2011 HOUSE EDUCATION

HB 1263

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1263
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☐ Conference Committee

Committee Clerk Signature

MINUTES:

Chairman RaeAnn Kelsch: We will open the hearings on HB 1263, HB 1257, and HB 1208. I will start with testimony from legislators.

Rep. Duane DeKrey: Sponsor HB 1208. The bill I introduced is fairly simple in nature. It says that the logo would stay until the citizens of the Standing Rock reservation had a chance to vote on it.

Rep. Mark Dosch: Sponsor 1263. Testimony attachment 1.

Rep. David Monson: Sponsor 1257. Testimony attachment 2.

Sen. David Hogue: Neutral. Testimony attachment 3.

Rep. Corey Mock: I appreciate your testimony and have a copy of the constitution with me as well. Since you are here on a neutral testimony, HB 1263 has in last line that if this passes and we are penalized for keeping the nickname that attorney general shall consider filing a federal antitrust claim against the association .In 2007the state of ND, the State Board of Higher Education, and UND had a settlement agreement with the NCAA. Under what legal authority would the state have to re-challenge the NCAA for violation of antitrust laws?

Sen. David Hogue: I can't speak about what the attorney general's legal parliaments would be. He is a constitutional officer and he has the discretion on whether he will initiate litigation against another party or another organization. The only other thing I forgot to mention was that the legislative authority is stronger than usual than compared in most states. In ND one of our unique features is that when we pass a law it cannot be declared unconstitutional unless four out of five ND supreme court justices say it's unconstitutional.

Rep. Corey Mock: More generally, can we sue an organization for the same violation without any other changes? Is that legally possible?

Sen. David Hogue: As many know you can initiate lawsuits. That doesn't mean they will be successful. I would have to defer that to the attorney general.

Rep. Al Carlson: Sponsor 1263. Attachment 4. I agree that we are here to listen to what the people have to say. We work for the people of ND and that's why this bill is before you in different versions. I will read over my bill (refer to HB 1263). In response to Rep. Corey Mock's question, it is the responsibility of the attorney general to defend us no matter if he agrees with us or not. The reason this is here is I believe that this situation was poorly handled. What I did was put a history together of the Fighting Sioux nickname and logo. When the members of the Sioux nation come to me and say they don't want it, then I'll accept that decision. I think this was poorly handled and I think it is a proud heritage of our state. If I thought for one minute this was degrading in any way I would have not sponsored this bill. This deserves to have a hearing.

Chairman RaeAnn Kelsch: Questions? We will now have a video.

Video: Pride of the Sioux.

John Chaske: I am here to speak on behalf of the majority at Spirit Lake. In 2009 our tribe overwhelmingly supported the use of the Sioux name at UND. I have the highest respect for the 1969 granting of permission to UND to use the Sioux name. Since then there they have been many opportunities opened for our people. It would be disrespectful to dishonor the ceremony that granted the permission in 1969. There is no question in my mind that UND has received permission from both Standing Rock and Spirit Lake. Opponents say the logo imagery is abusing and offensive I feel that removing it is more destructive. We have been scrutinized and stomped on by letting ND know we support the Fighting Sioux nickname. Opponents at Spirit Lake handed out pamphlets on racism and discrimination. Growing up on the reservation in the early 1950s, I've lived and shared racial incidents. I think our current choice should be to move forward for racial harmony. I've seen pride swell in our children for the Fighting Sioux. Watching the games and seeing the chants, at that moment they were proud to be Sioux. If UND can achieve harmony amongst their players, by all means we should support that. Remember the name was given to UND as an educational institution. A majority of the students at UND are not Sioux and these students need to show respect for the minority. Many of our tribal colleges are named in honor of tribal chiefs. It is wrong that the NCAA has sanctioned UND and then agreed to declare that the UND Fighting Sioux nickname is hostile and abusive. Only the Sioux citizens of ND should have a say in this matter. It is wrong that the ND Higher Education and NCAA have decided to retire the name. Many may not know that the state name North Dakota is named after the Lakota Sioux. Today we have a chance to right a wrong.

Chairman RaeAnn Kelsch: Questions?

Rep. Corey Mock: I used to teach at UND and one thing I heard in the halls was that during a debate one student said "they think we are hostile now, wait till they try to take away our nickname." How does that make you feel when you see someone that feels that way?

John Chaske: I think it's selfish. It's been a long journey for our committee. We hear comments like that every day. What was encouraging was at Devils Lake. A group of UND grads encouraged me. People that say bad things about the imagery. There is something wrong there. It is as though they are trying to take something out on us.

Rep. Joe Heilman: Could you explain what the Sioux name means to your people historically as kind of the definition of the word Sioux and does fighting have any negative connotation to you and your people in relation to that?

John Chaske: There has been a joke that the Sioux like to fight. I don't see anything negative at all. It fits with the UND Fighting Sioux.

Vice Chair Lisa Meier: Out of all three bills which bill do you think is best to go through with?

John Chaske: I'm in favor of all three and that there needs to be something done to right the wrongdoing.

Rep. Phillip Mueller: Could you walk us through the process you went through at Spirit Lake to receive tribal approval? How did that work?

John Chaske: As an elder we have monthly meeting on the reservation. We have meetings to discuss different issues. At several of the meetings, the elders brought it up and said time was running out. Someone asked for a vote amongst them and 100% were in favor of keeping that name. They didn't know where to turn because there was a little controversy on our tribal council. Some of the tribal members at the meeting challenged the authority of not having a vote and we had nowhere to turn, so I put together an organizational meeting. I might add that usually people get riled up around election time but this controversy over the UND name overshadowed all that.

Rep. Corey Mock: One of the things you mentioned in your story was going to the Hockey game and seeing the support. One of the sanction the NCAA has put on ND if we don't resolve the situation is that we would no longer be able to host post season. So we would no longer be able to host play offs. Has the committee discussed if they are willing to keep the name and lose the ability to watch their team perform for championships and national titles?

John Chaske: My personal feeling is to take the NCAA to task and file a lawsuit.

Chairman RaeAnn Kelsch: Rep. Corey Mock you will hear from some of the testifiers coming later that UND would not have an opportunity to host those playoffs anyway.

Eunice Abraham Davidson: Support. Testimony attachment 5.

Archie D. Fool Bear: I am a member of the Standing Rock Sioux tribe. I was on tribal council from 2003-07. On the tribal council were to travel to communities to give reports and meet the people. In 2005 the council passed a resolution to oppose UND's use of the nickname and logo. I was on that council and I voted to opposed too. We were given information on how derogatory and hostile UND was to Indian students. After that I traveled to a community where a lady asked why we opposed. I told her we always oppose it and she told me to research it more. We traveled to UND to meet with students. The students we met with were, for the most part, not Sioux students. The majority coming out in

opposition were non Sioux individuals. We found in 1969 ac gave UND the right to use that name. We all know that through society religion is held in high regard. In our community we do the same. In 2009 I shared this info with State Hoard of Higher Education about the ceremony being completed at UND giving them the perpetual use of that name. I have asked for referendum vote on this from the council. It was never a full seventeen opposing. It was usually split. The personal opinions of the council should not stop people from being hard. The council doesn't have power to take that name away. When the resolutions are made to get rid of the name they are disrespecting those men that give the name. The record will show that the name change was voted down by the people of Standing Rock. In March 2010, I delivered a petition. We thought it wouldn't be a big problem but I feel that the fear of that vote exists. They don't want the people to be heard. I've never seen the petition for not having a vote but I guess it exists. In a June meeting the council made a motion again not to do anything with the logo since it was retired, placing a moratorium against the people from saying anything. It was the opinion of the in house attorney that that was illegal. So we started a court action. I come before you today as an enrolled member of Standing Rock tribe who, with 1,004 people, wants to have a vote. I come to advocate a do pass on whatever the committee will come up with that will uphold what the ceremony did when they gave UND the logo.

Rep. Joe Heilman: How many enrolled members are in the tribe and how many are required in your constitution or whatever, to have a petition?

Archie D. Fool Bear: When I was there it was about 16,008 enrolled. That is the total enrolled membership. The numbers are based on the election code. We were told to use the fifty percentile from the last vote as a figure to go by.

Rep. Bob Hunskor: Thank you for the history lesson on this issue. If there had been a vote, do you believe the majority of the members would support the logo?

Archie D. Fool Bear: My feeling is that the Fighting Sioux name would have had overwhelming support.

Diane Loon Gates: I am an enrolled member of Standing Rock Sioux tribe. I was at UND. It was a wonderful experience for me and gave me the thought of a future for our people. Let us be proud we are a recognized people and live in harmony. Many of our youth today have left their families behind because of hopelessness. Please give native youth a chance to a brighter future. We have Native Americans that receive education through UND. Doctors, lawyers, pharmacists, teachers, dentists, to list a few, and we'd like to see that continue.

Chairman RaeAnn Kelsch: Questions? We will have a video.

Video: Flag Ceremony at the Ralph Engelstad Arena.

Linus End of Horn: I am from Standing Rock. I was at the ceremony in 1969. The conversation I heard from the elders and the agreement at the time was that we as Sioux people would always be remembered through this great school. When I graduated from UND I remember the oath: "to be on the side of right." I am a Fighting Sioux. The name

Sioux is a very proud name among the Lakota people in ND and SD. As I stand here I want to encourage you to make a decision that the name stands. Do it in a positive manner to reflect on the students.

Chairman RaeAnn Kelsch: Former majority leader Earl Strinden.

Earl Strinden: I would like to say that I don't have anything to do with the three bills that have been introduced. No one from the Ralph Engelstad has had anything to do with these bills being drafted. This issue is important and is part of our history. I would like to talk about what has happened along the way. I think it is very important that we find out what the truth is. I would push for you to keep this alive until we can get some of the answers. The big 10. If we keep the logo we can't. Where did that come from? We have heard that big sky has objections. That is rather strange when they proudly announced that UND was going to be a part of it that they displayed the logo. I can understand why the board of higher education, the chancellor, and the president of the university would like to have this controversy go away. The truth will show that the chancellor did tell Dr. Kelly before he came on to the campus, that the chancellor would handle this name and logo issue so the president wouldn't have to do that. I was asked by some of the students about 10 years ago if I would help them because they wanted to keep and build a case for keeping the logo. I said yes I would help them. With that they organized a committee for understanding and respect. When you think about this, if that name is taken away does it not mean a loss of identity? Did the NCAA truly get the true picture? Here was I think happened. There were two conflicting things at that time or if they didn't conflict were part of picture. 1 was desire by board of higher education and the chancellor to remove this to get it away, and so from that time on it was the effort to reach that objective. When the NCAA had their reps come to campus they went through the Ralph Engelstad arena and they identified what needed to be taken out of that facility. You know who was missing in that? People from Standing Rock and people from Spirit Lake are missing from that. Lets find the truth behind these issues. What did the NCAA hear? Did they hear the truth or something else? Was the chairman of the NCAA retaliating against Ralph Engelstad who he thought was trying to dictate without knowing the full story? We need more time before we make a decision on this.

