

Session: What the "Right to Farm" Means in 2023: Contextualizing the Right to Farm with Indigenous Food Sovereignty

Track: Bringing Policy Down To Earth

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DE LA CUMBRE ALIMENTICIA 2023!



SPEAKERS



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The Old Joke

*Britons think 100 miles is a far distance,
Americans think 100 years is a long
time.*

• **Americans (a broad simplification)**

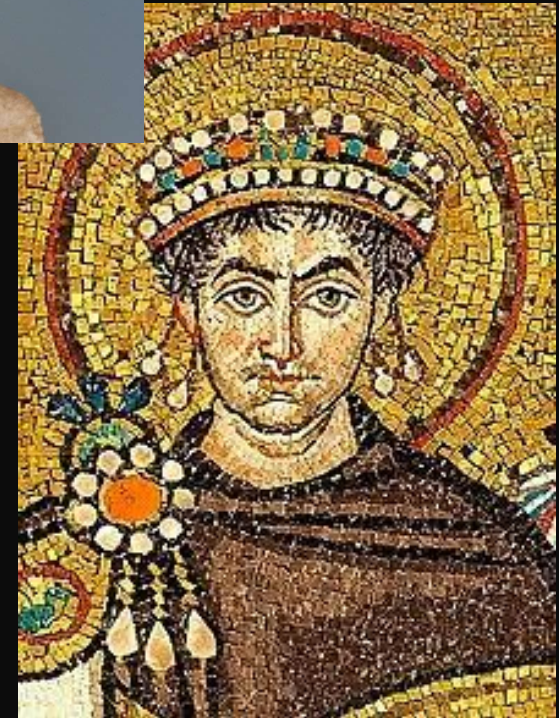
How did we get here?

- Multi-ethnic
- English is the majority language (not official language, but effectively so)
- Roman Alphabet, Arabic Numerals
- Greek and Roman forms of government
- Anglo-Norman common law and property law
- Distinct American outgrowths of the above

Our Shared Colonial History: Water Law

47 CE: Emperor Claudius' Invasion
of the Island of Britain in Earnest

534 CE: Emperor Justinian Codifies
Roman Law in the "Justinian Code" –
becomes the basis for continental
European "Civil Law" and its colonial
states



Our Shared Colonial History: Language and System of Law

- 400-1066 CE: Germanic/Scandinavian Invasions of Britain
 - English becomes the dominant language as Celtic speakers pressed into Wales, Cornwall, Scotland, Brittany (France)
- 1066 CE: King Harold Takes an Arrow to the Eye, William the Conqueror Reigns
 - Latin and French become dominant governmental and legal languages
 - “Common Law” system is established



Roots of US Property Law: Medieval Law

- US **real** property law is descended from medieval laws surrounding ownership.
 - **Real property** – land, houses, major improvements tied to land.
- Ownership evolved from estates granted by the sovereign (king), who ultimately owned all of the land in England, to private ownership by individuals.
 - Fee Simple Absolute
 - Fee is related to fief, as in fiefdom
 - 1290 Quia Emptores Law
 - Still good law in the UK; can be cited in the US
- This development has given us a **rights-focused** property law because it developed in opposition to the unrestrained power of kings.
 - Think of a lord being “stripped of their lands and titles” and having those lands and titles distributed to others.



