

Ute Nation Seminar

Sunday, July 17, 2022 (1 pm) in Twin Lakes Schoolhouse

Ute people were hunter-gatherers who moved with the seasons (mountains in summer/lower levels in winter), respecting nature's gifts, ensuring long-term sustainability. They were excellent ethno-botanists.

During four days in the early spring, the Ute bands would hold the Bear Dance, the most ancient of all Ute dances, celebrating the end of winter/hibernation and new life. It was given to the people by the Bear.

Native nations have always had a strong sense of community which includes plants and animals. Culture and history were handed down through songs, art, ceremonies and storytelling. Elders were highly respected keepers of traditional "libraries." Indigenous justice systems emphasized restoration of harmony. Leadership was based on respect, experience and the task at hand (e.g., peacetime vs. war or the time of the year). Leaders had to be kind, patient, brave and wise.

1021 Vikings arrived in Newfoundland.

1492 Columbus landed in what is now the Bahamas.

1493 Papal bull was issued supporting the right of Spain and Portugal to colonize, convert and enslave indigenous and African people.

"Doctrine of Discovery:" European/Christian nations who first "discover" new lands in North America have the right to negotiate land transactions with indigenous people (who only have **"right of occupancy"** in their own homelands).

1598 *Spanish trade with Utes began (horses enabled travel/hunting)*

1620 Puritans arrived in "New England"

1670 *Ute Nation Treaty with Spain*

1763 Royal Proclamation: land transactions with indigenous people may only be conducted or approved by the King's representatives.

1776 Declaration of Independence

--*Dominguez-Escalante expedition through Ute territory*

1789 U.S. Constitution: Congress has power to "regulate commerce" with Indian Tribes (later became **"plenary power"**).

- Treaty of peace between Spanish and Ute people*
- 1790 U.S. Trade and Intercourse Acts: land transactions with indigenous people may only be conducted or approved by the federal government.
- 1803 Louisiana Purchase: *U.S. acquired eastern portion of Ute lands.*
- 1823 Johnson v. M'Intosh: "Doctrine of Discovery" was interpreted to mean that land transactions purchased directly from an Indian Tribe were invalid since indigenous people didn't have title to convey their land (only a "**right of occupancy**").
- 1830 Removal policy under President Andrew Jackson. ("Trail of Tears")
- 1831 Cherokee Nation v. Georgia: "domestic dependent nations"/ "guardian-ward" relationship ("Doctrine of Trust Responsibility")
- 1832 Worcester v. Georgia: states have no jurisdiction over treaty-protected native lands. (Andrew Jackson: "John Marshall has made his law. Now let him enforce it.")
- 1845 "Manifest destiny:" U.S. is destined by God to expand its dominion + spread democracy/capitalism across the continent.
- 1848 GOLD was discovered in California.
- Treaty of Guadalupe Hidalgo: *U.S. acquired western portion of Ute lands*
- 1849 *First U.S. treaty with Ute Nation (peace and friendship).*
- 1859 GOLD was discovered in Colorado.
- 1861 Colorado Territory was organized
- U.S. Civil War (1861-65)
- President Lincoln issued an executive order, establishing a Ute Reservation in the Uintah Valley of Utah.*
- 1864 Sand Creek massacre (Chivington: "nits make lice" so kill them all)
- 1868 *Second U.S. treaty with Ute Nation (land cession).*
- Ouray was selected (by U.S.) as principal chief of the Ute Nation.*
- 1871 *Ouray asked U.S. to protect Ute lands from trespassing miners.*
- 1873 *Secretary of Interior* (Delano) requested help from army to remove miners from treaty-protected Ute lands.
- General Pope* issued order for removal of trespassing miners.

--*Lieutenant Ruffner* (Army Corps of Engineers) organized expedition to determine eastern boundary of 1868 treaty.
--*President Ulysses S. Grant* appointed Samuel Hitt Elbert 6th territorial governor of Colorado (April 4) and traveled to Denver for a meeting with Governor Elbert.
--After the Denver meeting, President Grant rescinded his order and sent the Commissioner of Indian Affairs (Brunot) to negotiate another land cession from the Ute people.
--Twin Lakes miners named mountain for Governor Elbert.**
--*Brunot Agreement (September 13): over 3 million acres of additional land was ceded by the Ute Nation.*

1876 Colorado was admitted to the union as a state

--Battle of Little Big Horn (General George Armstrong Custer)

1879 *Meeker incident used as justification for removal of Ute people.*

--Carlisle Industrial School established in Pennsylvania ("kill the Indian, save the man")

1880 *Removal of Ute bands to Utah and southern Colorado*

1886 *Boarding school established in Grand Junction for Ute children.*

1887 Allotment Act: destruction of tribal governments and land held in common; a teaching tool for "civilization" ("greed is good")

-- *Uintah and Ouray + Southern Ute lands were allotted.*

--*The Weeminuche Band refused allotment and moved to the current location of the Ute Mountain Ute Reservation.*

1893 Ex Parte Crow Dog: No federal jurisdiction over major crimes in Indian Country (Spotted Tail/progressive vs. Crow Dog/hostile).

1895 Major Crimes Act: established federal jurisdiction over certain major crimes in Indian Country.

1908 U.S. v. Winters: reservations must have sufficient water to be "habitable" (so indigenous people can learn how to be farmers).

