

**State of New Mexico**



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**FOR IMMEDIATE RELEASE**  
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**PRESS RELEASE**

## **Attorney General Madrid Files Brief in U.S. Supreme Court to Protect Navajo Nation Sovereignty**

(Albuquerque, NM)— Attorney General Madrid has filed a “friend of the court” brief in the United States Supreme Court asking the Court to overturn a ruling by the Ninth Circuit Court of Appeals that threatens the sovereignty and economic interests of the Navajo Nation and of the individual States, including the State of New Mexico. Six other states have signed on to Attorney General Madrid’s brief, expressing their disagreement with the circuit court’s ruling. Those states are: Utah, Arizona, Colorado, Oregon, Montana and Oklahoma.

The Navajo Nation leases land to Peabody Western Coal Company for the purpose of conducting coal mining operations. The contract between the Navajo Nation and Peabody contains a provision requiring Peabody to give hiring preference to Navajos. This provision was approved by the Secretary of the Department of Interior but became the subject of a federal district court challenge when the U. S. Equal Employment Opportunity Commission (EEOC) sued Peabody over its hiring preference.

The case was dismissed from the U. S. District Court because the Navajo Nation was an indispensable party to the case and the EEOC did not have the power to compel the Navajo Nation to be a party to the lawsuit. The EEOC appealed the lower court decision to the Ninth Circuit Court of Appeals and they overturned the lower court finding that the Navajo Nation can be sued, using a procedural legal device called a joinder.

Attorney General Madrid said, “My office and that of six other states believes that what is happening in the Peabody Western Coal lawsuit is in danger of violating the sovereignty of the Navajo Nation and the states, and we are asking the U.S. Supreme Court to reverse the Court of Appeals’ ruling. The decision of the federal court of appeals is contrary to the delicate balance of power that Congress has established between the United States Government and the governments of the Navajo Nation, other Indian Tribes and the States. The court of appeals decision causes friction between governments that Congress meant to avoid, and undermines economic development of the Navajo Nation. The sovereign governmental interests of the Navajo Nation and the State of New Mexico are affected if this joinder device is allowed to stand.”

Navajo Nation Attorney General Louis Denetsosie stated: “It is extremely gratifying to have New Mexico Attorney General Patricia Madrid as well as the Attorney Generals of Utah, Arizona, Colorado, Oregon, Montana, and Oklahoma working so strongly with us and with Peabody to protect Navajo Nation sovereignty, as well as the sovereignty of other Indian nations

and the individual States of the Union. A ‘friend of the court’ brief has also been filed by the National Congress of American Indians (NCAI), which represents more than 250 American Indian tribes and Alaskan Native groups. The NCAI brief has the support of all 19 New Mexico Pueblo Indian tribes through the All Indian Pueblo Council. We look forward to working with all these individuals and entities to preserve and defend tribal and state sovereignty.”

The EEOC argues that a tribal-specific employment preference is contrary to the law and, by joining the Navajo Nation in its suit against Peabody, intends to force the Nation to justify its Navajo hiring preference policy. Congress, however, expressly disallows the EEOC from suing a government, such as the Navajo Nation or the State of New Mexico or any of the individual States of the Union.

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For a copy of the Attorney General’s brief,  
please call Sam Thompson at (505) 222-9174.