The Doctrine of Discovery

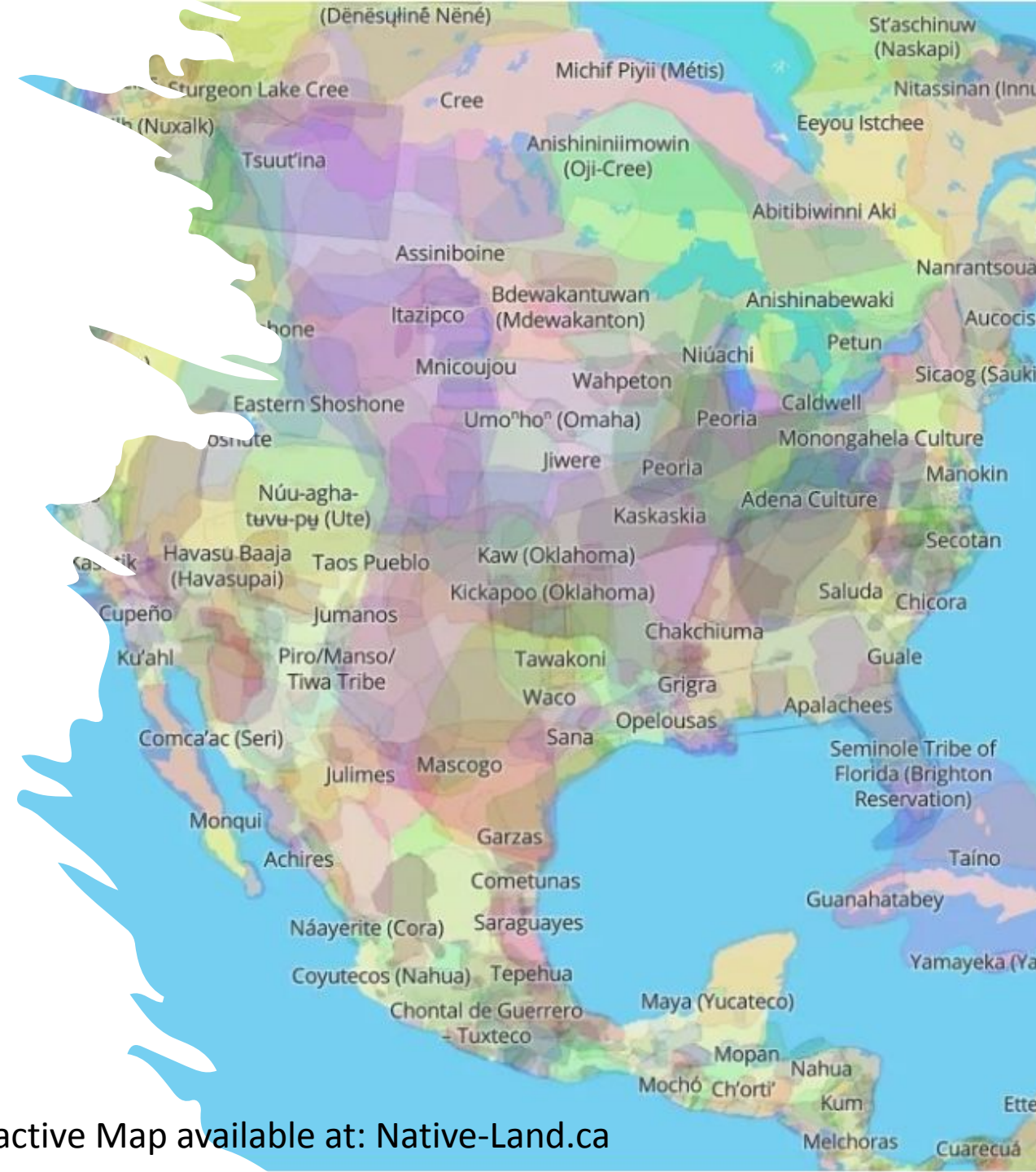
- “Columbus sailed the ocean blue in 1492”
 - And committed many atrocities.
- Pope Alexander VI issues the *Inter Caetera* Papal Bull (public declaration) in 1493, giving Spain exclusive rights to the New World and Portugal exclusive rights to the old world and Brazil, supposedly to spread Christianity (not the enduring part of the Bull)
- Any land not occupied by Christians could be ‘discovered’ and claimed (the enduring part)
- Was a way to prevent European conflict by recognizing the claims of each colonizing country
- Nullified by the 1530s, but damage was already done

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Early Colonial History on Turtle Island

- 1607: First English colony, Jamestown
- 1775-1783: War of Independence
 - Outright adoption of English Law
- 1792: Thomas Jefferson says Doctrine of Discovery is an international norm and applicable to the United States
- 1823, 1831, 1832: the Marshall Trilogy
 - Supreme Court decisions under Chief Justice John Marshall
 - Affirmed Doctrine of Discovery and achieving “Title by Conquest”
 - Only the Federal Government could receive lands from Tribal Nations, not individuals or states
 - Tribes as “Domestic Dependent Nations” – the Federal Trust responsibility
 - Tribes as “distinct communities” – independent sovereignty and freedom from state interference
- 1778-1871: US enters 100s of treaties with Native Americans, use treaties to prove-up sovereignty on the international stage



Interactive Map available at: Native-Land.ca



Setting the Scene in the 19th Century

- Laws and policies of the 19th Century have a direct impact on public and private lands today.
- The initial distribution of property and built environment is in some ways determinative of what is to come.
 - American settlement
 - Inherited Spanish/Mexican settlement
 - Location and configuration of reservations
- *Some of these laws are still in effect today.*
- We must understand the past to understand the present and chart a course for the future.
- Not that long ago.