Gordon Caldis: I am an attorney. I graduated from UND with a business and law degree. I represent no party and erg we follow established law. I found a body of case laws of Indian names and logos associated with athletics just as with UND. The laws I found approved the upholding of the usage of the logos. I found UND has a copyright. A copyright will never be given unless it is found not to be discouraging. I found that the word "fighting" was allowed and found in many copyrights. In all this law it has been upheld. Stare decisis: in legal terms it means it's been decided. The doctorate of this is to stand by decided cases to uphold precedence and to maintain former adjudications. The doctrine of stare decisis rests on the principle that law should be fixed. If the UND logo case had not been settled out of court, the court and jury would have had stare decisis for the approval to use the nickname and logo. We have the Department of Higher Education. It had received opposition and complaints. The US Department of Education made inspections at UND and made no sanctions at UND. This has jurisdiction over all colleges and universities in the US. They made no such findings at UND of discrimination etc. It is clear that the UND logo case could have been stare decisis and the usage approved. I've also researched the constitution and bylaws of the NCAA. Its policy has yet to prove it has authority to enforce

its policy relative to UND. The NCAA policy has not been proved to have been provided to NCAA convention. The legislature of the NCAA is the legislature as mandated by the NCAA constitution. A subcommittee gave the report to sanction UND. However this report and sanction has not been passed by the NCAA convention. Here is what the constitution of the NCAA provides. The purposes of this association are to legislate by resolution of a convention upon any subject of general concern. Now is the UND Ralph Engelstad arena architecture? Is its name Sioux? Is that a general concern? I think not according to my research. It certainly didn't go through the convention. I leave you with this. Make the NCAA prove that this has been through convention and that it contains the policy provisions we are confronted with.

Kris Casement: I am an avid fan of the Fighting Sioux, and alumni, and I attend a lot of sporting events. For us growing up in ND, UND has given us alumni and sports fans alike a greater appreciation of the culture. This has become a basis of what it means to be a Fighting Sioux and the understanding of the heritage of where we come from and what is expected of us. It is certain that UND continues to uphold the values, culture, and history of this great Sioux nation. UND is recognized nationally as having one of the greatest Native American program in the US. In doing so, UND reflects the importance and value they place on their Native American culture and heritage. Never have I witnessed or heard any incident where the Fighting Sioux name or logo caused people to be treated hostile. UND is teaching all of us the values of your culture including, courage, pride, and honor. Standing Rock Tribal Council: why are you afraid to let your people vote? By getting rid of the name it affects all of us. People know us as the Fighting Sioux much more than a UND alumni. With the loss of the name, the history of the tribe will not be kept at the forefront. I ask you to vote in favor of the bills in front of you.

Chairman RaeAnn Kelsch: Questions?

Rep. Corey Mock: You said you travel and see a lot of the games. Do they show the video we saw earlier today on road games?

Kris Casement: No they don't.

Chairman RaeAnn Kelsch: I do plan to ask this again but if the name goes away, is there any reason to play that video at the home games anymore?

Kris Casement: I don't see a reason to continue that.

Sean Johnson: I testify today on behalf of myself as well as other UND alumni. I speak in support of the disenfranchised members of Standing Rock. We've heard a lot of powerful testimony today from many representing the people of these proud nations to whom the name Fighting Sioux means so much more than those of us not of that culture could ever fathom. It is because of the real Fighting Sioux that I have been motivated to fight for this issue. I also choose to fight because no man, woman, or organization has the right to characterize me or other arbitrarily as hostile and abusive simply because we share pride of the member of our tribal nations and the Fighting Sioux. Yet the NCAA, UND, and the Board of Higher Education would have you think otherwise. You are being approached to right a terrible wrong. I assure you that we have all acted consistently but our arguments

have been disregarded. The people of Standing Rock have also been disregarded. This legislative assembly is providing the first honest opportunity for people to be heard. For those that want to see the name change, one argument is that the name and logo are divisive. It's hard to believe that since it has united so many of us on the goal to keep them. These bills tell UND to wait until the people have been given opportunity to speak. It is our duty to set conditions right.

Rep. Corey Mock: You mention the 1969 ceremony and you said nothing has happened since to overturn that and yet I have the packet of resolutions from the Standing Rock Sioux tribe governing entity. It has fourteen votes relating to the UND nickname since 1992. Six of which are resolutions opposing the use of the nickname and logo. How do you respond to that?

Sean Johnson: I would redirect your recollection on how there may have been a tribal resolution. But I do know that nothing has overturned that 1969 ceremony.

Rep. Phillip Mueller: What would you have had the Board of Higher Education do? Simply ignore the issue at Standing Rock?

Sean Johnson: The right thing to do is to take responsibility and work with the people to get a decision. No vote is no decision.

Chairman RaeAnn Kelsch: I will call on David Davidson to come forward with this testimony.

David Davidson: Support. Testimony attachment 6.

Chairman RaeAnn Kelsch: Questions? Support?

LaVonne Alberts: I am an enrolled member of the Spirit Lake tribe. I come in support of this. It is a name that people on the reservation are proud of. The majority of our children say they want to be a fighting Sioux. That encourages them to go further with their education. I don't understand these people at the university that don't like the name. The Sioux are proud of this name. There are very few that don't and you will hear from them. Sure there have been derogatory things said but it doesn't reflect on the Sioux.

Rita Loon: I want this name to live on for my father. He sacrificed his Indian ways for people of standing rock and the world he traveled. I want to see the name kept at UND.

Jerry Valters: I am a supporter of these bills. I have a son in fargo and I came across some people that said that the people who called standing rock "Indian givers." That ceremony was done to allow the university to use that nickname and I don't think it is right to ask for that back. I am in support of these bills.

Reed Soderstrom: Attachment 7. I am an attorney and volunteered to help with Archie. When I saw the efforts made by Archie, I had to join on this issue. I believe the state legislatures' involvement is necessary and important to protect your citizens in ND. Few people understand what the Indian Civil Rights Act is. It states that no tribe shall silence the

people from filing for grievances. Refer to attachment. What I hope you notice is the lack of a vote from the people. We took this matter to the tribal court and you can hardly get into the door of the court. Not only has the court said the 1969 ceremony has never happened. This is the first forum they have had where someone is listening. I hope you will give a do pass on all three bills.

Chairman RaeAnn Kelsch: Questions? Seeing none thank you.

Jody Hodgson – Ralph Engelstad Arena: I strongly support these bills but especially HB 1208 and HB 1257. Smarter people than I will determine whether the legislature is the appropriate place for this discussion. I applaud the efforts of those who brought this forward. I have been involved in many discussions and meetings on this issue. Unfortunately we weren't able to secure a settlement agreement or approval or vote from Standing Rock. Everyone involved in this is deathly tired and everyone has been impacted by this. The NCAA has never said UND has to change the logo. They said if you don't or don't receive approval, there will be sanctions. If the name and logo change, need new uniforms and if it doesn't, you still have to buy new uniforms. If we secure one of those and we did not make the changes at the Ralph, we would not be able to host that championship event and I'm not so naïve to think that there aren't other impacts. There could be potential impacts and there are a ton of variables on this. One final comment I would like to make. The NCAA agreement included an announcement where they said imagery could create hostility. NCAA did issue a finding saying that there was no finding of that. I agree with that 100%. Reasonable people should be able to disagree on things but that doesn't mean we need to change an 80 year tradition.

Chairman RaeAnn Kelsch: Was there nothing in the NCAA sanction that said Ralph Engelstad Arena had to remove their logos. Is it your understanding that if the Ralph Engelstad had the capacity, which to my knowledge they do not, to host playoff games, and in particular the frozen four. Would they still be able to host those?

Jody Hodgson – Ralph Engelstad Arena: The capacity only comes into play for frozen four. With regards to regional events there is no minimum capacity level. There is a requirement to have a financial guarantee and obviously they want it to be big enough to make them work. They award that to neutral site facilities. We've applied for those and haven't been able to get them.

Chairman RaeAnn Kelsch: Is it possible that, just because the sanction doesn't include it now, a sanction in the future by the NCAA could say no games will be played in the Ralph Engelstad Arena?

Jody Hodgson – Ralph Engelstad Arena: It could. Correct.

Chairman RaeAnn Kelsch: So that means if you don't spend the 2.5 million to remove the logos in the arena?

Jody Hodgson – Ralph Engelstad Arena: Correct.

Chairman RaeAnn Kelsch: What is the cost to replace a facility like that?

Jody Hodgson – Ralph Engelstad Arena: My best guess would be 250 million.

Rep. Corey Mock: How much revenue does UND stand to lose if we have an opportunity to host post season play but have to forfeit in women's hockey?

Jody Hodgson – Ralph Engelstad Arena: We haven't hosted a women's championship yet. But I can say with NCAA event, they pay rent and whatever but the ticket costs go to NCAA.

Rep. Corey Mock: Could you say it would be comparable to hosting a men's?

Jody Hodgson – Ralph Engelstad Arena: It would nowhere near that. I think it would probably be a 10-15 thousand dollar opportunity.

Chairman RaeAnn Kelsch: We were going to show the video of the unveiling of the Sitting Bull statue but because of time we will pass on that, but will strongly recommend that committee members view the video. With that I will call on Ryan.

Ryan Dunnigan – 8th Grade student from Cathedral: I've been a Fighting Sioux fan my whole life. I'm not here to say the college is perfect. I was just at a Sioux hockey game and they were very respectful. I think if you take away the nickname you are taking away a great tradition and history. One of my lifelong dreams is to play hockey for UND and be a Fighting Sioux. Please consider what you are taking away if you take away the logo.

Marilyn Faye Guenther Paulson Schoenberg: I have been fighting to save the Fighting Sioux logo for a year and a half. I got signatures and took them to Standing Rock. I took them to Chairman Ron His Horse Is Thunder and he refused to see me. So I asked to see the head of the movement and it was Archie Fool Bear and I got involved with that. This has been exciting to be involved in this.

Chairman RaeAnn Kelsch: Questions? Support? Neutral?

Grant H. Shaft – Vice President, ND State Board of Higher Education: Neutral. Testimony attachment 8.

Rep. Phillip Mueller: There were accusations of alleged efforts on the part of the board to influence a negative response on the request to get approval. Can you comment?

Grant H. Shaft – Vice President, ND State Board of Higher Education: I would categorically deny that. I am on record at board meetings trying to get a vote. All our meetings on record would indicate our board trying to get a referendum. If there was a disagreement it was on the issue of UND athletics. They thought that prolonging of this would be detrimental to athletics. The issue was the timeline on the process.

Rep. Karen Karls: I m curious prior to election of Chairman Murphy, did you or Chancellor Goetz physically drive or go to standing rock or was it calls etc?

Grant H. Shaft – Vice President, ND State Board of Higher Education: I believe Chancellor Goetz went out there. We had a lot of communication with Standing Rock.

Rep. Brenda Heller: In some previous testimony the person from Standing Rock in support said the ceremony in 1969 trumps what any council can do or make a decision on. I was wondering if there hasn't been another ceremony to change that, how can this even be up for discussion?

Grant H. Shaft – Vice President, ND State Board of Higher Education: What I can tell you is that tribal law is a very complex, confusing area of the law. What I understand is we have had presentations giving us opposing views as to what that ceremony meant and what it means in their constitution. I don't think we have ever been able to resolve what that meant.

Rep. Corey Mock: My first question goes to the Big Sky Conference. There are a lot of serious implications moving beyone today. If any of these bills pass, what happens to UND? Do we go back to 2005 and start over?

Grant H. Shaft – Vice President, ND State Board of Higher Education: I would defer the Big Sky to President Kelly. Iif this is passed the first thing to happen is we will be placed back on a probation list. Beyond that there are a lot of issues. There was a settlement agreement. I believe if the attorney general was here he could speak more on that.

Rep. Corey Mock: If we do violate the terms of the settlement agreement, what does that do to UND in terms of signing contracts with other organizations?

