands are part of our ancestral lands. Mount Taylor is a Traditional Cultural Property of the Hopi Tribe. Hopi people were part of New Mexico before there was an Arizona. Hopi people were part of New Mexico before there was a New Mexico, inhabiting places such as Aztec, Chaco, Santa Fe, and literally thousands of other settlements.

These lands contain the testimony of our ancestors' stewardship through thousands of years, manifested in the prehistoric ruins, the rock "art" and artifacts, and the human remains of our ancestors, *Hisat'sinom*, People of Long Ago, who continue to inhabit them. *Hopi'sinom* returned to *Tsiipiya* on pilgrimages since time immemorial and continue to do so today. *Hopi'sinom* and *Tsiipiya* are inseparable.





## A PUEBLO-BASED EDUCATIONAL CURRICULUM

We, the *Hopi'sinom*, tell our history through our songs, ceremonies and oral traditions. Mount Taylor is known and remembered in our songs, Mount Taylor is known and remembered in our ceremonies, and Mount Taylor is known and remembered in our shrines.

As I stated in the Hopi Tribe's February 7, 2008, letter supporting this Petition, the Hopi Tribe has long recommended that Mount Taylor be considered a significant natural and cultural landscape that comprises part of the human environment important to the Hopi Tribe.

The Hopi Tribe has provided documentation to the Committee in our Petition establishing cultural associations with Mount Taylor, and demonstrating that 28 Hopi deities and other religious personages, 36 Hopi clans, and a number of Hopi religious societies have close cultural connections with Mount Taylor.

The Hopi Tribe has also long recognized that Mount Taylor has great cultural significance to the Acoma, Laguna, Zuni, and Navajo tribes, as well as other Native Americans and Americans.

*Pa'a'uwaqatsi*. Water is life. For over a thousand years, the springs and waters of *Tsiipiya* have provided life to *Hopi'sinom* and other people, including all the people in this room today. The springs and waters, farms and people are threatened now. In the near future, water will be realized to be more valuable than oil.

The legacy of past unimpeded development has left wounds on our land, our water, and our people. These are not scars, for they have not healed. The wounds of unimpeded development left are continuing to infect the lives of our villages and people.

The archaic laws used to "discover," "claim," and "take" Native Americans' lands continues today as a policy of disregard and disrespect toward the beliefs and sacred ties that Hopi and other Native people have with the Earth. The legacy of unimpeded development has devastated the people and the land, and these laws and policies without tribal consultation or public participation continue to destroy the land and lives of *Hopi'sinom*, Native Americans, and Americans alike.

*Koyaanis'qatsi*, told in Hopi history and prophesy, is life out of balance, or a state of life that calls for another way of living. This state of life characterizes the risks we face together in modern times. If Americans are to live together in America in the 21<sup>st</sup> Century, we must call together for another way of living. The laws of the past that are now being used against all American people must be consigned to the past, and replaced with laws that support life, and not destruction and death.



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

The Hopi Tribe did not send a representative to the February 2008 hearing on this Petition since we assumed the Committee would take the action you took. As today is an important ceremonial day at Acoma, Laguna, and several of our Hopi villages, February is an important ceremonial time at Hopi. However, even in Arizona, we have heard the discord resulting from a public notice issue regarding the February hearing.

Therefore, I am here today at this rehearing to reassure the Committee that your decision is the right decision, and regardless of any misunderstanding of what this emergency listing means, there is no reason for you to take any other action than to reaffirm your decision.

We look forward to working with the tribes in the Mount Taylor area, including the Acoma, Laguna, Zuni Pueblos, the Navajo Nation and others to continue this collective effort to protect and preserve *Tsiijiya*, for future generations of *Hopi'sinom*, Americans, and all the people and living things of the Earth. As the Hopi foundation says, "Our destiny together is a matter of choice, since we are the community we make."

*Hopi'sinom* say, "We're not just farming, we're growing children." This is why it is my responsibility as well as my pleasure to be here today: to express the Hopi Tribe and the *Hopi'sinmuy* support the Emergency Listing of Mount Taylor, *Tsiijiya*, on the State of New Mexico Register of Historic Places. The emergency listing of Mount Taylor will enable us and our partner petitioners to complete the nomination for the permanent listing of Mount Taylor on the State Register. *Kwak'wha*. Thank you.



