

## ***Journal #4480      from sdc      8.12.19***

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Bernadette Kaye***

[Stacey Montooth](#)  
[\(Walker River Paiute\) to](#)  
[lead Nevada Indian](#)  
[Commission](#)

[Stacey Montooth](#), a member of the [Walker River Paiute Tribe](#) who works currently as Public Relations and Community Information Officer for the Reno-Sparks Indian Colony, will start her new role Sept. 1 in Carson City as executive director of the [Nevada Indian Commission](#).

firstnationsfocus.com



## Partial Victory in Court Ruling of FCC Case

Dear THPOs, Partners, and Colleagues,

In the case of United Keetoowah et al vs. Federal Communications Commission (FCC), appealing FCC's Second Report and Order from March 2018, the DC Circuit Court of Appeals today handed down a partial defeat for the FCC and a victory for tribes and localities trying to retain their authority over cell tower placement and impact. The court has ruled that the FCC did not justify its deregulation of small cell site reviews and has vacated that part of the larger wireless deployment deregulation order.

The decision represents a key victory for Native American tribes over the FCC with the ruling that the commission did not sufficiently justify an order allowing telecom providers to deploy 5G small-cell infrastructure without consulting tribes or undergoing historic preservation and environmental reviews.

NATHPO joined a number of advocacy and environmental groups challenging the order, which was aimed at expediting the national rollout of 5G infrastructure by exempting small-cell fixtures from certain federal reviews, flouting the National Environmental Policy and National Historic Preservation Acts.

The three-judge panel ruled on three key aspects:

1. Small-cell exception: Win. FCC did not conduct a proper public interest analysis and must revert to previous rules that all types of cellular installations are subject to NEPA and NHPA review.
2. Tribal Fees: Loss. Court upholds the FCC's rules on fees and timing.
3. Consultation on the Order itself: Loss. Court says consultation was adequate based on the record.

The first item (small cells) is vacated and remanded to the FCC. This is a huge win, and frankly somewhat surprising. The rest of the order remains in effect. This is a big loss, and bad precedent in the current Administration. The lawyers are still reviewing all details and implications.

In an opinion written by Judge Cornelia Pillard, she deemed the deregulation "arbitrary and capricious," finding that the FCC "failed to justify its confidence that small cell deployments pose little to no cognizable religious, cultural, or environmental risk, particularly given the vast number of proposed deployments and the reality that the Order will principally affect small cells that require new construction."

Georgetown University Law Center's Andrew Schwartzman, an attorney representing NATHPO pro bono, states, "this confirms that the FCC cannot just scream '5G' to justify ignoring its duties to Tribal Nations and to the environment."

Save the date for an informational webinar next **Friday, August 16 at 1:00 pm EDT** with attorney James Graves, of the Institute for Public Representation at Georgetown University Law School (Washington, DC). Jim will explain what all this means better than I can, and answer your questions. Registration info to follow.

[Read the full decision here](#)

[Court Vacates FCC Dereg of Cell Tower-Site Reviews](#) (article)

[Tribes Win DC Circ. Ruling Against FCC On Small-Cell Builds](#) (article)

[D.C. Circuit Affirms Significant 5G Infrastructure Reforms](#) (cringe-worthy statement by FCC Commissioner)

Please contact me at [valerie@nathpo.org](mailto:valerie@nathpo.org) or 202-628-8476 if I can provide additional information. Thank you for all you do to protect culturally important places that perpetuate Native identity, resilience, and cultural endurance, and to support and empower tribal preservation leaders in this work.

Sincerely, Valerie J. Grussing, PhD, NATHPO Executive Director

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### **Law governing adoptions of Native American children upheld**

A federal appeals court has upheld the constitutionality of a 1978 law giving preference to Native American families in foster care and adoption proceedings involving American Indian children  
Read in ABC News: [https://apple.news/AjSJYoggzShSZ42\\_Mp9emAg](https://apple.news/AjSJYoggzShSZ42_Mp9emAg)

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### **[Court Upholds North Dakota Law Stripping Voting Rights From Native Americans](#)**

IMANI GANDY, REWIRE.NEWS

Last week, the Eighth Circuit Court of Appeals upheld a voter ID law that strips nearly 10 percent of all voting-age Native Americans living in North Dakota of their right to vote. North Dakota is the only state that requires voter IDs to list a residential street address. Since many Native Americans in North Dakota don't have residential addresses, the law takes the state one step closer to ensuring thousands of Native American residents will never be able to vote.