Grant H. Shaft – Vice President, ND State Board of Higher Education: It probably just puts us back the way we were with the NCAA. Obviously this affects the hockey events.

Rep. Corey Mock: Would these bills in any way effect UND's current transition into division one athletics?

Grant H. Shaft – Vice President, ND State Board of Higher Education: I will defer again to President Kelly.

Rep. Brenda Heller: It was mentioned in previous testimony that it is questionable whether NCAA took this to their convention.

Grant H. Shaft – Vice President, ND State Board of Higher Education: I can tell you that all the board members have looked at the materials and passed them on to the lawyers looking at this. Unfortunately they've concluded that this process would not be fruitful.

Rep. Brenda Heller: You mean to take it to the convention it would not be fruitful?

Grant H. Shaft – Vice President, ND State Board of Higher Education: Correct.

Chairman RaeAnn Kelsch: Say UND doesn't want to play the Minnesota Gophers because we consider them pests. Anytime you have a school nickname you can find

something derogatory. I have a problem with NCAA trying to come in and dictate what the state of ND can do. They are an association. They are not government. I have a couple of concerns. Earlier this week we heard a bill and if it passes it will take away the power of the university president and give it to his subordinate. I received an email that says don't do that. It seems to me the board and the chancellor have now taken away the power of the university. Why did the board feel in this circumstance that they were far superior when determining what was in the best interest of the university and leaving the president out of it?

Grant H. Shaft – Vice President, ND State Board of Higher Education: A reason some other names are upheld is because they received permission from their tribes.

Chairman RaeAnn Kelsch: Tribes work in different ways. I think making phone calls is not always the most effective way.

Grant H. Shaft – Vice President, ND State Board of Higher Education: I can answer that we took that power because the president at UND at the time was planning to change the logo so they removed the authority from him to preserve the nickname.

Chairman RaeAnn Kelsch: Do you think the legislature has the authority to pass these bills?

Grant H. Shaft – Vice President, ND State Board of Higher Education: I think they do but the constitutional authority would have to be decided on (inaudible).

Chairman RaeAnn Kelsch: Unless provided for in statute.

Robert Kelly – President, UND: Neutral. Much of what I was going to say has been addressed. I think it might be helpful to the committee to know that much of what you are talking about was before I was president. When this was going on I got a letter directing me to change the logo. A number of questions have been asked about the NCAA. I had a conversation with a representative from the NCAA. We are dealing with a settlement that was reached late in 2007. It was indicated that the settlement had been reached in good faith and would continue to work with UND through the transition. There is still uncertainty and it is that uncertainty that we need to address. It was also indicated that we could revisit the issue but the NCAA would not be enthusiastic about this. There have been rumors that I took this position and was told by SBHE to retire the nickname and logo and that is false. I was given no assurances that this would be resolved soon.

Rep. Joe Heilman: Regardless of NCAA ramifications to athletics, how has this affected other areas of the university?

Robert Kelly – President, UND: I think we have seen individuals ceasing their contribution and others continuing. Where we have had some difficulty is with our attempts with private institutions and commitments to help pay for transition costs.

Rep. Brenda Heller: How many people were hired at the university to retire the name and logo?

Robert Kelly – President, UND: None.

Rep. Brenda Heller: Is there any way we can prove that this was taken to the convention?

Robert Kelly – President, UND: I believe we can find that out.

Rep. Brenda Heller: You said conversations with the summit continued after the decision to retire. If you had decided to keep the logo would have the conversations or was it because of the name and logo that they were halted?

Robert Kelly – President, UND: The state board did take action that it would be retired but the conversation stayed open that if the tribes decided to approve it, then it would go back and be approved. We were waiting for the full affirmation that we would be going through full transition.

Rep. Brenda Heller: I guess my point was if you would have decided not to retire the logo, what would those conversations been like with the summit? Would they have been favorable to UND joining?

Robert Kelly – President, UND: I don't think the conversations would have been any different.

Chairman RaeAnn Kelsch: During the process of application was the name and logo a part of it at all?

Robert Kelly – President, UND: That never came up because the application was initiated after that.

Chairman RaeAnn Kelsch: Do you have a ballpark figure on who will pay for all the letterhead and all the changes that need to be made, and will it be made by the university or who pays for it?

Robert Kelly – President, UND: I don't know. The letter to the NCAA was asking for a prolonged time because of this. At the moment I do not know. I know we will have to go through multiple revenue streams to pay for it.

Chairman RaeAnn Kelsch: You have to be thin ing of a number. I honestly don't think we can just say don't know.

Robert Kelly – President, UND: I honestly don't know.

Chairman RaeAnn Kelsch: We've heard anywhere from 1 to 2 for removal from the Ralph Engelstad.

Robert Kelly – President, UND: I don't know.

Chairman RaeAnn Kelsch: We had a bill to freeze tuition so it looks to me if that bill passes you wouldn't have that avenue to increase tuition to help pay the costs. Just a thought for you.

Rep. Corey Mock: I was informed that UND track and field team would be traveling to Iowa State this weekend for a meet because of sanction at the University of Minnesota. Do you know where this has happened aside from the NCAA sanctions?

Robert Kelly – President, UND: SD requested we cover the logo. There have been other instances where we have had to do the same.

Chairman RaeAnn Kelsch: Will the Pride of the Sioux video continue to be played at all the home games after the name goes away?

Robert Kelly – President, UND: One of the task forces that advise me on all issues like this one will give me a recommendation on that. The other thing is that we have people looking at rewriting some of the song.

Chairman RaeAnn Kelsch: If UND comes under some budget constraints would they look at reducing some of the Indian studies at the university because they would feel it was no longer necessary?

Robert Kelly – President, UND: The central issue at UND is the education of our students. We must provide higher education and opportunities for anyone wanting to come.

Rep. Bob Hunskor: If your institution does end up retiring the logo, what is the reaction of the Big Sky Conference?

Robert Kelly – President, UND: This is one of those uncertainty issues.

Jon W. Backes – President, SBHE: I understand fully the emotion that comes with this issue. It is the popularity of the nickname and logo are a tribute to the matter in which the UND has created and used that logo and used it in a dignified and respectful manner. When we were asked to meet in Grand Forks and visit with the attorney general on this lawsuit. I viewed the lawsuit document, the NCAA documents, the attorney general's advice, and it was shown to me that the NCAA will win and we will not. The attorney general's advice was that we were in the strongest negotiating position. I viewed throught the attorney general's advice that the negotiated settlement was the best deal that he could get on the table. I came on the board in 2007, the meeting on the settlement was in 2007 and there were four new board members. All of us have significant UND connections and I could fairly easily say we wanted the debate to work out in favor of keeping logo. We had a problem. We had to solve the NCAA problem. Perhaps the university could go forward and be on the ban list. Not a single school that has been on that list has remained on that list. They have made the changes or got approval. As I appear here today I encourage this debate. As you debate the issue, I ask you to seek a solution to the problem which is the NCAA.

Rep. David Rust: Is there really an alternative to the NCAA?

Jon W. Backes – President, SBHE: No I don't. DO I think the laws of the US should make the NCAA subject to the state laws? Yes I do. The US Supreme Court disagrees with my opinion.

Rep. Corey Mock: Of any of those 17 institutions on the ban list, did any leave and join another association?

Jon W. Backes – President, SBHE: None that I can think of.

Chairman RaeAnn Kelsch: Since we are the education committee, what does all this have to do with education? Because we certainly know what it has to do with athletics but what does it have to do with education

Jon W. Backes – President, SBHE: The athletic piece is an important piece of the education in schools.

Chairman RaeAnn Kelsch: You were talking about the laws. In Grant's testimony he included the settlement agreement and mutual release and under governing law it says this agreement shall be construed and enforced in connection with the laws of the state of ND. So what does that mean?

Jon W. Backes – President, SBHE: It means the lawsuit was filed in ND.

Chairman RaeAnn Kelsch: And that is all it means?

Jon W. Backes – President, SBHE: I think to the extent of their interpretation of the law relating to the legislative and what prejudice means in ND verses what it does in Illinois or elsewhere.

Chairman RaeAnn Kelsch: I think the final comment and question is that I really liked what you said at beginning when you said we don't disrespect the name and that it has been held to the highest esteem in the state of ND. You can probably pick out an instance in anything were something derogatory was said about you or something. I think what has happened here is we are letting an association and other states dictate to us what they perceive. If they would only set foot here in our shoes, they would know that isn't here. I think that is where the frustration comes from.

Jon W. Backes – President, SBHE: I agree. I can't remember ever hearing the logo or name being used in disrespect.

Rep. Brenda Heller: Someone else mentioned in testimony that it was questioned whether the NCAA had received factual information on which they based their decision. Do you know how they would receive that information and what was given to them?

Jon W. Backes – President, SBHE: What I know is that I read the policy when it came out. I read the president's, at the time, response to it and it was strongly worded. He was appalled that they would say that without stepping foot at UND.

Rep. Phillip Mueller: If you would have been on the board at the time would you have recommended the board stay out of this?

Jon W. Backes – President, SBHE: I think at that time the board needed to make that decision. If I had to do it over again after the last four years, I would rather have had someone make the decision, however it think we tried to make the best decision.

Chairman RaeAnn Kelsch: Questions? We will take testimony in opposition.

Rep. Lonny Winrich: Oppostion HB 1263, 1257, and 1208. Testimony attachment 9.

Rep. Corey Mock: You mentioned you were a faculty member at UND since 1985. Do you know the positions or have the faculty taken positions on the retirement?

Rep. Lonny Winrich: The University Senate has passed a number of resolutions opposing the nickname.

Chairman RaeAnn Kelsch: I find your statement on the second paragraph interesting that the symbols, logo, and nickname have been controversial for over 25 years. I graduated from UND and I don't ever remember that controversy. So my question is, is the controversy among the faculty? Or is it among the campus?

Rep. Lonny Winrich: There are students and faculty here that could better answer that. It was very much affecting campus life at the time I was there and there were a number of faculty concerned with it.

Rep. Joe Heilman: With your experience with the logo and its affects on campus life, what do you think the origins are of what is offensive and can you give examples?

Rep. Lonny Winrich: That is a difficult question. I think much of the negative behavior surrounding the nickname stems from overzealous attempts to belittle athletic opponents. I think it is largely incidental things that grow around this aspect of student life.

Rep. Karen Rohr: If the controversy has occurred for past 25 years, I'm sure the university has policy and documentation of incidents. Do you have any idea of any documentation?

Rep. Lonny Winrich: There have been documented reports that I believe may be connected with some of the petitions mentioned earlier. I do know that the most recent accreditation report had a section that commented on the negative impact of the Fighting Sioux nickname on academic instruction.

Rep. Karen Rohr: I'm talking about specific instances where students have come forward with complaints.

Rep. Lonny Winrich: I'm not sure on that.