# A PUEBLO-BASED EDUCATIONAL CURRICULUM

## Lesson 3, Handout 8:

### RAMAH NAVAJO COMMUNITY POSITION STATEMENT ON TSOODZII TO BE DESIGNATED AS A TRADITIONAL CULTURAL PROPERTY

JUNE 14, 2008

The Ramah Navajo Community is in support of emergency, and ultimately permanent, designation of Mt. Taylor, which our people call Tsoodził, as a Traditional Cultural Property by the New Mexico Historic Preservation's Cultural Properties Review Committee. We want to thank the Review Committee for reopening the public comment process and for giving us the opportunity today to contribute our thoughts on this critically important issue.

For us, the term, "traditional cultural property" is inadequate in describing our historic and deep relationship with Mother Earth and especially with special places like Tsoodził, one of our most sacred mountains. Our elders talk about Mother Earth as indigenous land--land that no one really has claim to or owns, but for which all peoples have a responsibility to honor, respect and protect throughout their lifetime.

We live with Mother Earth in our hearts each and every day. We hold Tsoodził and other places of special significance to us close to our hearts. Tsoodził is one of the Diné four sacred mountains and is associated with the south direction. It is a very holy place for us--an essential part of our homeland, our existence and distinctive identity as Diné and Ramah Navajo people, and our well-being, and that of all peoples, into the future.

Our elders and medicine people tell us that, according to Diné traditional oral history, our ties to Tsoodził go back to the time of creation when the Fundamental Laws of the Diné people were formed to establish the foundation for our relationships with Mother Earth and for maintaining balance and harmony in our lives. At that time, the four sacred mountains, including Tsoodził, the holy mountain of the South, were created, along with over twelve other mountains, peaks and natural features, to define the boundaries of our sacred Diné cultural homeland. These sacred mountains were placed for the Diné to use as guides for survival and for bringing us our wisdom, strength and well-being. This relationship with Tsoodził and the other sacred mountains, passed down from generation to generation in our families, remains a strong bond to this day.

Our traditional oral history also recounts significant historical events which occurred at Tsoodził and relate to our origins, our cultural traditions, our teachings, and our values. Our stories of emergence, for example, tell of how the Holy People made their home at Tsoodził and named the sacred mountains; how the Hero Twins struggled, endured and overcame the many hardships and challenges put before them; and how they battled with the monsters who were intent on destroying the world. And from these and many other stories have come our most precious teachings that connect us to the unique traditional historical relationships that mark how we came into being, as well as the prayers and songs that form the basis of our healing ceremonies and rituals.

In our world view, everything in life is interrelated. Our traditional lifeways, resources and practices were all put in place from the beginning of our history as an integral whole. Thus, originating from Tsoodził come



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

- ❖ the very elements of life that make up our natural world;
- ❖ our stories, songs and prayers that guide our survival;
- ❖ our teachings that relate to each generation how to live life in a good way;
- ❖ our traditional medicines, wild foods, herbal plants and minerals that we use in our daily lives;
- ❖ our forests where trees that are culturally significant to us and important wild animals live;
- ❖ our sacred water and the life-giving sources for moisture--the rain and the snow--that replenish Mother Earth; and
- ❖ the special places for prayers, offerings, ceremonies, and healing that maintain and restore balance and harmony in life.

When used with respect in accordance with the Fundamental Laws of the Diné people, the special cultural landscape of Tsoodzil, linked to all the other mountains sacred to us, teaches us our history and how to effectively provide for ourselves. Tsoodzil gives us the foundation for our values, our actions, and our existence as Diné and Ramah Navajo people for generations to come. Its sacredness is like that of a church and our country's flag. And because Tsoodzil holds within it our unique stories and history, it can teach and nurture a broader understanding among all peoples of the indigenous world view, and of respect and reverence for the natural world.

Our medicine people tell us that destruction is not part of our Fundamental Laws and our teachings. They have seen some of our sacred places disturbed or destroyed and how the spirit of these lands is now no longer there. They caution that such disrespect and destruction will lead to imbalances and disharmony, with negative consequences that affect all who inhabit the Earth.

Our history, our traditions and our lifeways are all spiritually tied to Tsoodzil and all the other places we hold sacred. Unimpeded development can do harm to our sacred lands and threaten their integrity, undermining the spiritual foundation of our lives. For this reason, we ask that Tsoodzil be kept in its natural state. We also ask that a proper consultation process be put in place to consider the appropriateness of proposed developments--one that is respectful of and honors the government-to-government relationships that are established with tribes and tribal communities, like ours, as sovereign entities.

Our elders and medicine people have reiterated many, many times that continued infringement on lands sacred and irreplaceable to us and other Native peoples constitutes cultural genocide and cannot be condoned. That is why we are here today to present our views and to ask that they be respectfully considered in the decision on the emergency nomination of Tsoodzil/Mt. Taylor as a Traditional Cultural Property.