Past as Prologue in the West

- 1845 – Texas Annexation
- 1846-1848 – Mexican-American War, annexation of the SW
- 1855 – *Irwin v Phillips* – prior appropriation water law
- 1861 – Start of the Civil War
- 1862 – Homestead Act: 160 acres and 5 year requirement.
- 1862 – Morrill Act: Land Grant Universities (again in 1890 for the South)
- 1862 – Pacific Railway Act (Expanded 1865)
- 1864 – Sand Creek Massacre
- 1865 – Civil War Ends
- 1868 – Ute Reservation is the western half of Colorado
- 1872 – General Mining Act
- 1876 – Battle of Little Bighorn
- 1877 – End of Reconstruction, Beginning of Jim Crow
- 1880 – End of the Plains Wars
- 1882 – *Coffin v Left Hand Ditch* – Affirms Prior Appropriation in Colorado
- 1890 – “The Frontier is Closed” US Census
- 1887 – The Dawes Act
- 1895 – Modern Southern Ute Reservation Boundaries set



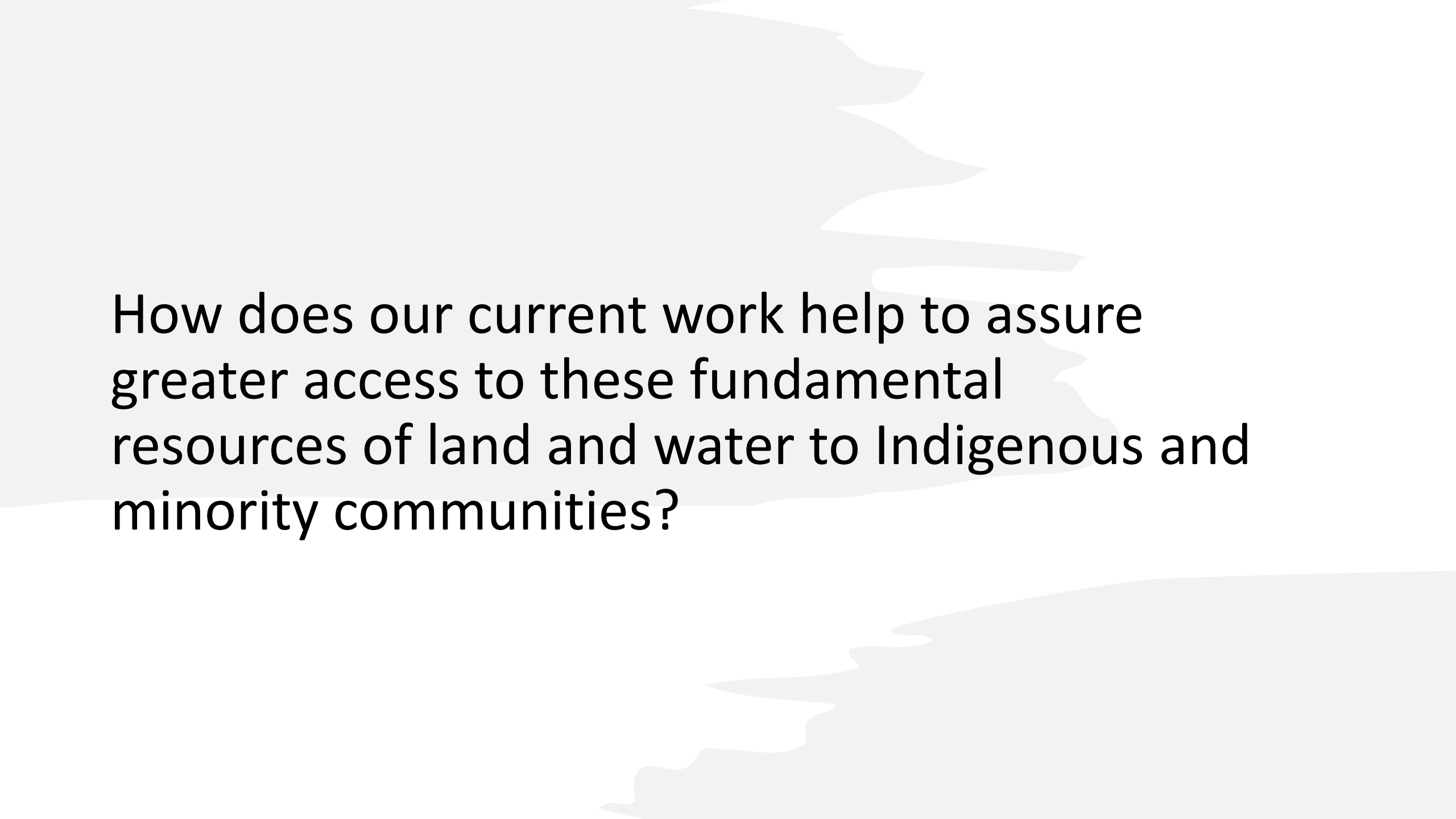
20th Century Challenges

- Federal Indian Policy
 - Treaty Period (Removal and Reservation)
 - Assimilation and Allotment Period: 1887-1932
 - 60 Million “Surplus” Acres sold to non-Indians
 - Reservations checkerboarded with different kinds of land, different rules
 - Reorganization Period: 1932-1945
 - Termination Period: 1946-1960
 - Self-Determination Period: 1961-Present
- Water Development in the West
 - *Winters decided* – 1908
 - Tribal reservations have the water necessary to implement their purpose
 - Colorado River Compact – 1922
 - Indian Citizenship Act – 1924
 - *Arizona v California* – 1963
 - Provides method for quantifying tribal water rights
 - Ongoing efforts to quantify tribal water rights, integrate into systems of priority, and fund infrastructure

Themes



- Past is prologue: we need to understand how and why the world looks the way it does for us to chart a common future.
- 19th Century Policies had a deep impact on the world today, but are not so long ago as to be immutable.
- Nothing in law is immutable.



How does our current work help to assure greater access to these fundamental resources of land and water to Indigenous and minority communities?



SPIRIT OF THE SUN

An Indigenous womxn-led nonprofit located on Očhéthi Šakówin, Nuu-agma-ttvv-pv (Ute), Tsésthó'e (Cheyenne), hinono'eino' biito'owu' (Arapaho) land, Comanche, and 48+ other tribes sacred land, working to empower Native communities, one youth at a time.

MEET OUR TEAM



SHANNON FRANCIS

Executive Director



LAYA BUCHANAN

Grant Writer



SYDÓNNE BLAKE

Marketing and Youth Media Hub
Coordinator



MIRIAM MATA