[Read the Article →](#)

[Disclose.tv](http://Disclose.tv)

An Atlas Moth is one of the largest insects on the planet



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**Millions of Books Are Secretly in the Public Domain. You Can Download Them Free:**

A quirk of copyright law means that millions of books are now free for anyone to read, thanks to some work from the New York Public Library.  
(Vice)

A study published in the Journal of the British Academy suggests that indigenous knowledge of flood signs could help cities predict impending floods. The research argues that communities, even in urban areas, would benefit from education about natural flood indicators, including knowledge about relevant factors such as clouds, heat, insects, and trees. [\*Reuters\*](#)

**MGM sues over federal OK for Connecticut tribal casino deal**

MGM argues the approval violates The Indian Gaming Regulatory Act and creates an unlawful monopoly for the tribes.

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**The Hidden History of Liberty Island**

Before the statue and long before the brand-new museum, there were pirates, real-estate ventures and public executions.

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**Now Microsoft wants to use AI to save history**

Microsoft creates a program that aims to use AI to preserve the world's cultures in the face of globalisation.



## **Native American Professional Development Series from the National Archives:**

*Each program features new resources for locating and using Federal records related to American Indians and Alaska Natives.*

### **Penpals from the Past: American Indian Schools in the United States**

Wednesday, September 25, 2019, 7 p.m. ET

[Register today](#)

Schools for Native American children and youth have existed since before the Revolutionary War. Although encouraged by the U.S. Government, schools between 1776 and 1879 were primarily run by religious institutions and, as a result, are not usually represented in National Archives holdings. In this webinar, we will learn about Indian Boarding and Day School records created primarily after 1879 by the Bureau of Indian Affairs and see some examples of class schedules and student work from then until today.

### **Native Communities and the Vote: Teaching about American Indian Voting Rights through Documents**

Wednesday, November 6, 2019, 7 p.m. ET

[Register today](#)

Join us and learn how to incorporate primary sources related to American Indian voting rights into your lesson plans. We will share activities and resources from the National Archives, and explore how to include discussions of evolving rights over time as relating to Native Communities and the right to participate in federal elections.

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### **Emails to tribes: DHS previously advised billing rates it now calls ‘overpayments’**

MPR News <https://www.mprnews.org/story/2019/08/07/emails-to-tribes-dhs-previously-advised-billing-rates-it-now-calls-overpayments> State OK'd wrongful Medicaid payments,

Indian band argues - Star Tribune, 8/8/2019

<http://e.startribune.com/Olive/ODN/StarTribune/shared/ShowArticle.aspx?doc=MST%2F2019%2F08%2F08&entity=Ar01601&sk=CDEE036A&mode=text>

### **Leech Lake Band says Minnesota officials approved millions of dollars in wrongful Medicaid payments**

Chris Serres, Star Tribune

Rejecting charges that it overbilled the state for addiction treatment programs, a Minnesota Indian band said Wednesday that the state's largest agency condoned a now-prohibited billing practice that led to tens of millions of dollars in unnecessary Medicaid payments.

In a letter Wednesday, the Leech Lake Band of Ojibwe said it has documents showing that officials at the Minnesota Department of Human Services (DHS) expressly permitted the band to bill the state's Medicaid insurance program a rate for in-clinic treatment, even though the patients were allowed to administer the anti-addiction medications at home.

DHS alleges that the unorthodox billing practice led Leech Lake and another Indian band, White Earth Nation, to overbill the Medicaid program by approximately \$25 million. The Leech Lake Band's share of the alleged overpayments is \$13.3 million, DHS claims.