1924 U.S. citizenship for all Native Americans (state voting rights were a separate issue -- the last state to authorize indigenous voting rights was New Mexico in 1962).

- 1934 Indian Reorganization Act: ended allotment policy, authorized Tribes to adopt constitutions and to reorganize governments.
- 1946 Indian Claims Commission: authorized Tribes to sue federal govt.
- 1953 **Termination** enabled additional U.S. assimilation policies/laws:
--**relocation** to urban areas (individual Indians)
--**adoption** of Indian children by non-Indian families
--**jurisdiction** over Indian Country was given to states (P.L. 280)
--Congress **terminated** the federal relationship with 109 Tribes.
- 1968 Indian Civil Rights Act: most U.S. civil rights were applied to Tribes.
- 1970 President Nixon declared the termination policy a failure.
--Congress began restoring the federal relationship with terminated Tribes (e.g. Menominee Restoration Act of 1973).
- 1974 Morton v. Mancari: Indian preference in BIA employment was NOT based on race, but on Tribal citizenship.
- 1975 Indian Self-determination and Education Assistance Act: Native Nations were authorized to contract BIA programs (PL 93-638).
- 1978 Indian Child Welfare Act: requirements applied to state courts
--American Religious Freedom Act (no enforcement provision)
--Santa Clara Pueblo v. Martinez: Tribes determine membership
--Oliphant v. Suquamish: no criminal Tribal jurisdiction over non-Indians. (jurisdiction was "implicitly divested" by the "overriding sovereignty" of the U.S. and the "dependent" status of Tribes)
- 1988 Indian Gaming Regulatory Act (federal/state/tribal requirements)
- 1990 Duro v. Reina: No Tribal crim'l jurisdiction: non-member Indians.
--Native American Grave Protection and Repatriation Act
- 1991 "Duro fix" Congress amended the Indian Civil Rights Act definition of powers of self government to include: "the inherent power of Indian Tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all Indians."
- 2013 Violence Against Women Act (restored Tribal criminal jurisdiction over non-Indians in domestic/dating violence cases, subject to certain requirements.)

Ute Nation Resources

- History of Leadville and Lake County Colorado, Don L. Griswold + Jean Harvey Griswold, Colorado Historical Society and University Press of Colorado, 1996. (**Twin Lakes miners' inscription on a tin plate: "ELBERT PEAK, named and dedicated to our governor for the interest he manifested in our behalf in having the San Juan order rescinded." The tin plate was placed in a monument at the summit which was found later by F.V. Hayden's surveying party.)
- "How Sam Elbert's name got affixed to our highest peak," Ed Quillen, Denver Post, May 12, 1998.
- Southern Ute Indian Tribe website: www.southernute-nsn.gov
- Ute Mountain Ute Tribe website: www.utemountainutetribe.com
- Ute Indian Tribe of the Uintah and Ouray Reservation: www.utetribe.com
- People of the Shining Mountains, Charles S. Marsh, Pruitt Publishing Company, 1982.
- The Southern Utes, A Tribal History, James Jefferson, Robert W. Delaney, Gregory C. Thompson, University of Utah Printing Service, 1973.
- The Ute Indians of Utah, Colorado and New Mexico, Virginia McConnell Simmons, University Press of Colorado, 2000.
- Utes, The Mountain People, Jan Pettit, Century One Press, 1982.
- History Colorado, including their Ute Knowledge Kits for Colorado schools
- Ute Indian Museum in Montrose, Colorado (managed by History Colorado)
- Southern Ute Cultural Center and Museum in Ignacio, Colorado

Currently, there are 574 federally recognized Tribes and 66 state recognized Tribes. Each Ute reservation is treated as a separate Tribe by the U.S.

Some suggestions for follow-up seminars:

U.S. assimilation policies ("civilizing" indigenous people, diminishing indigenous sovereignty, taking native homelands)

- U.S. Supreme Court decisions in re: Indian country
- removal/reservations
- enrollment/allotment of land (to teach land ownership, fencing and farming)
- boarding schools for indigenous children
- relocation to urban areas
- adoption of indigenous children by non-Indian families
- termination of the federal relationship

Indigenous sovereignty

- justice systems -- traditional dispute resolution/peacemaker systems vs. Euro-American hierarchical systems/alternative dispute resolution
- spirituality vs. Euro-American religion/church structures
- consensual leadership vs. vertical government
- traditional usage rights vs. absolute ownership ("fee simple")
- responsibility to community vs. emphasis on individual rights
- oral history, customary laws, elders as keepers of tradition vs. written history, laws and regulations
- respect for nature vs. conquest of nature

Judy's background in Indian law:

Judy Leaming is a retired attorney who worked in Indian Country for over thirty years. She worked for the National Congress of American Indians, the Ute Mountain Ute Tribe (Towaoc, Colorado), the Navajo Nation (Window Rock, Arizona), the Catawba Restoration Project (Rock Hill, South Carolina), and the Confederated Tribes of the Colville Reservation (Nespelem, Washington). She received her J.D. from Antioch School of Law (Washington, D.C.).

Judy has taught Tribal law and history at Northwest Indian College (Lummi Indian Reservation, Bellingham, Washington), Wenatchee Valley College (Omak, Washington), the Colville Tribal Gaming Commission (Nespelem, Washington) and Colorado Mountain College.