Youth Program Coordinator



SHAINA GONZALES

Director of Operations & Indigenous
Toddlers and Teachings Coordinator



KENDALL BARCIA

HR & Indigenous Toddlers and Teachings
Program Support Coordinator



AMARI ARCHAMBAULT

Indigenous Food Systems Team Member



CHENOA FRANCIS

Youth Outreach Coordinator and Agricultural
Support



KAITLYN LEBLANC

Indigenous Food Systems Team Member



TAYLOR JONES

Food Share Lead



EVALINA KIRKPATRICK

Indigenous Food Systems Team Member



ADALIE RIVAS

Food Share & Indigenous Ag Support



PHURIOS FOUNTAIN

Indigenous Food Systems Team Member



MELISSA RIVAS

TBD



KĒNYA STOUTE

TBD

Youth Programs



Indigenous Toddlers and Teachings Program (ITTP): Uplifting Native toddlers by giving them the confidence in their early developing skills while maintaining strong cultural connections

Mycelium Healing Project: In response to the environmental degradation around the Suncor Oil Refinery, we have been training our youth to restore their communities with mycelium.



Indigenous Science and Foodways: Educating Indigenous youth on intergenerational Indigenous knowledge within our community relating to land stewardship, native foodways, justice, and scientific innovation





Indigenous
Toddlers and
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Program (ITTP):
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while maintaining
strong cultural
connections



Indigenous Science and Foodways Youth Leadership Program (ISFYLP) 2022-203



Mentorship Program

Mentorship Program: Our mentorship program joins Indigenous mentees and mentors to educate and empower Native youth as leaders in their communities

Youth Media Hub: A digital arts course based around Native and BIPOC storytelling and community building

Outdoor Equity: creating opportunities with orgs like Sharewinter & Chill to provide skiing and snowboarding opportunities for Native youth





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Outdoor Equity: creating opportunities with orgs like Sharewinter & Chill to provide outdoor opportunities for Native youth

Indigenous Science and Foodways Youth Leadership Program (ISF): Educating Indigenous youth on intergenerational Indigenous knowledge within our community relating to land stewardship, native foodways, justice, and scientific innovation

Mycelium Healing Project: In response to the environmental degradation around the Suncor Oil Refinery, we have been training our youth to restore their communities with mycelium.

