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Half-day discussion on The Right to Water and Indigenous Peoples

**Submitted by Ms. Tonya Gonnella Frichner of the American Indian Law Alliance in
consultative status with the Economic and Social Council with Ms. Tia Oros Peters,
Executive Director, Seventh Generation Fund for Indigenous Development**



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**United Nations Permanent Forum on Indigenous Issues
 Tenth Session 16-27 May 2011, United Nations Headquarters, New York
 Agenda Item 7: Half-day discussion on The Right to Water and Indigenous Peoples
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Protection of Water

1. For the last six years our organizations and co-signatories have addressed the Permanent Forum on Indigenous Issues on the Protection of Water as a human right, and we are honored to do so again under this agenda item. We call for the recognition of Water as essential to Life; that it is crucial for bio-cultural diversity and for sustaining all aspects of Indigenous Peoples' survival and well-being, assuring our physical health, nurturing us spiritually and central for the continued vitality of our cultures and traditional livelihoods.
2. We recognize Water is the most vulnerable element of all forms of Life in light of climate change and its impacts, and coupled with the encroachment of invasive development – the terracide - damaging Indigenous homelands and ecosystems, and the aquacide – the killing of our waters. Time is of the essence. We must take action now as some places are flooded and others stricken with drought. We urgently reiterate the critical significance of protecting Water sources and Indigenous Peoples' full, unencumbered access to clean Water on our territories for physical, cultural and spiritual sustenance, and advance these recommendations.

Recommendations

3. That any initiatives related to Water must observe and recognize all articles of the *Declaration on the Rights of Indigenous Peoples*, including treaty rights to Water.
4. Recalling recommendation 78 of Session 7 (2008), we urge the UNPFII to recommend to the UN ECOSOC, in coordination with UNEP, a call for the coordination of an official *UN Experts Meeting on Water* that specifically initiates a close review and assessment of Water allocation, regulation, and access policies that affect the rights of Indigenous Nations, the health of our Peoples and ecosystems, and that of future generations. This high level Experts Meeting can explore and establish indicators of Water Well-being for

Indigenous Nations, and the world community, particularly in the light of increasing negative water impacts owed to climate change.

5. Recognizing *Ms. Catarina de Albuquerque is the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation*, we urge the Permanent Forum to call for her mandate to be extended. Further, to work with UNEP for an international study on Water that extends beyond drinking water and sanitation issues alone, and advance this concern in relation to the rights of Indigenous Peoples to access clean water for our spiritual sustenance and cultural livelihoods.
6. We request the Permanent Forum to call for the immediate appointment of a *Special Rapporteur for the Protection of Water and Water Catchment Areas*. This Special Rapporteur will gather testimony directly from Indigenous Nations of the world targeted for or impacted by Water privatization, diversion, toxic contamination, commodification, mining, dams, pollution, non-sustainable energy development, hydro-fracking, and other environmental injustices that damage Water sources on which Indigenous Peoples rely for our physical, cultural and spiritual sustenance. This recommendation was carried forth by the Permanent Forum to the Economic and Social Development Council when we first requested it in 2005, and we ask that this appeal is advanced by this body to ECOSOC again this year to assure action.
7. Now at the half-way point of the International Decade: Water for Life (2005-2015) we strongly encourage the Permanent Forum to advocate for the establishment of a *United Nations International Year for Water* which can conduct focused research and emphasize critical concerns of Water access, potability, and holistic integrity for all aspects of life, including cultural and spiritual facets in relation to Indigenous Peoples, our Nations and ecosystems.
8. We affirm *President Evo Morales'* call in 2008 for a *UN Convention on Water*, and further that Indigenous Peoples fully participate in the development of that convention.
9. We ask the Permanent Forum to take immediate action this year to establish *Water as a theme for its thirteenth session* in 2014. This is a crosscutting issue across all six of the UNPFII mandated areas.
10. We support the Permanent Forum advancing the call for an *Indigenous World Conference on Water and Peace* with full and effective participation by Indigenous Peoples and Nations and ask that immediate steps are taken to make this a reality for the world community.
11. We call on the Permanent Forum to take leadership in working with ECOSOC to denounce repressive actions, including the use of *national militaries and corporate private armies* employed to prevent Indigenous Peoples' access to our traditional water sources drinking, agriculture, fishing, transport, and ceremonies. We call for a halt to

such abuse of security forces and any legislation that inappropriately justifies such actions.

