

SETTLE AGREEMENT

Settlement Agreement; United States of America, Plaintiff, James Mooney and Linda Mooney, Defendants, SETTLEMENT AGREEMENT, Case No. 2:05 CR 410 TS, 02/22/2006

When James and Linda Mooney signed the Settle Agreement, Fourteenth day of February 2006, the stipulation for them to possess, distribute or facilitate the distribution of peyote to others and/or seek to acquire peyote from any authorized or unauthorized source had already been met.

See 3 (b) a federal court has held in final judgment that federal drug laws do not preclude the possession, use, or distribution of peyote in the context of Native American Church ceremonies without regard to Native American ancestry or membership in a federally recognized tribe, or

United States v. Robert Boyll, Unanimous Ruling – May 10, 1990

“Nowhere is it even suggested that the exemption applies only to Indian members of the Native American Church. Had the intention been to exclude non-Indian members, as the United States argues, the language of the exemption would have so clearly provided. Indeed, the federal peyote exemption makes no reference whatsoever to a racial exclusion”

“The District Court, Burciaga, Chief Judge, held that: (1) permitting Indians’ non-drug use of peyote in bona fide religious ceremonies of Native American Church, but prohibiting such use by non-Indians, would violate free exercise and equal protection clauses; (2) compelling interest test applied to free exercise challenge to prosecution of no-Indian member, and (3) prosecution would violate free exercise clause. Motions granted..”

See 3 (c) Federal law is otherwise amended or enacted to allow said usage or possession.

Federal Religious Peyote Exemption 21 C.F.R. 1307.31, this law has been codified as a statute in the American Indian Religious Freedom Act of 1978

“Section 1307.31 Native American Church. The listing of peyote as a controlled substance in Schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the Native American Church, and members of the Native American Church so using peyote are exempt from registration. Any person who manufactures peyote for or distributes peyote to the Native American Church, however, is required to obtain registration annually and to comply with all other requirements of law.”

UNITED STATES DISTRICT COURT

Department of Justice, Federal Bureau of Investigation, et al. v. American Civil Liberties Union, et al. (Case No. 1:11-cv-00001)

Plaintiffs and Defendants have filed their respective motions for summary judgment. The Court has reviewed the parties' submissions and the relevant law. The Court finds that summary judgment is appropriate in favor of the Defendants on the issue of the constitutionality of the provisions of the National Security Agency's records retention policy.

Section 3 of the National Security Agency's records retention policy requires the retention of records for a period of 25 years. The Court finds that this retention period is not excessive and is necessary for national security purposes. The Court grants summary judgment to the Defendants on this issue.

The Court also finds that the retention period is not excessive and is necessary for national security purposes. The Court grants summary judgment to the Defendants on this issue. The Court finds that the retention period is not excessive and is necessary for national security purposes. The Court grants summary judgment to the Defendants on this issue.

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STEVEN B. KILLPACK, Federal Defender (#1808)
KRISTEN R. ANGELOS, Assistant Federal Defender (#8314)
UTAH FEDERAL DEFENDER OFFICE
Attorney for Defendant
46 West Broadway, Suite 110
Salt Lake City, Utah 84101
Telephone: (801) 524-4010
Facsimile: (801) 524-4060

FILED
U.S. DISTRICT COURT
2006 FEB 22 A 11: 27
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES MOONEY and LINDA MOONEY,

Defendants.

SETTLEMENT AGREEMENT

Case No. 2:05 CR 410 TS

The United States, and Defendants James and Linda Mooney, hereby agree to a disposition of this case, under the terms of the following agreement:

Defendants James and Linda Mooney stipulate and agree as follows:

1. They will not possess or use peyote in any form, including but not limited to use in the context of any religious ceremony.
2. They will not distribute or facilitate the distribution of peyote to others.
3. They will not seek to acquire peyote from any authorized or unauthorized source.

The Defendants' obligations under this agreement will remain in effect until either:

- (a) Defendants are able to qualify for possession and use of peyote in bona fide ceremonies under the explicit terms of the American Indian Religious Freedom Act, 42 U.S.C. §

1996a, i.e., in the context of participation in ceremonies of the Native American Church as a member of a federally recognized tribe, as defined in that statute, or

(b) A federal court has held in a final judgment that federal drug laws do not preclude the possession, use, or distribution of peyote in the context of Native American Church ceremonies without regard to Native American ancestry or membership in a federally recognized tribe, or

(c) Federal law is otherwise amended or enacted to allow said usage or possession.

4. If requested by the Government, the Defendants, through their respective legal counsel, will make a public declaration, acceptable to Plaintiff, of their agreement hereto.

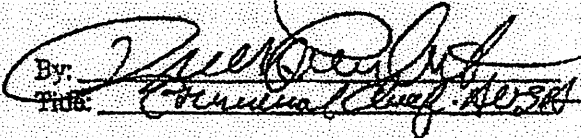
5. The United States agrees to dismiss all indicted counts in this case without prejudice.

