

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. : 12-15412

TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS OF NEVADA,
TIMBISHA SHOSHONE TRIBE,
WESTERN SHOSHONE DEFENSE PROJECT,
GREAT BASIN RESOURCE WATCH,

Appellants,

v.

UNITED STATES DEPARTMENT OF THE INTERIOR, ET AL.,

Appellees,

AND

BARRICK CORTEZ, INC.,

Defendant-Intervenor-Appellees,

***AMICI CURIAE* AMERICAN INDIAN LAW SCHOLARS' MOTION FOR
PUBLICATION OF OPINION**

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Pursuant to the Rules of the United States Court of Appeals for the Ninth Circuit (Circuit Rules), and specifically 9th Cir. R. 36-4, we are writing to respectfully request that *Te-Moak Tribe of W. Shoshone Indians of Nev. v. U.S. Dep't of the Interior*, Case No. 12-15412, Memorandum filed March 27, 2014, be designated as an Opinion for publication.

As *Amici Curiae* that participated in this matter, we are interested in ensuring that cases in the field of American Indian Law, such as this one, are decided in a uniform and cohesive manner, consistent with law and policy regarding religious freedoms at sacred sites on public lands.

The March 27, 2014, Memorandum should be designated as a published Opinion because it calls attention to and clarifies that the Executive Order protecting Indian Sacred Sites is a requirement that BLM had to meet as part of its public land management duties. *See* 9th Cir. R. 36-2(a), (b).

This matter also involves legal and factual issues that are of unique interest and of substantial importance to the field of Federal Indian law generally, and to the law and policy regarding religious freedoms at sacred sites more specifically. *Id.* at 36-2(d). This clarification of the law will affect other Tribes and federal lands across the United States, and once published as an Opinion, it will apply to other cases that touch this subject more readily. An additional factor showing this matter warrants a published Opinion is the fact that the Memorandum was

accompanied by a separate dissenting expression. *Id.* at 36-2(g). Thus, this meets the standards for publication per 9th Cir. R. 36-2(a), (b), (d), and (g).

Based on the foregoing, we respectfully request that this Court designate the Memorandum in the above captioned case as an Opinion and order its publication.

Respectfully submitted this 23rd day of May, 2014,

On behalf of Amici Curiae:

/s/ Kristen A. Carpenter

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CERTIFICATE OF SERVICE

I also certify that on May 23, 2014, I electronically filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I certify that for of participants in the case that are registered as Active CM/ECF users, service will be accomplished by the appellate CM/ECF system and, for all others, it will be accomplished by US mail.

/s/ Kristen A. Carpenter

Kristen A. Carpenter