12. We applaud the UN General Assembly for naming April 22nd the annual *Mother Earth Day* and ask that Water be highlighted as part of the related and ongoing activities every year and that Indigenous Peoples fully participate in all aspects of this.
13. Recalling *UNPFII-6 (2007) recommendation 53* that *States review*, with the direct participation of Indigenous Peoples, their laws on water regulation and the treaties, land claims, and self- government agreements that they have entered with Indigenous Peoples, taking into consideration the sanctity of water, reflected in those agreements. (It was recommended that States present their reviews at the eight session of the PF in 2009.) We recommend that the Permanent Forum reiterate this recommendation and call for immediate action by the States.
14. We recommend that the UNPFII reject the Rio+20 definition of "*green economy*" and create a collaborative definition of "green economy" that does not include placing forests, *water*, biodiversity, etc. within the market system.
15. Recalling *Article 29 of UNDRIP*, we recommend that the PF initiate an *expert study* in order to examine closely the failures of states and their regulatory agencies to enforce laws and rules protecting the waters, the watersheds and aquifers that serve and support life. There is a critical need to interrogate correlations between the role and influence of corporations on the formation of state policies and failures to achieve environmental law enforcement.
16. We recommend an *expert study on the influence of transnational corporations on states decisions and policies regarding access to and protection of all waters* – from springs, streams, rivers, lakes, aquifers and the open seas and specifically as it relates to the Great Lakes of North America and their watersheds, which hold over one quarter of the world's potable water.

Narrative Justification

17. We call it *K'yawe, Pa'a, Mni, and Nipi*; Water – Lifegiver. The significance of Water is expressed in a rainbow of songs, stories, and ceremonies, holding a potent place in our cultures, linking us together in a continuous, Life-affirming cycle. And yet, increasingly, our territories are either parched or flooded – being destroyed by the unquenchable greed of industrialization, a feature of colonization. Springs that our ancestors emerged from within the womb of Mother Earth, the precious watersheds that feed our lakes and fields and sustain our bodies, and rivers that carry our prayers to the forever after, are being contaminated, dammed, diverted, and siphoned. Ancient glaciers are fast melting into the sea, displacing our peoples, threatening our coastal zones with submersion and endangering the continuity of all Life.

18. Human rights violations, including the ongoing invasions onto Indigenous territories, and the attendant wrongful taking of our natural resources, particularly the nearly unhindered exploitation, diversion and commodification of Water, obstruct critically needed access to our Waterways and threaten the survival of Indigenous Peoples and of our distinct cultures. These assaults have direct and tremendously destructive impacts and further impoverish our already vulnerable, besieged Peoples, and threaten our spiritual survival.
19. Air poisons us and now the sun and the rain burn. The land, our Mother Earth, bleeds toxins. Water is undrinkable, or further unreachable. Our ancestors and leaders have prophecies that foretell of these changes now occurring across the globe. We must be proactive in finding ways to survive because the Natural Law – the spiritual justice that is unfolding in response to assaults against the Earth - will have no mercy. The accelerating impacts of Climate Change on Indigenous Peoples' Water systems and accessibility, exacerbated by the continuing privatization and exploitation of Water on our territories by ever-thirsty multi/trans-national corporations, shortsighted governmental development policies, mega-development, and other encroachment by non-indigenous settlements, pose new challenges with which our Nations are faced. This forces us into poverty and pushes us further to the edge of existence, where many are already barely holding on by their fingertips for survival.
20. As different strategies are created to respond to the loss, contamination, or diversion of Water resources, Indigenous Peoples' firmly retain our right to free, prior, and informed consent before any development takes place on our territories, by any outside entities, including the World Bank and States, whose actions may impact or abrogate our aboriginal and/or treaty rights including the human right of access to clean Water for all aspects of our life. We maintain that Indigenous Peoples have a right to say "no" to halt any development on our territories because we know that what some may consider sustainable solutions does in fact, displace our Peoples, exploit our territories, subvert our cultures, and further oppress the accessibility and health of our water systems and homelands.
21. Esteemed members of this Forum and member nations, according to UN Water research, "884 million people in the world lack access to safe drinking water, and 2.5 billion do not have access to basic sanitation. 'Unfortunately, but unsurprisingly, those who suffer the most from lack of access to water and sanitation, are the poorest, the most marginalized and the most vulnerable,' asserts Ms. Catarina de Albuquerque, noting in particular the situation of women, children, and persons with disabilities. Globally, 1.6 million people, mostly children, die each year from water and sanitation related causes." Indigenous women throughout the world who often have the primary responsibility of locating and carrying Water for the survival of their families, and may risk their lives to do so, now find only dust instead of Water.
22. For example, in the high desert, arid southwestern region of the United States, the Zuni River is critical to the physical and spiritual sustenance of the A:shiwi/Zuni people. During the Fourth and Fifth Permanent Forum Sessions (2005 and 2006), we shared with