6. The Defendants agree to waive the statute of limitations on all indicted counts.

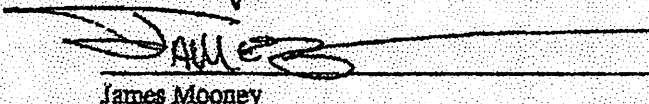
The Defendants acknowledge that the government may re-indict the same conduct if Defendants substantially violate the terms of this Settlement Agreement.

DATED this 22nd day of February, 2006.

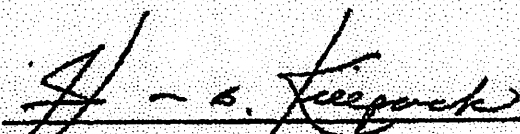
UNITED STATES ATTORNEY'S OFFICE

By: 
Title: Criminal Chief

DATED this 14 day of February, 2006.

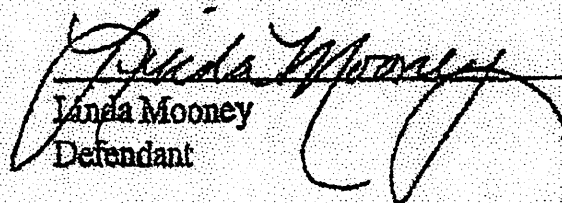

James Mooney

DATED this 14 day of February, 2006.




Steven B. Killpack
Counsel for James Mooney

DATED this 14 day of February, 2006.



Linda Mooney
Defendant

DATED this 14 day of February, 2006.



Mary G. Corpron
Counsel for Linda Mooney

LESLIE FOOL BULL BLESSING

President, Native American Church, Rosebud Reservation of South Dakota, March 20, 1998.

MARCH 20, 1998

BLESSING FOR PEYOTE CHURCH.

