



COALITION OF LARGE TRIBES

Blackfeet Nation • Cheyenne River Sioux Tribe • Crow Nation • Eastern Shoshone Tribe
Fort Belknap Indian Community • Mandan, Hidatsa & Arikara Nation • Navajo Nation • Northern Arapaho Tribe
Oglala Sioux Tribe • Rosebud Sioux Tribe • Sisseton Wahpeton Sioux Tribe
Shoshone Bannock Tribes • Spokane Tribe • Ute Indian Tribe • Walker River Paiute Tribe

COLT disappointed in U.S. Supreme Court’s Failure to Uphold Navajo Nation Treaty Rights

June 22, 2023

Browning, MT - The Coalition of Large Tribes, an intertribal organization representing the interests of the more than 50 tribes with reservations of 100,000 acres or more, is disappointed the United States Supreme Court’s decision today declining to require the Secretary of the Interior to lift a finger to inform the Navajo Nation about the scope and sources of its indisputably massive Treaty and Reserved water rights. COLT is dismayed by the typical indifference from the federal government, but the dissent gives hope that brighter days lie ahead. COLT is proud to have filed an amicus brief standing with COLT member the Navajo Nation. [Dozens Of Tribes Back Navajo Water Claims At Supreme Court | Coalition of Large Tribes.](#)

In a 5-4 decision the majority of the Supreme Court held: the 1868 treaty establishing the Navajo Reservation reserved necessary water to accomplish the purpose of the Navajo Reservation but did not require the United States to take affirmative steps to secure water for the Tribe. The Court’s ruling fails to protect tribes from the gross and continuing over appropriation of water throughout the West despite the fact that tribes have senior water rights.

COLT Chairman Marvin Weatherwax reflected that the ruling stems largely from the anti-tribal, anti-sovereignty stance taken by the United States in the case, with the Department of Justice opposing the Navajo Nation’s efforts, denying any federal duty to support the Navajo Nation, and arguing that the United States has no responsibility to assure water on the Navajo Nation’s permanent homeland. Chairman Weatherwax stated: “The Department of Justice is not an ally of Indian tribes. The DOJ is the greatest threat to tribal sovereignty and this case illustrates why.”

“When the DOJ wears two hats – one that tells tribes, ‘the United States will protect you because we have a trust responsibility,’ and when wearing the second hat, tells tribes: “but that’s not an enforceable duty of the United States,” the tribal interest always loses out in favor of some interest with perceive greater political power. DOJ was always wrong on the law in this case, advancing colonialist arguments that have no place in our modern federalism.”

COLT Vice Chairman Tracy “Ching” King, the Assiniboine at Large representative on the Fort Belknap Indian Community Council, said “Our water is just as important as our land. Our land is where we live and raise our children. Last week the Court rightly recognized the sovereignty of tribes to protect Indian children. Today, this same Court said that the United States has no duty to assist tribes in understanding and protecting their water rights. These rulings are incongruous. Tribes need to be able to protect both our children and their water.”



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“There is no Native American political appointee in the Biden-Harris Department of Justice and there never has been. DOJ does not understand tribes and operates in a state of perpetual conflicts of interest,” King said. “COLT calls for the immediate establishment of an Office of Treaty Enforcement at the Department of Justice, with a sole duty of loyalty to tribal interests irrespective of other perceived federal interests. That office should be staffed by lawyers with knowledge and experience in Indian Law and Attorney General Garland should seek the immediate appointment of a senior advisor who will uphold the solemn Treaty obligations of the United States.”

COLT has repeatedly called attention to how bad DOJ is. See [Opinion: DOJ Spouts Outdated Colonialist Arguments in Face of Treaty Obligations \(Media Share\) | Coalition of Large Tribes](#); [‘Callous disrespect for tribal treaty rights’: Tribes blast government attorney for U.S. Supreme Court argument \(Media Share\) | Coalition of Large Tribes](#); [COLT Calls for Action After U.S. Department of Justice Argues to U.S. Supreme Court That the Navajo Nation’s Treaty Reserved Water Rights Are Basically Meaningless | Coalition of Large Tribes](#); [Speaking at the United Nations, Chairman Weatherwax Calls on the U.S. to respect Indigenous Peoples’ Human Rights on Reservations | Coalition of Large Tribes](#). But to date, the Biden-Harris Administration continues to let DOJ frolic with anti-Indian positions that are totally inconsistent with the good work the rest of the Administration is doing in Indian Country.

“We believe that if the DOJ had been on the side of Indian Country, the Navajo Nation would have prevailed in this case, but instead, the headline is ‘Biden triumphs over tribe in Colorado River fight.’ For all the Biden-Harris Administration’s nice words for tribes, the Department of Justice remains our enemy. COLT calls on President Biden to make immediate significant changes at the Department of Justice to right DOJ’s constant parade of wrongs to Indian Country.”

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