Jesse Taken Alive: Attachment 10. I am a member of the Standing Rock Tribal Council at Large. I am deeply offended by the comments made by our government today. To say we don't listen to our people is horrible. We get up in middle of nights to go to peoples house to help with suicide issues. I'm very offended by what has been heard here today. There are reports of tribal members having a shot gun pulled on them at a stop light because of this issue. It was said earlier that we don't want to put the Sioux nickname side by side with other schools because they are rodents with pests. In a meeting with another tribal member I offered changing the name. I said lets go with the fighting Nazis. That was disrespectful to say just as using the Sioux name is disrespectful. When our son was threatened with this life, he wanted to attend UND. His mother almost died because the threat on her eldest son. We've done this since 1992. Earlier this month we had a state of the nations address. The point is lets have respect for each other. We have 6 local communities telling us to hold our position. 1,109 signed a petition saying we don't want you to have a vote and they want us to keep our position. I'm concerned that our voices haven't been heard or that they have been misconstrued. We have an elders group in Standing Rock. On April 6th the group made the same decision to uphold the opposition of the name. I don't want any native people or anybody to get hurt over this issue. Our son loves UND so much but not the logo. As Native American my perspective is that there is a strong tendency to look at incidents. How many incidents does there have to be? There is pain there. We don't want this to be a divisive issue on our reservation. I appreciate the reference to us as nations of peoples. The only ingredient we don't have is a currency. The USA recognizes that with treaties. If you look at the documents I attached, on the second page motion 29 under the roll call vote, the individual listed there was one of those that went out to UND in 1969. I didn't get an option to ask him why he changed his mind on the issue but the vote says it all. Things change. We are trying to help people understand the decision that was made and upheld since 1992 to oppose the Fighting Sioux nickname and logo. How many tribal students saw their dreams thwarted because of this issue? For the record I am asking that these bills be voted down in committee.

Vice Chair Lisa Meier: When your son had been threatened did you go to law enforcement and issue a complaint?

Jesse Taken Alive: From what I know it was reported and nothing happened. The death threat came across the internet at the time.

Rep. Corey Mock: It's been referenced that the 1969 ceremony blessing was important and more sacred than this. Can you shed light on to what that blessing means to you and what?

Jesse Taken Alive: The way of responding to the ceremonies is that when someone is bestowed a name it is because of the friendship and respect. There is no way that they trump the issue.

Rep. Dennis Johnson: When you have a 1,000 people that want to bring this to a vote how do you represent them and let them have their say?

Jesse Taken Alive: We have a counter petition of 1,109. And some that signed one signed the other. We had more signers on the counter petition than on the petition to issue a vote and we also had signatures from some of the same individuals on both petitions.

Rep. Joe Heilman: I'm trying to get my head around the two petitions. On one hand one was to have a vote. The other was to support the decision on the council correct? It sounds to me like the petition and the petition to uphold the name are like two different things.

Jesse Taken Alive: The motions made by the local governments, we used them to make decisions. These local meetings are advertised. I've let people know the only meetings I attend are meetings from the council that are open to the public.

Chairman RaeAnn Kelsch: One question. It goes back to the video the Pride of the Sioux. It seems hypocritical to play that video at home games because you would be using the Sioux name in there and that is what is deemed as unacceptable. Doesn't it bother you a little bit that that was a great history lesson and things like that will disappear? Or is it too valuable to get rid of the nickname that it doesn't really matter?

Jesse Taken Alive: The video will go away probably but educating each other on cultures shouldn't go away. The nickname freezes us into history and says this is all they can be. There are other venues where this can occur.

Chairman RaeAnn Kelsch: Questions?

Joseph McNeil: When I came on the tribal council this issue had been brewing for some time. We are presently at 19 years that Standing Rock tribe has opposed the nickname. How many years does it take? Then we had debate at Standing Rock. We cannot bind our people by a ceremony. It is a bind between those individuals involved. There are questions about that ceremony that was used. This is a serious emotional issue and all we can do is pass another resolution. The constitution needs to be changed to allow an initiative drive. Another thing is who is going to pay for this vote that is wanted? If we do have a vote then will it come to a point that SD voters won't have a choice to vote? I don't see this thing ever ending. To the experiences you have had at UND. They are just that; your experiences and not anyone else's

Rep. Bob Hunskor: Does each district have a board to represent the people of that district?

Joseph McNeil: The district has a commission, a secretary, treasurer, and commission members.

Rep. Bob Hunskor: When the vote is given to the tribal council, is that a vote where each person gets a vote or does someone represent?

Joseph McNeil: There are six at large and then the district representative would present the minutes on the issue.

Rep. Bob Hunskor: When the people vote, does each person get to vote within the district, are those counted and then given to tribal council?

Joseph McNeil: (inaudible)

Chairman RaeAnn Kelsch: Questions? Opposition?

Chase Iron Eyes: What I see happening is the legislature playing lawyer games playing with working to save the Sioux name. The attorney general has stated that he is concerned with the constitutionality of each one of these bills. I think before you go on I would caution you and I would like to see that analysis. If you pass the bills, taxpayer resources will go to a lawsuit for after this fact. Athletics, students, and grants would be affected by this. You would be authorizing a suit against the NCAA on sanctions they would impose. We would be using taxpayer dollars for that. One of the bills authorizes an antitrust suit. I understand the issue that ND has with the Fighting Sioux name. I can tell you that the day has ended when Native Americans feel they have to live a second-class citizenship. Things are changing and this name is going to change.

Rep. Lyle Hanson: I was wondering if you know that if one or two or all three of these bills passed, it will not be the end even from the day the governor signed it. Whatever we do here doesn't end here today.

Rep. Corey Mock: You mentioned you had prepared remarks. Could you make that available?

Chase Iron Eyes: I can do that.

Chairman RaeAnn Kelsch: A comment for you. You asked a question if the state engages in a lawsuit it is going to cost taxpayers dollars. We know the retirement of the name will cost taxpayer dollars. Regardless taxpayer dollars will be spent on this initiative either way. I think that is the answer to your question. We don't know how much but regardless taxpayer dollars will be spent on this initiative. Thank you for your testimony. Further opposition?

Evan Andrist – State Governmental Affairs Commissioner, UND: Opposition. Testimony attachment 11.

Chairman RaeAnn Kelsch: Yesterday you stood before us and testified on a bill would freeze tuition. So apparently you think that the legislature has the authority to do that, would that be a correct statement?

Evan Andrist – State Governmental Affairs Commissioner, UND: Yes.

Chairman RaeAnn Kelsch: But what you are saying in the bottom of your third paragraph is that if these bills were passed that they would further restrict the authority of the State Board of Higher Education and UND. Doesn't the university appreciate the appropriation that is passed to fund UND?

Evan Andrist – State Governmental Affairs Commissioner, UND: Yes but I also have to point out that in a hearing you had you pointed out that you legislators needed to make up your minds whether it was your legislative role to micromanage the universities.

Chairman RaeAnn Kelsch: We heard President Kelly talk about this costing money. How will the student body feel if their fees are increased in order to cover the cost for the retirement of the nickname and is that something that has been discussed?

Evan Andrist – State Governmental Affairs Commissioner, UND: I'm not aware of what the students would feel about an increase in fees.

Chairman RaeAnn Kelsch: Or a tuition increase to cover the costs of retiring the name?

Evan Andrist – State Governmental Affairs Commissioner, UND: I also feel they would see a tuition increase either way if we retire the nickname or we don't. That is why we support this in the student resolution. We don't know the costs of it will have if we pass these bills.

Chairman RaeAnn Kelsch: And we don't know the costs to retire the nickname. I ask these questions is because you are a student and have we as parents failed you in the fact that people have mentioned divisiveness and prejudices at the campus? When we were at these schools we didn't feel these issues or prejudices. Did we forget as parents to teach you tolerance? Did we forget as parents to make sure that you understood that there are other people and diversity and we should all be tolerant of each other?

Evan Andrist – State Governmental Affairs Commissioner, UND: I don't know if I could answer that on behalf of all the parents.

Chairman RaeAnn Kelsch: That is really not the question. The question is whether students can't understand and appreciate the history? Is that what it is?

Evan Andrist – State Governmental Affairs Commissioner, UND: I think the students can. I'd also like to point out that there are, in some cases, people that don't have the same teachings. I would ask how you would feel if you found out your child had written one of those derogatory things. I think it is a lack of judgment on many cases.

Rep. Corey Mock: Can I have you confirm that the student senate did passed by a larger margin?

Evan Andrist – State Governmental Affairs Commissioner, UND: They passed it by a measure of 17 to 1.

Chairman RaeAnn Kelsch: Questions? Opposition?

Dr. Erich Longie: I'm one of the 33% that voted against the logo. It wasn't too long after the logo was passed that we collected enough signatures for a revote. We still have a petition with the 300 names that we have yet to turn in. The ceremony is not absolute. There is no tribal council that could give something away forever and ever. I don't want to

be categorized as a logo on anybody's shirt. I don't want to see sacred paint on faces of non-Indian fans. One of the previous speakers said that Indian students from other tribes shouldn't be allowed to speak on this issue. I disagree. UND is not on tribal land. When other tribal students get mistreated because of the nickname and logo they have the right to speak up. The other thing I want to talk about is that it appears to me that no one has the right to speak for me unless I give that permission. Did the ceremony of 1969 get permission from everyone so that UND could use this name forever? Absolutely not and who gives them permission to speak for me? Finally I would like to say what is going to happen if one of these bills passes. I would say we are all going to lose. If you pass the bill you will no longer be honoring us, you will be forcing us.

Rep. John Wall: Does your constitution allow you to have a referendum?

Dr. Erich Longie: Yes it would make the council hear it.

Chairman RaeAnn Kelsch: I will make a comment. You should be a good role model and mentor for the people on your reservation. They really look up to people like you that have gone on and received those degrees such as you did.

Dr. Erich Longie: I appreciate that.

Chairman RaeAnn Kelsch: Further opposition?

Franklin Sage: Opposition. Testimony attachment 12.

Chairman RaeAnn Kelsch: Questions? Further opposition?

Carel Two-Eagle: Opposition. Testimony attachment 13.

Chairman RaeAnn Kelsch: Questions? Further opposition?

LaDonna Brave Bull Allard: You talked about never seeing any of the negativity at UND towards us. I was there when the football players threatened me and attacked a young Indian girl. In 1985 the students took over the cultural center and held it. And you guys are talking about 1990? And then you sit there and tell me these incidences didn't happen? My children suffer today. I cannot go on that campus and say I am proud of UND. I'm angry. I'm hurt. UND has caused me many tears. When you hurt my children you hurt me. And where were you when this was happening? You didn't hear anything? No because you were in your little groups. Where were you when we stood there in 1989 to say one hour of prayer for our people that upset the whole University? You tell us our lives are not important. You tell us what we feel is not important and try to tell my nation you are going to make rules for us. You cannot make a wrong a right. I have still not heard an apology for what you did to my children. And I say this to you because you are our representatives. On top of everything you have divided our nation. This logo promotes racism.

Chairman RaeAnn Kelsch: Questions? Opposition?

Margaret Scott: Opposition. Testimony attachment 14.

Rep. Karen Karls: You are an enrolled member of the tribe?

Margaret Scott: I am an enrolled member of a tribe in Washington.

Rep. Karen Karls: Are you also citizen of ND?

Margaret Scott: Yes I vote in every election.

Rep. Karen Karls: I am also a citizen and I understand that you are a sovereign nation and you have your own laws. Under our ND law we do have the right to petition our government to redress grievances. Do you not have that under tribal law?

Margaret Scott: You'd have to ask tribal leaders that because every model is different.

Chairman RaeAnn Kelsch: Any further questions? Further opposition?

Birgit Hans – Chair, UND Indian Studies Department: Opposition. Testimony attachment 15.

Rep. Phillip Mueller: We have heard a number of things that are going on at the university. What is happening at Florida State where they are called the Seminoles or places like that? Do you have any background on these types of issues going on among those campuses?

Birgit Hans – Chair, UND Indian Studies Department: No I don't but the situation is different. The tribes I believe have agreed to the use.