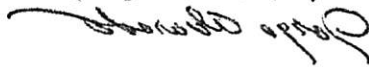
Leslie Fool Bull

P.O. Box 112

Parmelee S. D. 57566

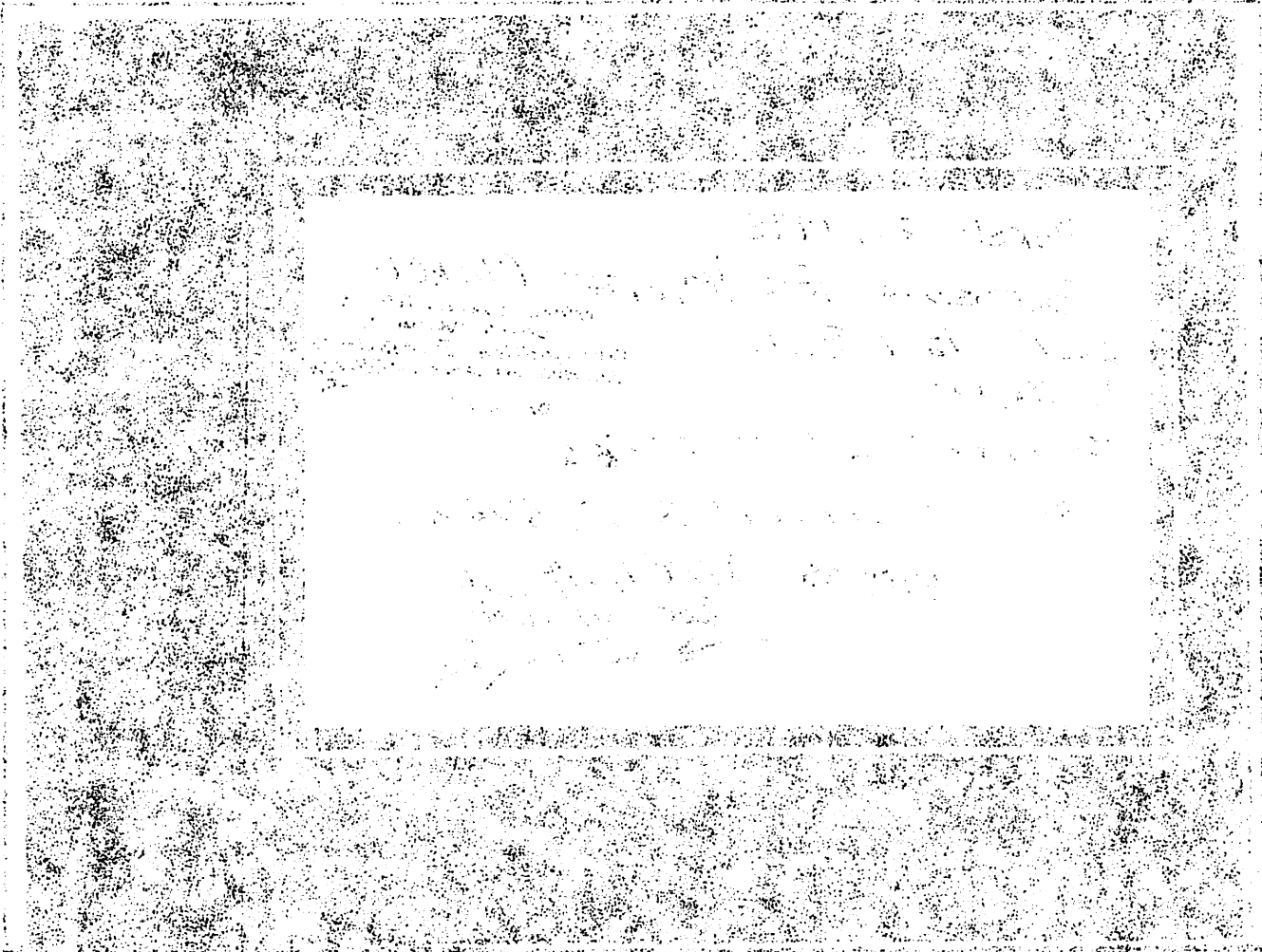
N.A.C. Rosebud S. D. 57564

WITNESS: Kirk Fool Bull -
(605) 747-5604



JAMES WARREN FRANKS
EARL WADSWORTH
ORLEIGH EARTHWORKS
NATIVE AMERICAN CHURCH
INC.
OF UTAH

CONFIDENTIAL - SECURITY INFORMATION
This document contains information that is exempt from public release under the Freedom of Information Act, 5 U.S.C. 552.



RICHARD 'HE WHO HAS THE FOUNDATION' SWALLOW BLESSING
President of the Native American Church Rosebud South Dakota 08/19/2007

AFFIDAVIT OF FACT

I am RICHARD 'HE WHO HAS THE FOUNDATION' SWALLOW. I have personal knowledge of the facts in this affidavit and the facts are true and correct.

I am the nephew of Leslie Fool Bull (Deceased) President of the Native American Church, Rosebud Reservation of South Dakota. I am presently the residing President of the Native American Church, Rosebud Reservation of South Dakota.

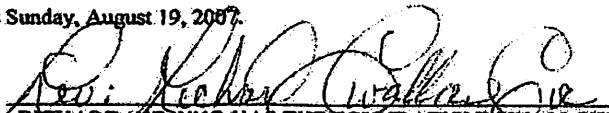
I am Oglala Sioux Chief of the Eagle Clan. My direct ancestors and I have been followers of these before mentioned, American Native Spiritual ways for more than seven generations and my entire life.


I verify and sustain the Blessing of March 20, 1998 given to James Warren 'Flaming Eagle' Mooney and Oklevueha EarthWalks Native American Church of Utah Inc (Oklevueha Native American Church) by Leslie Fool Bull.


I verify and sustain James Warren 'Flaming Eagle' Mooney to be the Chief Executive Officer of Oklevueha Native American Church for the remainder of his life.

I verify and sustain Oklevueha Native American Church (Oklevueha NAC) as a tree of the Native American Church, Rosebud Reservation of South Dakota as long as there are mountains, streams and a sky.

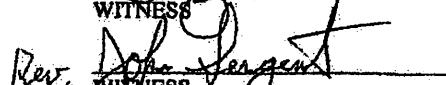
Signed on this Sunday, August 19, 2007.

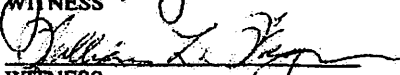

RICHARD 'HE WHO HAS THE FOUNDATION' SWALLOW


WITNESS


WITNESS


WITNESS

Rev. 
WITNESS


WITNESS

RICHARD "HE WHO HAS THE FOUNDATION" SWALLOW
BONNIE "BEAR KILLER" SWALLOW
STANDING BUFFALO CHIEF
P.O. BOX 84
WOUNDED KNEE, SOUTH DAKOTA, 57794
605-867-1138

CHRIS TALLEY
575 EAST 2100 NORTH
PROVO, UTAH, 84604
801-735-1819
HOKEYSPOKE@YAHOO.COM

RONALD BAYES
4605 WEST 3855 SOUTH
WEST VALLEY CITY, UTAH, 84120
801-996-8897
RONALDBAYES@HOTMAIL.COM
COYOTECALS.COM (MEXICO)

PS LEONARD
4125 W. WESTLAKE AVE
WEST VALLEY CITY, UTAH, 84120
801-641-3350

JOHN & SUE SERGENT
2364 POLK AVE
OGDEN, UTAH, 84401
801-394-0656

WILLIAM WAGNER
2364 DAYBREAKER DR.
PARK CITY, UTAH, 84098
435-649-2669