Ahéheé/thank you.



## A PUEBLO-BASED EDUCATIONAL CURRICULUM

### Lesson 3, Handout 9:

Use the following chart to identify the competing groups and individuals named in articles or found on websites as examples of various Interest Groups for and against the TCP designation of Mt. Taylor. Place these identifiers in the left-hand column.

In the right-hand column, identify in bullet form the issues, concerns or opinions represented by each Interest Group or individual. Cite the source where you found your information.

Interest Groups	Competing Issues, Concerns or Opinions (Including Source)
Mining Companies such as:	
Local towns (Grants)	
Pueblos and Tribes such as:	
Local Non-Native Ranchers such as:	
Spanish Land Grant Seboyeta community members such as:	
Recreation & outdoor enthusiasts such as:	
Hunters such as:	
Outspoken opponents from outside the community such as:	



# A PUEBLO-BASED EDUCATIONAL CURRICULUM

## Lesson 3, Handout 10:

In 2007 the Pueblo of Acoma began conversations with Tribes having a cultural connection with Mount Taylor to discuss the numerous requests for consultation that each was receiving regarding proposed development. Over several meetings a core workgroup formed and began to map areas identified for development, what became evident were the numerous impacts that the mountain was sustaining from unimpeded development. Which raised the question “How do we fulfill our role as stewards and ensure that the mountain continues to sustain us?”

This was the beginning of a seven year effort, the first of its kind, in which five Tribes—the Navajo Nation, Hopi Tribe, and Pueblos of Laguna, Acoma, and Zuni— with culturally and historically different backgrounds came together to find common ground in protecting a place significant and integral to their Tribal community. It was not an easy task as each of the five Tribes brought different strengths to the table. The Mt. Taylor TCP Workgroup as they were called, sought to educate themselves about the options available to allow Tribes ‘a seat at the table’ when development was being considered. After much discussion, the solution that was the best option for all the nominating Tribes was to seek a listing of Mt. Taylor as a Traditional Cultural Property (TCP) to the New Mexico Register of Cultural Properties.

This unprecedented task required each Tribe to form a group of its own cultural advisors, elders, and traditional practitioners along with Tribal members skilled at mapping and GIS work, hydrologists, soil and air specialists, environmental specialists, who along with invited archaeologists worked

to document each relationship between Tribe and mountain. Over the next two years, each contributed to creating a nomination that was reflective of each Tribe and the information used was only what the Tribes themselves chose to write and share with the outside public. The ethnographic works along with the supporting maps for over 300,000 acres reflect the voices of elders, religious leaders, cultural advisors and tribal experts that participated.

Though the initial nomination of Mt. Taylor and designation as a TCP was granted by the New Mexico Cultural Properties Review Committee in 2009, a lawsuit was filed shortly thereafter by private land owners, Spanish Land Grant members and uranium mining companies. Following the controversial decision by the NM CPRC, parties opposed sought to undermine State law intended to support historic and cultural preservation including the responsibilities of the CPRC almost yearly at the NM Legislative Session. What developed was a coalition of Tribal leaders, members and activists, historic preservationists, environmental, conservation and anthropological groups, both locally and nationally who rallied to support the nomination and fight efforts to weaken state law. For five years the case worked its way through the courts, with the last one being the New Mexico Supreme Court which affirmed the designation on February 6, 2014. It is the largest TCP ever designated and undoubtedly, a pivotal moment in how we look at large cultural landscapes in the state and across the country.





## A PUEBLO-BASED EDUCATIONAL CURRICULUM

### Evening's Events

- 5:30 pm Invocation
- 5:35 pm Welcome  
*Theresa Pasqual, Director  
Acoma Historic Preservation Office*
- 5:45 pm Short Remarks from Tribal Leaders  
-Acoma Pueblo  
-Laguna Pueblo  
-Hopi Tribe  
-Navajo Nation  
-Zuni Pueblo
- 6:10 pm Creating Partnerships and  
Honoring Contributions
- 6:30 pm Closing

*Special thanks to  
the Society for Applied Anthropology  
and  
the National Trust for Historic Preservation  
for sponsoring tonight's event!*

*Kaweshtima, Tsiipiya, Ping-tsey, T'se pina,  
Tsoodzil, Dewankwi Kyabachu Yalaani*



*Celebrating the Designation  
of Mount Taylor as a  
Traditional Cultural Property*

*March 18, 2014  
Casa Esencia-Hotel Albuquerque  
Old Town, NM*