Rep. Phillip Mueller: I don't know if the tribes have agreed to it but what about what's happening on campus?

Birgit Hans – Chair, UND Indian Studies Department: You are probably right. But the diversity issue is one that is here today. We need to make sure our students remain respectful in a culturally diverse world.

Rep. Joe Heilman: Do you feel the retiring of the logo will help with the racial tention issues?

Birgit Hans – Chair, UND Indian Studies Department: Yes to some degree I do. I think if we get rid of logo students will take Indian studies with less prejudice.

Chairman RaeAnn Kelsch: What I'm hearing today is that the prejudice towards Native Americans today is happing at UND but it doesn't seem to be happening at the other campuses? Or is just because we have the Indian studies and we have kind of made the UND campus tailor to Indian studies as a focus?

Birgit Hans – Chair, UND Indian Studies Department: I think the same thing is going on elsewhere but it is that we have a focal point with the logo. I think it has to do with the fact

that the Fighting Sioux is there and is visible. We have a problem because so many students don't understand what stereotypes are.

Rep. Bob Hunskor: Has the problem you listed in the testimony heightened since the issue has come up about the Sioux logo?

Birgit Hans – Chair, UND Indian Studies Department: It would come up sporadically. They haven't escalated.

Rep. Corey Mock: I wanted to point out we don't have your packet.

Birgit Hans – Chair, UND Indian Studies Department: It will be distributed.

Rep. Karen Rohr: Has there been a qualitative study done that addresses the logo for native and nonnative?

Birgit Hans – Chair, UND Indian Studies Department: Yes there has.

Chairman RaeAnn Kelsch: Further Opposition?

Leigh Jeanotte – UND American Indian Student Services: Opposition. Testimony attachment 16.

Chairman RaeAnn Kelsch: Questions? Opposition?

William Crawford: Opposition. Testimony attachment 17.

Lucy Ganje – UND Department of Art and Graphic Design: Opposition. Testimony attachment 18.

Chairman RaeAnn Kelsch: Questions? Further opposition?

Don Morrison: I did want to make a comment on the stamina of the committee members. I'm an alumnus of UND. I had a great time when I attended and had an excellent education. There are a lot of UND fans that really do want to change this name. There are controversies and derogatory things going on at UND regarding the nickname and logo. These things have been going on for decades. I've learned about opposition from my Native American friends. The source of opposition on my part comes from Native Americans and Native American students. Keeping this name means we will be here in 50 years. It is time for UND to have a new nickname that unites people.

Chairman RaeAnn Kelsch: Questions.

Rep. Corey Mock: Has your organization taken a stance or is this personal?

Don Morrison: Personal.

Rep. David Rust: I have a question. It would be that we have some Native American schools and non Native American schools. Of the non Native American colleges and universities could we get an enrollment count and the percentage?

Chairman RaeAnn Kelsch: I'm told that we can. Questions? We will close the hearing on HB 1263, 1257, and 1208.

Submitted Testimony: Attachments 19, 20, 21, 22, and 23.

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1263
02/16/11
14629

☐ Conference Committee

Committee Clerk Signature

MINUTES:

Chairman RaeAnn Kelsch: We will open the hearing on HB 1263.

Rep. David Rust: I move a do pass on HB 1263.

Rep. Mike Schatz: Second.

Chairman RaeAnn Kelsch: Attachment. I provided a headcount of enrollment by race. Committee discussion?

Rep. John Wall: Could you explain what you foresee happening if we pass this bill?

Chairman RaeAnn Kelsch: First I think the individual at the NCAA that was probably more anti giving time to the state and giving time to the campus and tribes to vote is no longer with the NCAA. There is a new president and I think what the bill could potentially do is say to the NCAA that this is an important state issue and perhaps they need to reconsider the sanctions to allow more time. The way this is written it says they can't discontinue the use of the logo. This puts use more into a negotiation type situation than what we currently have.

Rep. Corey Mock: On lines 13-15 it states that if the NCAA takes any action to penalize UND for using the Fighting Sioux nickname or logo the attorney general shall consider filing a federal antitrust claim against the association. Do we know what the fiscal note would be on that lawsuit?

Chairman RaeAnn Kelsch: No and there has never been a fiscal note. I am assuming that it would be somewhat similar to a couple of the bills we heard before in that there is money built into the attorney general's office for lawsuits as they arise. Certainly we know this bill has been around a while and could have had a fiscal note is someone had deemed that they thought it should. The attorney general's office is well aware of this as well. Since you did bring that up the NCAA has a history of antitrust lawsuits against them and it seems that those that have challenged the rulings of the NCAA have been extremely successful and quite frankly resulted in some pretty decent settlements as well as remedies.

Rep. Corey Mock: This was one of them and it involved our state, UND, and the State Board of Higher Education and it was actually dismissed with prejudice when we last, in 2007, tried to challenge the NCAA. You mentioned that an individual from the NCAA that was against giving more time to negotiate between the universities and tribes recently passes. Did that change the terms of the settlement agreement signed by North Dakota and the NCAA?

Chairman RaeAnn Kelsch: I was just stating information I had received so I don't know.

Rep. Phillip Mueller: I've always like and never had a problem with the UND Fighting Sioux of any other variation of that name. It was in my opinion certainly not negative to our Native American friends. But I also think that the State Board of Higher Education who wanted to keep the name, UND that wanted to keep the name, and I don't know where the attorney general was on it, but they have come to the conclusion, after a lot of back and forth discussion on how to remedy the situation, that it is time to move on. I guess I am with common mind about that. This isn't going to go away. I don't think it will go away and I don't think the Standing Rock people will decide this is fine and the NCAA is going to be happy. It seems to me that changing the logo and the name and the mascot is not that horrible of a thing to do and it moves us down the road.

Rep. David Rust: One of the reasons I asked for the head count of the students that were at the various colleges and universities was that in testimony on the opposition there was reference to discrimination and atrocities that were committed against Native American students and possibly linking it to the fact that it was the Fighting Sioux. First of all I don't think atrocities or discrimination should be directed at anybody. If it is those individuals it would go to campus security and police department to seek a resolution. When I look at the number of Native American students at UND it is 2.5 times higher than the number of Native Americans at any other college or university. I would think if it was that atrocious to be there that those numbers wouldn't be the case. I would think the tribe would be sending the message that the campus is an unfriendly and unsafe place to be.

Chairman RaeAnn Kelsch: Further discussion?

Rep. Bob Hunskor: One concern I heard was that if the Sioux logo remains, there is positional for it to hurt the academics of UND. I say that in lieu of recruitment when the recruiters go to other states and there is an ongoing problem with the logo, students see that and question whether UND is the school to go to. I have concerns about that.

Chairman RaeAnn Kelsch: One of the biggest concerns that I have is the fact that if our State Board of Higher Education are so confident in their decision and if they are so confident that what they did was fully transparent and that it took into consideration every single angle that it should have, then why did they come into the committee and testify neutral? They should have done is come in and said no we will take this position against every one of those bills because we exhausted every single avenue. We left no rock unturned. Instead the State Board of Higher Education came into our committee and testified in a neutral position and honestly I think that is wrong because if you truly believe that what you did what was right and if you truly believe that the decision was the way it should have been, then man up and come in and testify against it. That didn't happen. I

guess I have that bit of a thorn in my side over the fact that the State Board of Higher Education could not, did not, and would not take a position.

Rep. Corey Mock: I can say that you are not the only person in the room who is upset with many of the conclusions that have come about throughout the entirety of the debate. This began in 1972 if I'm not mistaking with the first protest UND. The first resolution opposing the use of nickname and logo happened in 1992. Why is it that months before UND is to complete the transition as said in the terms of the 2007 settlement agreement, we are now codifying the only nickname in our entire athletic program. There is no other university or school in our state that has their nickname and logo codified. And more importantly there is no other nickname or logo that has the repercussions that this has on the student athletes. I have no problem with this body looking into any way possible and turning over all stones so we can exhaust all options because there are people that support the Fighting Sioux nickname and logo and then there are those that oppose it. Taking such a hard line as this bill does, it will impact students, scholarships, and programs at UND. With UND faculty senate oppose it, staff senate oppose it, student senate oppose it, and the administration has since moved on. The State Board of Higher Education has paved the road and voted unanimously to change the nickname and log. Unless there is some way of accommodating the students and the university I cannot support this. When elephants fight the ground loses. Here we are taking away local control from the State Board of Higher Education and UND on choosing their nickname. It is the students that are going to be impacted by this.

Rep. Lyle Hanson: All of us are elected to represent the state of North Dakota and we have two reservations. Spirit Lake that has voted to keep the name and Standing Rock which hasn't voted but their council has voted not to recognize the name. Who are we going to represent? I'm going to support the bill and hopefully something will be settled by the attorney general.

Rep. Bob Hunskor: A very contentious issue and feelings can run very high from all of us. When that happens I think we need to go back to square one and think about what is best for UND and the academics and that the institution can remain one of the most quality academic institutions in our nation. If you truly believe that keeping the Sioux logo is going to be in the best interest academically or if you feel it is not in the best interest of academics and getting recruitment then you have to decide it is time to move on. I'm going to oppose the bill.

Rep. Mike Schatz: I have a couple points. The emails I have received have run in favor of keeping the logo. There are a number of issues here. Cost being one. What would it cost to change the name? There are a lot of things that would need to be considered there. Are alumni going to contribute? I'm not sure but it could be a huge cost to the university. Another thing is we are the sovereign state of North Dakota. We take priority over an association. What we decide as the state of North Dakota is what it is going to be. When the State Board of Higher Education decided to move on, I'm wondering what would have happened if they decided to keep the name? After the Spirit Lake vote they could have easily come to that conclusion. I'm very much in favor of this bill and I hope you are too.

Chairman RaeAnn Kelsch: We have a do pass on HB 1263. We will take the roll. We will close on HB 1263.

10 YEAS 5 NAYS 0 ABSENT **DO PASS**

CARRIER: Rep. Mike Schatz

Date: 02-16-11
Roll Call Vote #: _____

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1263

House EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By REP. RUST Seconded By REP. SCHATZ

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	X		Rep. Hanson	X	
Vice Chairman Meier	X		Rep. Hunskor		X
Rep. Heilman	X		Rep. Mock		X
Rep. Heller	X		Rep. Mueller		X
Rep. Johnson	X				
Rep. Karls	X				
Rep. Rohr	X				
Rep. Rust	X				
Rep. Sanford		X			
Rep. Schatz	X				
Rep. Wall		X			

Total (Yes) 10 No 5

Absent 0

Floor Assignment REP. SCHATZ

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1263: Education Committee (Rep. R. Kelsch, Chairman) recommends **DO PASS** (10 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1263 was placed on the Eleventh order on the calendar.

2011 SENATE EDUCATION

HB 1263

2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

HB 1263
March 7, 2011
15051

☐ Conference Committee

Committee Clerk Signature T. Freborg

Explanation or reason for introduction of bill/resolution:
Relating to the athletic nickname and logo of the University of North Dakota.

Minutes: See "attached testimony."

Chairman Freborg opened the hearing on HB 1263; no fiscal note attached. He explained the ground rules for the hearing.

(Sioux Pride video entered into evidence-DVD; not viewed in hearing)

Representative Carlson, District 41 introduced the bill; there were three original bills in the House and this is the one that was passed to the Senate. (Read the bill) He presented and explained these handouts: #1 History of the Fighting Sioux Nickname & Logo prepared by North Dakota Legislative Council and #2 information from John Bjornson regarding the constitutional authority of the Legislative Assembly to enact legislation affection the State Board of Higher Education and the institutions under its authority.