Indigenous Agriculture & Food Systems Program

Spirit of the Sun is invested in Indigenous agricultural practices, innovative land stewardship, and Traditional Ecological Knowledge. We teach our stewardship practices to our youth and communities so that we may heal ourselves and the earth through our relationships with the land and local farms through soil building, mycelium, corn harvesting and seed events.

We currently have 4 farms in the Denver Metro Area borrowing space from primarily white males. We are looking for our own land and autonomy to continue our legacy project and to better serve our community.



Elders Foodshare Program

Every Friday/Sunday we offer food share boxes! These are beautiful and nutrient-rich boxes supplied through the various farms we partner with and grow ourselves.

Spirit of the Sun is launching our Healing Foods Project as a way to increase access to healthy foods and education to the youth in our community. We will be distributing reusable bags with healthy food and plant-based medicine and partnering with local schools to bring Indigenous-led nutrition and cooking education to youth of all ages. Through this project, we will also offer a number of community workshops and direct, land-based learning on our farms.



Spirit of The Sun - Story of the Mycelium Healing Project



Introduction

The Mycelium Healing project (MH) highlights the Northeast Denver Metropolitan area, where constituents are primarily made up of marginalized communities facing devastating air pollution, as well as water and soil contamination. This project will provide education and community engagement to support communities in capturing the work of environmental justice as a beginning step. Marginalized communities have been neglected and abused by major corporations and MH will empower community members to become agents of change.

The Mycelium Healing Project educates communities about the healing and restorative powers of mycelium via online and in person workshops.



Introduction cont.

This project anticipates mitigating harmful pollutants in the soil, water, and air through the use of mycelium, also known as mushrooms. By 'planting the water' and mycelium, we will grow local ecosystems to sequester carbon and metabolize pollutants before they leach out into the atmosphere and watersheds. Additionally, we will ensure the stewardship of indigenous plants and bugs to the affected lands to promote food sovereignty and Indigenous education.



The Issue



- Major corporations are responsible for damaging lower income communities in Colorado
- Suncor specifically, is responsible for lowering the quality of the air, soil, and water in disenfranchised communities due to the pollution they emit. Benzene, hydrogen cyanide, and hydrogen sulfide to name a few of the pollutants
- Our focus is on the community that is around a two mile area radius surrounding Suncor



Mycelium can be a natural healing remedy that allows the earth to heal itself in a closed-loop cycle

Why Mycelium?

- The knowledge and cultivation of mycelium will improve our health and the health of ecosystems while driving economic growth for our communities.
- The main goal is to reduce carbon emissions through accessible, efficient and sustainable methods.



Here is why our project is innovative.

Through the use of Mycelium, Spirit of the Sun is taking a new eco-friendly route to address the air, land, and water pollution in the Metro Denver area.

Our project focuses on healing the community from the soil up.



I.

The use of Mycelium as a soil regeneration system is not a common practice in Colorado and we hope to shed some light on this clean way of restoring the land.

II.

We use a highly adaptive organism, mycelium, to mitigate contamination of soil, water, and air, to “plant water” to mitigate climate change. It has been recognized that most carbon-sequestering takes place at the level of the soil.

III.

Studies suggest that symbiotic fungi can store up to 70% more carbon in the soil and over 90% of plants on earth have a symbiotic relationship with fungi (so even spaces that are deserted and filled with what we may consider weeds). Some also note that fungal mycelium is the largest repository of biological carbon in soil



MHP Teen Cohort Summer 2022





Spirit of the Sun

Mycelium Patch Building 2022



Mycelium 'Mother Patch' Timeline

January - March

- Develop curriculum
- Spread biomass
- Include truth patch for control testing
- Motherpatch training
- Weekly meetings with families
- Hand out mycelium kits

April - July

- Bi-weekly check ins
- document changes
- Progress update
- Collect data:
- Soil testing
- Air testing
- Yield of harvest

August - December

- Progress report
- BioBlitz
- Collect data:
- Soil testing
- Yield of garden



Conclusion

This project looks at mycelium's ability to capture carbon at deeper substates of soil, the focus for evaluation will be based on the soil itself.

Evaluation for this project will be done through a soil measuring strategy that captures the natural variation in soil carbon.