Forum members the unique characteristics of the river as a sacred waterway, an umbilical cord linking Zuni people with a spiritual destiny, carrying prayers and offerings to Zuni Heaven, a final everlasting place. When it flowed freely, the River fed streams and springs that nurtured thousands of acres of corn, beans, and squash fields that were cultivated and sustained the people, and supported an abundance of wildlife, which is necessary to nourish Zuni cultural sustenance and a rich ceremonial life. In the 1890's the River was dammed and diverted by the Ramah Cattle Company empowering Mormon missionaries upstream, altering the natural flow and life of the waterway. Today, what was once a vibrant, moving waterway that sustained thousands of people, animals, plant and water-dependent species has been drained, leaving only a dry riverbed where a vital river once flowed. 1982 was the last time the Zuni River flowed through the village since the Ramah Dam was built. Now our land is always thirsty.

23. And on the same Indigenous territory, a sacred site known as Zuni Salt Lake, has been targeted for coal and methane gas development. Salt in an arid environment is critical to the Peoples' survival. For the A:shiwi, this is also the dwelling place of a spiritual mother. It is also a place of peace for neighboring tribes to ceremoniously gather salt. The exploitation threatening Zuni Salt Lake would siphon millions of gallons of pristine water from beneath the lake for the mining, and create persistent toxins and contaminants that would forever alter the integrity and home of Salt Mother, as and the well-being of the Zuni and other tribal Nations in the region culturally and nutritionally reliant on Zuni Salt Lake.
24. This is just one region of the Indigenous world. We know that in too many places a polluted stream is our only source of Water. In too many places, our peoples are struck down by waterborne and vector borne disease, due to the lack of accessible, clean water on our territories caused by diversion and contamination, and the impacts of Climate Change. We hunger and can no longer plant our gardens, not because we have forgotten how to nurture life from a seed, but because without access to Water, our crops cannot flourish, and we cannot thrive without them. Our Water ceremonies are dying and our songs for the Water no longer fill the air.
25. Brothers and sisters of the world, are we prepared for what will happen when the world grows dry and quiet? What were once rich landscapes awake with forests and gardens, rivers and cornfields, alive with animals and birds, and a harmonious biodiversity of Indigenous cultures, are quickly becoming parched lands which only our tears can soften. Soon, even our most lush lands will be barren. Soon, even our tears will dry up and we will only have blood in our eyes as the wars for oil quickly transform into Water Wars that shroud the globe in a clash which humanity cannot survive. The Earth will burn. Too many of us are already dying of thirst. Our children, and the generations to come, will inherit this conflict and it is for them that we call upon the Permanent Forum and offer this intervention, for the Water - the essence of Life, for world peace.

Elahkwa – thank you.