“Based on initial review of our documentation, it is clear that DHS provided direct guidance to the Band that states our treatment program is allowed to bill” at the higher rate, according to a letter from Faron Jackson Sr., chairman of the Leech Lake Band, to acting Human Services Commissioner Pamela Wheelock.

The billing dispute has created a rift between Minnesota’s tribal governments and the administration of Gov. Tim Walz, while fueling fears of painful cuts on the Leech Lake and White Earth reservations, which had used the Medicaid payments to subsidize a range of social programs designed to prevent addiction. The dispute has also become an embarrassment for DHS, which is reeling from recent disarray in its leadership ranks. Legislative Auditor James Nobles has launched an investigation.

In a written statement, Wheelock said the issue of the overpayments warrants further exploration, which is why the agency requested that Nobles investigate. “There is much more to learn about what contributed to this situation,” she said.

At issue is whether the bands must repay the state for payments the bands say the agency approved for treating opioid dependency. For years, the bands were allowed to bill the state for Suboxone, a medication that can ease withdrawal symptoms and suppress cravings, without a face-to-face visit with a medical professional. The Leech Lake Band said that, at multiple points, the band sought guidance from DHS and was assured that the higher rate was allowable.

In a 2017 e-mail exchange, for instance, an employee with the band’s Opioid Treatment Program asked DHS if it was permitted to bill Medicaid for a month’s worth of Suboxone at the higher rate, even though the patient would take the medication at home. The DHS representative said, “the short answer is yes,” according to e-mails uncovered by the band.

Jackson argued DHS lacks the authority to seek repayment. “We simply will not pay because we are not at fault,” he wrote.

Medicaid payments for opioid treatment were a substantial source of revenue for the Leech Lake Band, one of the state’s poorest, with 9,500 members. Band officials said a number of programs have been affected by the change in billing practices, which took effect in May, including a homeless shelter, a program for elders and recreation programs for reservation youth.

In a statement last week, White Earth Nation also alleged that state officials were involved in designing its billing arrangements.

Chris Serres • 612-673-4308 Twitter: @chrisserre

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**Theda NewBreast i Blackfeet Country.**



Drum Roll...dada **The Minnie Spotted Wolf Memorial Highway dedication** with blood descendants and grassroots advocates for Women and girls

**[Revealed: FBI and Police Monitoring Oregon Anti-Pipeline Activists](#)**

*Jason Wilson and Will Parrish, Guardian UK*  
Excerpt: "Law enforcement groups, including the FBI,

have been monitoring opponents of a natural gas infrastructure project in Oregon and circulated intelligence to an email list that included a Republican-aligned anti-environmental PR operative, emails obtained by the Guardian show." [READ MORE](#) **Gold Miners Murder**



### **Indigenous Leader, Force Villagers in Brazil's Amazon to Flee**

A Waiapi man looks at a boy picking fruits from a Geninapo tree at the Waiapi indigenous reserve in Amapa state in Brazil on Oct. 13, [ecowatch.com](http://ecowatch.com) By [EcoWatch](#)

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### **Step inside Minnesota's only lab for detecting CWD — the mad cow disease of deer**

<https://www.minnpost.com/environment/2019/08/step-inside-minnesotas-only-lab-for-detecting-cwd-the-mad-cow-disease-of-deer/>

*Long article. The main idea is that tests for chronic wasting disease may at some time in future be shorted so that deer hunters will be able to access.*

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### **The Surprising Things Arctic Ice Can Tell Us About Human History**

In a new study, scientists say that particles of lead trapped in ice in the north pole tell the story of commercial and industrial processes dating back to the Middle Ages.