Explained that the North Dakota University System board was neutral in their position during the House hearing, but will be here today in opposition. That doesn't make any sense as the bill hasn't changed. Also reminded that there are only three co-equal branches of government, not four as has been asserted. Even though the board of higher ed was created in the Constitution, it is not an autonomous entity with the authority to act independently of legislative policy making. It is the constitutional responsibility to effect legislation that regulates the institutions of higher ed and the board. Fund them, pass laws that deal with everything they do, and believe they are well within their authority to say that this name should not go away. It is a historic name and if any of the sponsors felt it was derogatory in any way, would never have introduced the bill. Look at the Native American programs they have established—done more than most any campus around the nation and we should be very proud of that.

Feels that in the House hearing they spoke for the majority of our citizens; not for all, but a majority of people are in favor of the retention of this name. It is a proud name with a proud history. Would personally ask what was required in the NCAA settlement—did it require that the name go away or to just require it wouldn't be used in a championship venue. The answer is going to be that it was not to be used in a championship venue—not asked to go

entirely away. Would hope you will ask both sides why they believe it is valuable to keep the name Sioux.

Senator Flakoll: The information from John Bjornson references a Constitution Section 8, the Education; there is a "companion" bill that will be heard in the House on a Constitutional amendment—if we change that will it change the ability or inability of one entity or the other to act in the current way? Referring to the HCR that would make a K-20 board. **Representative Carlson:** It would have no effect.

Senator Flakoll: If the bill were to pass and signed by the Governor, and go into play, and for some reason the Attorney General went to the full extent of their ability and everyone took it as far as they could and it was denied—then what would happen? How would this play out as we move forward? **Representative Carlson:** Obviously the end results would be if we went through the court system and failed, we would have to accept it if it were a Supreme Court decision—not a lower court, and there is a difference. If it went to the Supreme Court and they say we could not do that then we would have to drop the name. Hopes it does not get to that stage.

One last comment: people wonder about the money, why there isn't a fiscal note when the last sentence of the bill requires the Attorney General to go into litigation with the NCAA? There is no fiscal note because we have no idea what it would cost, and no one has ever asked what it is going to cost to change the logo—what is the cost to the university to change everything they have. There are franchise agreements, 75 year patents, which will be violated because of this on all the different logos and clothing. The brand name Fighting Sioux—what would that cost to change and there hasn't been a good answer for that one either.

Representative Dosch, District 32 handed out testimony from Representative Monson (#3 Testimony) as he is unable to come testify. (Dosch Testimony #4)

Senator Flakoll: It is his understanding that it cost $880,000 to get litigation this far; is that a reasonable amount on a go forward basis, if we were to double that? **Representative Dosch:** Guess he really can't comment on that; not familiar with the numbers on that. This is a tradition in the state; affects tens of thousands of people that have gone through the university. What value can you place on that?

Senator Flakoll: Under what moral authority do I have as a Caucasian person to decide what is offensive or not offensive, and to what degree something is offensive for someone else? **Representative Dosch:** All he can say is as a student at UND never was there any type of racism in connection with the use of that name. That is why he was so shocked when all this even came about; all you have to do is attend some games up there to understand that it not about race or color of skin or anything like that. It is about a tradition; coming together as a people not matter the color of skin, male/female, young/old, but about the tradition.

Senator Marcellais: As an alumni what is more important to you—your education or your logo? **Representative Dosch:** Education is first and most important part; but at the same time it's part of your education—sports play a very critical part in all of that. What brings a

school and students together—it's cheering all for the same cause. We can each get our education; banking, engineering, accounting or whatever, but you need a common bond to bring everyone together and that is sports. Thinks that is one of the most important things one takes away when leaving.

Senator Heckaman: On the backside of your testimony, you said that the Indian head logos in the tile have to be covered with black paint. Is there your understanding? **Representative Dosch:** It is his understanding it all has to be covered; cannot display the logo anymore.

John Chaske, elder member of the Spirit Lake Sioux Tribe and member of their local committee to save the Fighting Sioux name here to speak on behalf of the majority at Spirit Lake. In April of 2009 their tribe overwhelmingly voiced their support to keep the Fighting Sioux name at the University of North Dakota. Their tribal council voted unanimously by resolution to grant perpetual use of the name and logo.

Has the highest respect for Ed Loon and the delegation of tribal leaders from Standing Rock who in 1969 ceremoniously granted UND permission to use the Sioux nickname. It was the good intentions of this delegation that has opened the doors for many educational opportunities at UND for their native people. In circles of medicine and spiritual people, to question or to discredit this man's intentions and his ceremony is unheard of. It is disrespectful of our Dakota traditions; it is immoral. There is no question in his mind that UND has received the blessing to carry the name from both Standing Rock and Spirit Lake. The agreement between the North Dakota state board of higher ed and the NCAA was designed to give legal authority to the higher ed board to retire the UND namesake. This was the intent of their agreement from the very beginning. And that explains why the tribes were not consulted.

Opponents of the Fighting Sioux nickname are saying that the logo imagery is hostile and abusive; hostile and abusive is more descriptive of the treatment that Spirit Lake has received from the state board of higher ed, the NCAA, the news media and opponents to the nickname. We have been criticized, scrutinized, insulted and basically stomped on for simply letting the citizens of North Dakota know that we as Sioux people take great pride in our Fighting Sioux name and that we support the UND athletes who proudly represent the fighting spirit of our ancestors.

After the Sioux flag raising ceremony that was held at Ralph Englestad Arena, he took his two grandsons to witness their first hockey game. It was their first time being in a crowd of 11,000 people. His oldest grandson said he didn't think they would get rid of the name & logo when he saw all of the people wearing the caps and jerseys. He could see the pride in the boys; at that moment they were proud to be Sioux Indian. Why would anyone want to destroy this? Our people should be working hard to support something positive that links them to their native identity and builds their youth's self esteem.

His niece, Colleen Chaske, was a starting center for the women's basketball team at UND and was recently inducted into the Hall of Fame. He was proud of her and honored that she asked him to step in for her father who has passed away. Asked her if she experienced any racial or discriminatory incidents while attending UND, and she said

outside of a few comments there was nothing major. The UND men's and women's basket ball teams made special trips to the Four Winds school and their interaction with the students has a profound effect on their self esteem and identity. It has instilled in them a determination to succeed in education; the public school board who are in opposition to the name and logo put a halt to these visits and prevented the use of a bus to transport the students to the Englestad Arena to support Spirit Lake's flag raising ceremony. Must add that the students at Four Winds still wear UND apparel in school simply because they are proud of the name.

The loss of this 80 year old nickname and tradition at UND will definitely have a negative impact on the Spirit Lake people. They may have the lowest percentage of UND graduates per population compared to each of the four tribes in North Dakota. Their number of graduates is slowly on the rise thanks to the educational programs offered at UND. It is because of the nickname that UND promotes education for Native Americans and offers scholarships to Sioux students. Many of their elders have successfully completed the Future Indian Teacher program that UND offered some years ago. These people have become tribal leaders and have made a better life for themselves and their families. Their elders who have struggled through hard times on the reservation have come to realize the importance of education for the future generations. There are no guarantees that the opportunities that UND provides for them will continue if they are to lose this unique relationship they share because of the Sioux name, which is cherished by their Sioux people and the citizens of North Dakota. The state board of higher education and the opponents of the name and logo should take full responsibility for the costs and conflicts that have evolved from this issue which is a wrongdoing from the beginning when the agreement was conjured up. There are no excused for trying to destroy an integral and irreplaceable part of our state's history. Pleading for a favorable vote for HB 1263.

Senator Gary Lee: His understanding is that Spirit Lake had a vote of the people on keeping the name, and Standing Rock did not. Can you offer some information on the difference between the two in terms of rules or laws or tribal regulation that permits one and not the other from having that kind of vote? **John Chaske:** Not sure; Spirit Lake has a stipulation to allow their people to recall or challenge any of the tribal council's decisions. Do that through petition. It is his understanding that Standing Rock doesn't allow that.

Diane Gates, enrolled member at Standing Rock; her father (Edward Loon) was the first Native American mayor at Fort Yates. He served on the tribal council and also the chairman of the tribe. He and two other leaders, Aljoe Agard, a chairman and Bernard Standing Crow, tribal judge were thinking of the future of their people. These men had dreams for the future generation to come. They encouraged a youth to get an education and be proud and be recognized; to work toward honor, respect and learn from each other to live in peace and unity. Many of their youth and young adults have left their families behind due to suicide because of hopelessness.

The name was given to be recognized to be proud of who we are; to reach to their highest goals. Their people have a right to be heard and the tribal council cannot speak for all of them. Feel rights have been violated by not allowing the people to vote. In speaking to the youth and elderly on Standing Rock, they are for the name to continue because many of

their professional people have graduated from UND—teachers, doctors, lawyers, etc. If it was so bad there, why did they stay and accomplish their goals?

Eunice Abraham Davidson, enrolled member of the Spirit Lake Nation and member of the Committee for Understanding and Respect is here to ask for support on HB 1263. She never felt anything derogatory or demeaning concerning this whole issue. When very young and first heard the media talking about the Fighting Sioux, though it was very flattering that a university would want to be called Sioux. Didn't have the best home life and was put into a foster home; some of the kids she went to school with made fun of her. While at the foster home, the older couple that raised her were good to her; foster grandpa was part Sioux and foster grandmother was French Canadian. Thought they cared more about her because they didn't act Indian; compared them to her parents and decided at a young age that being an Indian was not the best thing. Here today to fight for something she now thinks is very good for her people.

When she heard on the radio that UND needed support from the two tribes or the name and logo would go, she contacted the university. Was put in touch with Phil Harmonson who suggested she bring a group to tour the university and said that a tribal vote would probably be the only thing to save it. So she got a group together and took them for a visit. While touring the university they were very comfortable and treated with respect until their last stop at the Native American Center. Spoke to about 11 students and were expecting to get some sort of report regarding conditions for them at the university. The group was quite shocked when the only thing they wanted to talk about was why we supported the name and logo. Upon entering the building they almost felt attacked because they supported the name and logo. After they thought about it wondered how the students would know we supported it because her group never said anything, never got the chance to. The group became defensive, but her son asked why they were against it. No one could give any specifics; basically the only thing they could say was that the white students asked them how they feel about the name and logo all the time. He asked how many of them were even Sioux, and only one had any Sioux blood so they wondered why the students even cared. Made them angry as had heard stories from tribal members that had the same experience so wound up avoiding the Native American Center.

She and the 67% of tribal members were extremely angered after Lee Jeannotte, head of the Native American Center, referred to them as not level headed because they didn't agree with him. Heard this on April 21, 2009 on WDAZ news. Another issue she has is five days before the election on Spirit Lake, Professor Amy Williams came on the reservation and took part in an elaborate presentation telling the tribal people they should not support the name and logo. About a year later at Little Hoop College she was seated across the table from her and confronted her about that. She said it never happened; does she think we are stupid and can't tell the truth between fact and fiction? At the House hearing another professor testified in opposition of the name and logo. Stated that the name and logo were so disruptive in her class, she was unable to teach. A week after her testimony Eunice and her husband went to the Chester Fritz Library to do some research on the issue of the name and logo. She asked students working there about this issue; asked if they had heard of any disruptions regarding the name and logo, both said NO. Mentioned to them the testimony and one of the students was actually taking a class from

this professor and witnessed no disruption at all. Both students and other students said they have never heard any remarks from anyone regarding the name and logo issue.

