



COALITION OF LARGE TRIBES

Blackfeet Nation • Cheyenne River Sioux Tribe • Confederated Tribes of the Warm Springs Indian Reservation
Crow Nation • Duck Valley Indian Reservation 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 • Shoshone-Paiute Tribes of the Duck Valley Indian Reservation
Spokane Tribe • Ute Indian Tribe • Walker River Paiute

April 30, 2024

The Honorable Antony Blinken
Secretary, U.S. Department of State
Washington, D.C. 20520

The Honorable Deb Haaland
Secretary, U.S. Department of the Interior
1849 C Street NW, Washington, DC 20240

The Honorable Gina Raimondo
Secretary, U.S. Department of Commerce
Washington, D.C. 20230

Dear Federal Officials:

As Chairman of the Coalition of Large Tribes (COLT), I am writing to follow-up on the conversation that I and other tribal leaders and representatives had with members of your staffs and the United States Patent and Trademark Office yesterday. While we appreciated the conversation, it risks being far too little too late in the process leading up to the upcoming WIPO Diplomatic Conference on Genetic Resources and Associated Traditional Knowledge (GRATK), unless our concerns can be addressed with respect to substance and process.

While clear answers were not forthcoming, the meeting left the distinct impression that the United States is likely to take a weak position, contrary to indigenous interests and the policy positions of virtually the rest of the world. This is backwards. The United States should be leading the world in terms of respect for tribal rights, not shrinking from acknowledgment of even the most bare minimum protections, as your staffs and USPTO seemed to indicate they are leaning.

COLT again calls on the United States, per our attached standing policy Resolution, to urge you to utilize the resources of your offices to ensure that the position of the United States government at the GRATK convening is in favor of a legally enforceable international instrument with protections for indigenous peoples that are as strong as or stronger than the current draft language of the instrument.

The draft treaty text would require patent applicants to disclose if their patent is based on genetic resources or traditional knowledge obtained from indigenous peoples. We support this requirement and see it as a bare minimum for the protection of tribal rights. That the United States will not commit to support this pitifully humble standard is deeply concerning.

While the USPTO representatives told us that they “supported innovators” and desired “practical” language in the treaty, they seemed to have their assumptions all wrong. Indigenous people are not anti-innovation. We are anti-theft. We want to stop corporations from stealing our genetics and resources and Traditional Knowledge without any permission. The draft treaty simply requires a disclosure to try to deter the rampant theft of indigenous genetics and traditional knowledge that



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routinely occurs around the world. That disclosure requirement would give tribes notice, and allow us to come to the negotiating table with “innovators” to protect our intellectual property interests.

Countries with much less impressive human rights records support the draft treaty. Columbia is leading the treaty effort, and with about 3/4 of Member States supporting it. It is absurd that the Administration is not strongly supporting the draft treaty given President Biden’s Executive Order 14112, *Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Era of Tribal Self-Determination*, which provides, among other things that: “We must implement laws, policies, and programs in ways that allow Tribal Nations to take ownership of resources and services for their communities.” The draft GRATK treaty does just that.

COLT also notes that despite a 24-year process leading up to GRATK, the USPTO and State Department have not held a single tribal consultation on the matter. This is contrary to EO 14112, which directs federal agencies to: “Agencies’ implementation efforts shall appropriately maintain or enhance protections afforded under existing Federal law and policy, including those related to treaty rights and trust obligations, Tribal sovereignty and jurisdiction, civil rights, civil liberties, privacy, confidentiality, Indigenous Knowledge, and information access and security.” It is difficult to understand why the United States has not managed a single consultation on the GRATK draft treaty, which only impacts indigenous people who are the subject-matter of the treaty.

The Administration seems poised to demur on the draft GRATK treaty, yet another embarrassment much like the United States’ failure to lead on the Declaration of the Rights of Indigenous Peoples. Instead of seeking to avoid any accountability, the United States should strongly support the incredibly modest, bare minimum protections for tribal rights.

We asked who would be the people at the table in Geneva. We asked to whom we should address correspondence. We got no response other than generalized “State, DOI and USPTO.” I would be happy to accompany the U.S. delegation to Geneva and to speak as authorized by the United States in support of the draft treaty if the delegation is unwilling to do so.

This matter is simple, but important. We urge your clear support.

Hon. Marvin Weatherwax, Jr.
Chairman, Coalition of Large Tribes; Member, Blackfeet Tribal Business Council



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CC: Anthony M. Rodman, White House Domestic Policy Council
State, Interior and USPTO Meeting Participants (Via Email)