### **America's Agriculture Is 48 Times More Toxic Than 25 Years Ago.**

*Kendra Klein and Anna Lappé, Guardian UK*

Excerpt: "More than 50 years ago, Rachel Carson warned of a 'silent spring', the songs of robins and wood thrush silenced by toxic pesticides such as DDT. Today, there is a new pesticide specter: a class of insecticides called neonicotinoids." [READ MORE](#)



### **Explosions in Three States Highlight Dangers of Aging Fossil Fuel Infrastructure**

SHARON KELLY, DESMOGBLOG

Multiple pipeline and refinery explosions in the past several weeks demonstrate the dangers of the U.S.'s aging fossil fuel infrastructure and give cause for concerns about the safety of newly constructed pipelines. Environmental groups have pointed to the industry's troubling safety record as another reason to encourage a transition toward renewable energy.

[Read the Article →](#)

### **Trump Judge Approves Manslaughter Charges for Pregnancy Loss**

JESSICA MASON PIEKLO AND IMANI GANDY, REWIRE.NEWS

Recently, the ultra-conservative 8th Circuit Court of Appeals reinstated an involuntary manslaughter charge against a Native woman from South Dakota based on allegations that she ingested illegal drugs while pregnant, resulting in the death of her newborn. The decision is a dangerous escalation of anti-choice efforts to establish fetal personhood and punish people for their pregnancy outcomes.

[Listen to the Audio →](#)

### **Trump administration reauthorizes use of "cyanide bombs" to kill wild animals**

cbsnews.com

### **See a different endangered animal in every U.S. state**

These 50 photos highlight lesser-known endangered species across America. Read in National Geographic: <https://apple.news/ARIMv8246QxaOs5Y8qlOJEg>



***Red-lined Grasshopper --***  
Saguaro National Park,  
Arizona

**Youth Backcountry  
Camp: August 13-16**

· Hosted by [Tahoe Rim Trail Association](#) [128 Market St, Ste 3E, Stateline, Nevada 89449](#)  
[Show Map](#)

[Details](#)

Join an intimate group of 10-12 youth, ages 12-14 on a personalized trip to discover and experience firsthand the beauty of the Lake Tahoe region with the Tahoe Rim Trail Association (TRTA) and Tahoe Institute for Natural Science (TINS). Topics include:

- Backcountry living skills
- Map & compass navigation
- Wilderness survival skills
- Leave No Trace wilderness ethics
- Local ecology and geology
- Leadership & team building

Hike between 2 and 5 miles per day. Trips are fully supported by well-trained TRTA and TINS staff. All food, camping gear, permits, and transportation to and from the trailheads is provided. Participants only need to provide shoes, clothes, and a passion for the outdoors!



Shingle Springs Band of Miwok Indians

Shingle Springs Rancheria

# SHINGLE SPRINGS 25<sup>th</sup> ANNUAL BIG TIME



## DIGGING OUR ROOTS

### August 24 & 25 • 2019

Saturday & Sunday 9<sup>am</sup>

Dancers / Gathering

Traditional HANDGAME Tournament

Traditional Craft Vendors

Raffles & Prizes

Traditional Jewelry Vendors

Tribal Elder Luncheon [Sat]



Vendor application available online at: [www.ShingleSpringsRancheria.com](http://www.ShingleSpringsRancheria.com)  
or contact the Big Time Committee (530) 683-0115 or [bigtime@ssband.org](mailto:bigtime@ssband.org)

Shingle Springs Rancheria • 5281 Honpie Road • Placerville, California 95667





### **Bernadette Kaye**

Our Daughter, Sister, Mother, Auntie, Grandma, Cousin, Friend, Co-Worker, Hula Sister, Zumba Partner, Ski Buddy & all around amazing person; was called home this morning after her battle with Lung Cancer. She left us as she was surrounded by family. We realize that not everyone had been made aware of her fight, and that just speaks to how much of an amazingly strong beautiful woman she was. She wanted to remain that way until the very end. She leaves behind countless people who love her and will miss her. We are heart broken as a family, but relieved that her suffering had ended. This has been a very hard journey for us all, watching our very strong, independent Bernie, fight her cancer. We want to thank you all for your thoughts, prayers, for stopping by, and sending well wishes. Services will be held in the near future and we will share that information soon. Please wish Bernie well on her journey. She is LOVED, and she is already MISSED so much.

With love,  
The Family