Archie Fool Bear, enrolled member of the Standing Rock Sioux Tribe and served on the tribal council from 2003-2007 (#5 Testimony; #6 poster of naming ceremony)

Senator Flakoll: Your Constitution, Article 8 has a provision for a referendum with 20% of qualified voters to get it on the ballot, how many qualified votes are there? **Archie Fool Bear:** Constitution states that 20% of the people to do a Constitutional amendment. In their Constitution the numbers are relied on by the overall figure of the people living on the reservation. Don't have a number for that, but 1,952 people voted in the last election.

Senator Heckaman: When working on these issues of getting this referred to the people, do this involve all of the districts on Standing Rock—even those in South Dakota, or just the districts in North Dakota? **Archie Fool Bear:** There are eight communities on the reservation; one tribal constitution but do have a state line. Each state respects them and they do whatever they are going to do for themselves based on that line. The tribe has to operate with all of the communities on the reservation.

Gaillord Peltier, 1986 college graduate of UND; experiences go back many years to his first memories of the campus in 1977. Very important issue for him personally and his family. Was a 15 year old freshman from Dunseith High School; attended a PowWow timeout weekend in April and from that point on his memories and experiences at UND have been nothing but positive and very memorable. From 1977 to present day there have been about 34 Time Out weekends, PowWows and he's only missed three of them. Never once experienced any hostile or abusive behaviors toward the logo, to him as a Native American or any of his family members.

Went to school there from 1982-1986 and was friends with several Native Americans from Standing Rock; went to class together every day and participated in extracurricular activities. Throughout his years there, not once were they ever confronted in a hostile manner or teased or made fun of—did not happen. He has five children; one son attended UND in 2006 and was elected at UNDIA president that fall. He did not have a good experience there because of his pro-logo stance. He was verbally attacked and assaulted in the UNDIA building and at the time wrote a letter to Dr. Jeannotte, but nothing was done. His people that are pro-logo at UND are not treated well at the Indian Center on the campus. His son transferred to NDSU the next year; UND lost a really great student and leader. Was elected to the Student Senate at NDSU so is a very strong leader. Two other children of college age and attended UND his first year, staying in the dormitories. Always asked how his experiences were—said he got treated really well on campus and dorm. Transferred to pharmacy program at NDSU. His daughter just graduated from UND in nursing. There from 2008-2011; always asked her how things were going and she said she never experienced anything negative. His youngest son wants to be a Fighting Sioux football player.

This issue not only affects the Sioux tribes of the United States, but the Sioux tribes of Canada. His grandmother is an enrolled Sioux member from the Ocean Man Pheasant Rump tribes in Saskatchewan; remembers stories with his elder family from there and them

saying what is wrong with them down there; why don't they take in consideration the importance of that logo—the pride of what that logo represents? Told them he didn't know; ancestry is important as they are very connected to the Fighting Sioux—part of the Battle of the Little Big Horn. In 1876 after the confrontation there with the cavalry, they fled to Canada and some tribal members stayed there when Sitting Bull came back to North Dakota. When you talk about the Fighting Sioux in regards to his ancestry—that IS who they are.

UND has been treated unfairly throughout this process; they are the only university that was required to have two tribes having to support the name and logo. As mentioned earlier other universities had to have only one tribe approve to keep the names of their Indian logo—Florida State Seminoles, the Central Michigan Chippewa, the Mississippi Choctaw, the Utah Utes, the Illinois' Fighting Illini, and the North Carolina Catawba Indians. Those schools only had to have one tribe approve the use of the logo. UND has to have two tribes; not fair as the Spirit Lake people have spoken. That is all that should be required.

Where is the proof about allegations regarding the logo and name. Questions he would ask is where is the evidence, police reports to collaborate what is being said. Those complaints are not filed at the police station, campus police, etc.. Evidence should be produced.

Senator Flakoll: Should we also take into consideration events that occur off campus in other sporting arenas? It was his understanding that there were some protests at other places where sporting events occur. Should those be weighed in consideration? Some of these situations happen at other places out of control of the university, the legislature or the board of higher ed. **Gaillord Peltier:** No, UND cannot police the behavior of every university that they participate against. Would be unfair to say to them to say you need to monitor the behavior somewhere else. Regardless, eliminating the logo does not eliminate racism and prejudice in North Dakota or elsewhere. It is a part of society that isn't going to change.

Renita Feather Delorme, enrolled member of the Spirit Lake tribe supports the bill. Has spent three frustrating and confusing years working on this issue; attended UND for 2 ½ years. Graduated in 1985 and has fond memories of her time there. Was proud when she was young and heard UND Sioux on the radio or TV—fanned a spark in her. Later when it became the Fighting Sioux it ignited a fire in her, encouraged her to return to college to get a degree at UND. While attending the university, it was nothing like what has been portrayed; quite the opposite. As an older than average student, she was a little apprehensive—had heard stories and was a little scared but because she was Sioux wanted to go there. She was treated with respect; staff and students very helpful. Not once did she hear the derogatory or racist remarks that were supposed to be commonplace. Had her two year old nephew with her at school and the times she had babysitter problems and had to take him to class. On those days, the majority of the time she was the only Native American student in the class so the non-native students would volunteer to help take care of him. Really surprised her! Did feel hostilities while attending UND, but that came from the Native American Center—never able to get any advice, encouragement, or any form of assistance. Never felt comfortable there so quit going. Actually people had told her it was supposed to be the Native American Center for the

Native American students, but it seemed that it was for a certain tribe of people who seemed to be there all the time and they were getting the benefits. She was Sioux and didn't get anything from there.

Saw turmoil there, but it was usually white against white or native against native; occasionally white against native but they were not about race—about attitude. Attend local sports games at home and have heard stupid remarks made. Have the Four Winds Indians, the Warwick Warriors; would not be happy if they were forced to quit using those names because of the fans being fans. After every game they shake hands and look forward to the next game.

After her people at Spirit Lake voted in favor of keeping the name, that evening on the WDAZ-10 evening news, Mr. Leigh Jeannotte at UND campus stated "those that did not agree with him were not level headed. If we were to sit down he would convince us that night is day and black is white." The news stories continued accusing them (the committee) of being paid off—all lies, but still they said things. She is proud of the name; graduated from UND, home of the Fighting Sioux.

Senator Heckaman: When at the Native American Center, were the hostilities you mentioned not necessarily from Sioux; is it run by a certain tribe or is a certain tribe in charge there all the time or does it vary from year to year? **Renita Delorme:** The 2 ½ years she attended the same individuals were in there; Mr. Leigh Jeannotte (believe is Chippewa) and his secretaries. Majority of the individuals there were from the Chippewa tribe.

Trista Dauphinais, 14 year old student from Spirit Lake Sioux Tribe would like to speak in behalf of the youth and tomorrow's leaders. Felt honored and proud of the UND logo and name. UND was not forced to use the name; chose the name because of the bravery of the Sioux people. Today the name is still being used and UND was proud to use the name honoring our people. Why change now? Her people voted to keep it—gave permission to use the name endlessly, forever.

Earl Strinden, CEO Emeritus, UND Alumi Association and UND Foundation Grand Forks (#7 Testimony and supporting papers)

Senator Gary Lee: You mention value and notoriety of the Sioux logo; who owns the marketing rights to the name and logo? **Earl Strinden:** University of North Dakota. **Senator Gary Lee:** If this bill does not pass, and the logo should go away what will happen to those marketing rights? **Earl Strinden:** Not sure; have read where UND would like to try to keep control, but thinks the law is not on their side. Don't think they are going to be able to keep control of it. **Senator Gary Lee:** Do we have any idea of the value of that logo in terms of dollars generated by it? **Earl Strinden:** Cannot give a dollar amount; it is substantial—one of the most popular names and logos in the country. Can tell that the revenue from the Ralph Englestad Arena gift shop is very substantial.

Senator Flakoll: The court ruling is that the case from District court was "with prejudice"; what does that leave left to litigate? **Earl Strinden:** Bothered him when someone said that the role of the Board of Higher Education and the Legislature is about equal. He rejects

that idea and with due respect to his friends on the higher ed board—they do not have the same status as the North Dakota legislature. The idea that the legislature does not have a say in this is wrong. **Senator Flakoll:** Not sure you answered his question—agree with your statement. But they litigated on behalf of the state of North Dakota; the Attorney General and Board of Higher Education brought litigation. Since it has been on behalf of the state of North Dakota what else can we bring? **Earl Strinden:** Was the legislature as a branch of government any way involved in that action? Were you involved—no.

Senator Flakoll: Does the NCAA have the authority to determine the terms of championship play? **Earl Strinden:** He thinks it is true; we are operating with the assumption that the NCAA will not change, but he believes he will. Feels they were operating from falsehoods that were brought to them. Think when they look at the truth they will remove the penalties on UND. Even though there is a two year time frame to go to Division I. **Senator Flakoll:** If we pass this bill and it becomes law and go to the full extent of the bill and they do deny it—NCAA, courts, or all—what do you recommend the state do? **Earl Strinden:** He doesn't know what is going to happen; saying should not give up. In two years the legislature meets again; can keep the name and logo just can't wear the uniforms in an NCAA event.

Senator Heckaman: Were there contingencies from the Englestad family or estate if the name is changed? **Earl Strinden:** No; there were promises made to the late Ralph Englestad that were broken but the rumors out there are false. No action would be taken.

Gordon Caldis, Attorney, Grand Forks did some volunteer research in support of the bill. Handouts #8 Research booklets of the history of the name and logo; #9 letter and further research and Vote to Preserve handout. Has a desire for justice after he has done substantial research of the law; not sure the agreement was valid and there was no closure. The basic issue in the case—whether or not it was valid and in the authority of the NCAA. It was settled out of court by the attorney's and transferred a judicial decision to the two Sioux tribes and allow the NCAA policy to continue—still no closure to the basic issue. The litigation initiated by them to save the Fighting Sioux name and logo from the NCAA policy is now being transitioned by the Board of Higher Education and UND (in spite of all the law and authority) in three state courts and one federal court. Fortunately this legislature has the opportunity to save the day and the Fighting Sioux name and logo, and justice can prevail. The board of higher education passed up an excellent chance to reopen that original case under Rule 60 of civil procedure of North Dakota utilizing those six causes of action outlined in his papers.

Bill LeCaine, Lakota Sioux testified in favor of the bill (#10 Testimony)

Jody Hodgson, General Manager, Ralph Englestad Arena, Grand Forks testified in support of the bill (#11 Testimony)

Senator Marcellais: As the general manager would you be willing to drop the Fighting off the Fighting Sioux logo and name? **Jody Hodgson:** Don't believe that is his decision to make; the name and logo are owned by UND. It is a UND trademark and copyright. If he were to answer the question, his personal opinion is that it is an acceptable compromise.

Don't think enough discussion has happened to regards to your question; gap in this equation that could be furthered.

Senator Luick: Is the Ralph Englestad Arena and UND separate entities; is the Arena separate entirely from UND? **Jody Hodgson:** Separate legal entities; logo in granite would not have to be removed. Also the only group of Native American people that were given a chance to vote, voted 70% in favor of the logo.