Highlight 1

- The mycelium project will highlight the extreme damage that Suncore has done in the Metro Denver area.

Highlight 2

- The mycelium project highlights the rights to nature; we recognize that the earth has the right to thrive just as humans do.

Highlight 3

- We will use mycelium, to mitigate contamination of soil, water, and air, to "plant water" to mitigate climate change.
-

Looking ahead and upcoming events!

Spirit of the Sun has created partnerships to move the project forward to expand the mycelium inoculation installations through elders and youth! We are holding a series of public events and traveling to NM and AZ to train other youth on Indigenous homelands to build new mother patches and mushroom grow kits!

Our first community Youth Mycelium Healing Project training will be held later this month to show folks how to build mycelium kits for installation in their own backyards. The goal is to hold Suncor oil refinery accountable and responsible for our ecological health impacts and to become a mindful ancestor!

Suncor Sundown Film Documentary link: Please share with all!

<https://vimeo.com/649168546>

Blue Corn Harvest 2021



Institutional Responsibility

- University: Teaching students the context for the current issues we confront.
- University: Teaching students the processes to identify and remediate injustices from the past.
- University and Professional: Applying our expertise and resources to identify and remediate injustices from the past.
 - Land acknowledgements are a start, but aren't enough.
- University and Professional: Use special privileges to empower communities to chart their own futures.

Teaching

- Engage with subjects that impact Native Americans
- Field experiences to contextualize and realize classroom learning
- See the land and meet the people
- Preparing the next generation of environmental attorneys and other professionals



Masters of the Environment Capstone Work

Capstones in lieu of a thesis: partner with communities, companies, non-profits, and governments to take on real-world problems.

- Environmental and Natural Resources Policy
- Sustainable Food Systems
- Sustainable Outdoor Industry
- Renewable and Sustainable Energy
- Urban Resilience and Sustainability

Outreach with tribes, bring expertise and resources

- Water quality capstone with Southern Ute
- Exploring opportunities with Ute Mountain Ute
- Looking to increase the number of capstone projects to support tribes

Professional

- How can engineers, attorneys, doctors, and other professionally licensed individuals and groups contribute?
 - They should
- Working Group of Tribal and Non-Tribal Attorneys spent 16 months drafting and passing a new ABA policy on Tribal Water Rights Settlement
 - All-volunteer
 - Shares expertise with professionals and advocates
 - Uses position of authority and influence to advance our vision of the future



RESOLUTION

- 1 RESOLVED, That the American Bar Association endorses the use of negotiation and
 - 2 settlement processes to resolve tribal reserved water right claims, provided the
 - 3 concerned tribes elect to pursue such processes, as well as the availability of adequate
 - 4 financial and technical resources as an important precondition for achieving successful
 - 5 settlements, and specifically urges Congress and the Administration to support these
 - 6 settlement processes by:
 - 7
- (1) Recognizing that tribes are sovereign nations; that tribes possess water rights; that those tribal water rights must necessarily be considered in any water settlement negotiation; and that the federal government has treaty and trust responsibilities to recognize those tribal water rights;
 - Recognizing that access to water is a human right that is critical to public health, well-being, educational attainment, and economic development; and that many tribes lack water access;

Call to Action



We Can Do This; There is Time

- Envision the future we want as a country.
 - Remember how far we have come in a lifetime.
 - Remember who your own people are.
 - Educate yourself on others – start at home.
 - Meet other people.
- Hold your institutions accountable.
- Contribute what you can.



Native American Rights Fund

13,494 followers

2w •

"Addressing the West's significant water challenges requires an all-hands on deck approach. Tribal Nations must be included in water decision making," said Moira McDonald, Environment Program Director ...see more



NATIVE AMERICAN
RIGHTS FUND

THE TRIBAL WATER INSTITUTE
at the Native American Rights Fund

What is one action that you are likely to do or do differently as a result of this session?



A herd of black cows is grazing in a field. In the background, there are rolling hills and mountains under a clear sky. The scene is captured in a monochromatic purple and blue color scheme.

WHAT'S NEXT?

LUNCH

Show Arena

THANK YOU TO OUR EVENT SPONSORS!

**¡GRACIAS A TODAS LAS ORGANIZACIONES QUE FORMAN PARTE
DE LA CUMBRE ALIMENTICIA 2023!**



 **FOOD SYSTEMS INSTITUTE**
COLORADO STATE UNIVERSITY



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