Kris Casement, Savage MN formerly of Bismarck: She is a donor and 1988 graduate of UND and proud to be a Fighting Sioux. Her family has been a member of the Fighting Sioux Club and season ticket holder for 15+ years; also a general donor and impact scholarship donor. UND has announced the following at every sporting event it holds. "The University of North Dakota is the home of the Fighting Sioux. UND chose the name Fighting Sioux in the 1930's because the Sioux warriors were the most courageous of all warriors. The great Sioux Nation epitomize honor, courage, pride, overcoming adversity, and winning battles. We ask tonight that you cheer your team to victory and exhibit good sportsmanship as well as respect for the American Indians and their proud and honored culture and heritage." This has become an introduction to the culture, heritage and tradition of the great Sioux Nation for many people, including her own children. For us growing up in North Dakota it has given alumni and sports fans greater appreciation of their culture.

In getting rid of the Fighting Sioux name, it affects us all. Personally is her identity; proud to be a Fighting Sioux from North Dakota. When she travels around the United States, the Fighting Sioux name and logo are recognized as honorable and is respected. Believes it will hurt the recruiting of athletes to North Dakota; has had a chance to talk to many athletes through the Fighting Sioux Club in all sports and one main theme comes across: they selected UND because of the tradition of the Fighting Sioux programs and how respected the Fighting Sioux name and logo are. The facilities doesn't hurt either.

Came to this fight late in April 2010 after the state higher ed board made their decision to get rid of the name and logo. Got in touch with Archie Fool Bear at Standing Rock to see how she could help him get a vote done at Standing Rock. She was flabbergasted at how a tribal council would not listen to their own people and to have a vote. Why don't they just have a vote and get it over with—one way or another. If they are so confident that the people don't want the name, wouldn't that be the final voice on this subject? She believes that Standing Rock would approve the use of the Fighting Sioux name, but a few of the tribal council members threw every road block in front of the group. Takes offense to the higher ed board stating in the last House testimony that they asked for input from the alumni. As part of that group and as part of the Fighting Sioux Club, they were never asked once about their feelings in keeping the name and logo. Who did they talk to?

Linus Vincent End of Horn: is related to every gentleman in the picture of the naming ceremony in one way or another. In 1963 he joined the army and served for 15 years as a green beret—so he is a fighting Sioux! Is a UND graduate in 1982 as a Fighting Sioux; he wrestled and played football. Greet with an open mind and heart, educationally and spiritually. There has been a lot of documentation relating to the law; a law that is greater than those put forth by mankind is spiritual law. As non-Indian people you get baptized and get your name in the ceremony. That is sealed and bound as law. The Native people do

the same thing; we gave this name Fighting Sioux through those gentlemen and that law is above the law we now look at—state, federal, tribal—spiritual law is above all that. And now they are trying to take that down.

As a student at UND he was the one that should have been complaining; looked at it as camaraderie. The slurs came from other teams that came and got defeated by us. Got his first BA from the University of South Dakota, Coyotes; worked both ways—that is sports. Graduated with honors; his son just came out of the Marine Corp and asked why you attended UND when you already graduated from USD. He was tired of being a Coyote getting eaten up by Sioux's! He did see other individuals that got hurt while there, but they didn't fight back—rolled over and took the abuse. Some people without an open mind, heart, do not look at people in the eye will be offended. He would fight back with education and spirituality. (From the SD side of the Standing Rock reservation.)

Senator Flakoll: We've heard a lot about controlling authority and people agreeing to this, but haven't heard much in terms of current students. Should the current students have any say in what they are called? **Linus End of Horn:** Think it is the prerogative of the student to attend any school. He is proud of being a Fighting Sioux; taught school with the nickname Sioux. Solen Sioux's—and you should of seen those kids! Up to the individual accepts present protocol with open mind educationally and spiritually supporting it. Wouldn't be of any concern to anybody.

(Written testimony #12 submitted by Marlan Haakenson, Bismarck)

Testimony in favor used allotted time frame. Opposition:

Representative Winrich, District 18 (#13 Testimony)

Senator Schneider, District 42 (#14 Testimony)

Jessie Taken Alive, Standing Rock Tribal Council (#15 letter from Charles Murphy, Chair) handed out the following: David Gipp (#16 Testimony) Standing Rock Tribe resolution (#17) "The UND Fighting Sioux" logo handout (#18) A Report on the UND Mascot Issue (#19)

They are prepared to ask all of the South Dakota Sioux tribes for their support if this goes to litigation. Has many Native American groups and tribes on record as supporting the name change. Take another group of people for example—what if we were talking about the black people? How far would this be going?

Came across a book titled "A Century of UND Sports"; published in 1994 and covered the history of the University of North Dakota athletics from 1889 to the early 1990's. Not a single mention of the ceremony that was referenced earlier in the hearing to give approval of the use of the Sioux name.

Senator Heckaman: Have you had any thoughts about Bottineau changing their name to Dakota? Were there any thoughts about the name change there; offensive to anybody? **Jessie Taken Alive:** Not aware of the name change.

Senator Gary Lee: We heard from previous testifiers about a 1969 agreement that allowed perpetual use of the name. How do you reconcile that with what you are telling us in terms of changing the name? **Jessie Taken Alive:** One of the four gentlemen that made the trip out there in 1969, you will see his change of position. Naming ceremonies are very personal and private. Not to shed any kind of "darkness" on him, will say that is what it was—a beautiful naming ceremony. A name was given to then UND President Starcher; they asked themselves if the name was given to the University, shouldn't there be some kind of commemoration of it? Shouldn't there be some kind of anniversary celebration held for it? The book of sports history has no citation of it at all. It was only a very personal naming ceremony for Dr. Starcher.

Senator Gary Lee: Your information you provided shows a lot of votes by the council in regards to the issue. There was testimony earlier that indicated it was constitutional to provide for a referral vote by your people. Why wasn't that vote taken; why weren't the people of Standing Rock allowed to vote? **Jessie Taken Alive:** They also have another attorney that gives different opinion and says we are right and well within our realm to act the way they did; take the motions that they did. There are six local municipalities of the eight that support this position. A counter petition with 1,119 names given to them that support the tribal council. In terms of the constitution, got this in writing from Mr. Steven Emery; put it within their realm. **Senator Gary Lee:** You said that six of the eight communities support your position of changing the name; how is that support given? **Jessie Taken Alive:** When they have their local government meetings there is a quorum that had to be established. Every eligible voting member is given an opportunity to show their hands for or against. Have documentation that show by their vote the support for the tribal government's position. **Senator Gary Lee:** So that is a council vote of each community? **Jessie Taken Alive:** Each community has it's government; they meet monthly and they provide their recommendations to the meeting of the tribal government. That is how our government is run.

John Backes, President, North Dakota University System Higher Education board: The board has had a change of position regarding the bill. It became apparent to the higher ed board that the bill doesn't solve any problem. In 2005 the NCAA enacted its policy on Native American imagery. UND appealed its inclusion on the list of that administratively twice to the NCAA; the appeal was denied twice. Following the second appeal, the state board of higher education and the Attorney General and UND sued the NCAA in an effort to be taken off the list of institutions that were violative of its policy. The lawsuit had two essential claims to it: anti-trust claim and breach of contract claim. Breach of contract said that when we became a member of the NCAA, we entered into a contract with you and that contract was set forth in your bylaws and you policies. Felt they did not have the authority to pass the policy on Native American imagery without a vote of its members. The lawsuit did claim a breach of NCAA rules and shouldn't be allowed to make these kinds of pronunciations without providing due process. When he first got on the board, had a meeting in Grand Forks with the Attorney General. How do we handle the lawsuit? Attorney General said have some options--Option 1 was to continue on with trial; at that point were about a year into litigation and about $800,000 spent. The Attorney General opinion was that while they may have a reasonably good chance at trial on the breach of contract issue, the NCAA had been telling him that even if you win at trial, we have a resolution before our current membership to allow the executive committee to do

exactly what they did and they believed it would pass. If it did pass, then they could still do what they wanted to do. Attorney General felt that might win the battle, but would lose the war on that issue. NCAA did change as membership overwhelmingly approved allowing its executive committee to make rules like this.

Option 2 was a settlement requiring North Dakota to get the blessing from two Sioux Tribes in the state; initial proposal from NCAA required North Dakota to get the approval of around ten Sioux tribes in order to make the namesake exception that other states were granted. Attorney General was hopeful that consent would be possible with discussion over a period of time with the tribes. Given the alternatives, that seemed to be the only reasonable solution to the board, who voted unanimously to enter into the settlement agreement with the NCAA. The Attorney General and Higher Ed board on behalf of the state of North Dakota (feels that the state of North Dakota is therefore a party to the contract with the NCAA) have to seek and obtain consent within a certain time frame; name will be changed. Not in the best interest of UND and their athletic programs. Other troubling aspect with some of the testimony is that NCAA just needs to hear and understand our feelings on the issue. Read the two appeals from Dr. Kupchella dispatched to the NCAA when UND was originally put on the list; looked twice and said they were not going to change the rule. All schools that were to be affected have changed or met requirements. Does not feel that the NCAA will change their minds just because the state of North Dakota says they are unhappy. Suggests that the consequences to UND may be more dire than just not allowing them to bid post-season events and wear the logo on jerseys—thinks that is the best case, if this legislation passes. As far as he knows there isn't a single school left on the banned list out of the original 18; the rest of the institutions decided the penalty is not worth the cost.

North Dakota has a contract with the NCAA, and if they now turn around and say they are going to sue them again. They might say we are a voluntary organization of universities—go find another voluntary organization to be a member of. That would be a death penalty for UND athletics as there is no other place for them to go. There is the NAIA which could be a possibility, but don't think anybody would like to see them compete at that level, and they don't have hockey.

In 1988, UNLV won two rounds in a lawsuit but the Supreme Court said the University's desire to remain a power house among the nation's collegiate basketball teams is understandable and non-membership in the NCAA obviously would thwart that goal, but though UNLV's options were unpalatable does not mean that they were non-existent. Held that the NCAA had the absolute right to make whatever policy it chose to; if you didn't like it go find yourself another place to be. When thinking of this question of "what is our heritage and how will we be remembered?" consider how we will be remembered not only if it goes positively but how it will be remembered if the University of North Dakota can't compete in the NCAA or at the Division I level or in the Big Sky Conference.

Senator Heckaman: Tell a little bit more about the contract with the NCAA? Is that with the state of North Dakota, UND specifically or the state board of higher education? **John Backes:** The contract is a settlement agreement, it was executed by the Attorney General and Higher Ed board on behalf of the state of North Dakota. His understanding, as a board member, he agrees with most of the testimony that was given here this morning. Doesn't

think anyone on the higher ed board believes that they are a fourth branch of government. Think they are given a job to do and try to do that job as best they can. One of the aspects of that job was to deal with this NCAA issue; back in 2003 when the Englestad Arena is being built the state board of higher education took authority to deal with the nickname issue away from the university. Feels that when they deal with the university and third parties, it is in behalf of the state of North Dakota. In the instance of lawsuits, believes the Attorney General also has to sign off on that.

Senator Gary Lee: If the name and logo were to go away, will that have any impact on the relationship between that and the Native American programs now offered? Is there any relationship between the logo, the coursework and instructional programs that go on for Native students? **John Backes:** Nothing that he is aware of.

Senator Marcellais: You mentioned there were two appeals; what did those appeals costs and what might be the estimated costs of appeals in the future? **John Backes:** Administrative appeals to the NCAA body, so recollect it was done mostly in-house so used their own legal resources at the time. When the second appeal was denied then the litigation started. Understands that the actual lawsuit cost around $880,000. Not sure how another would play out as far as cost.

Grant Shaft, Vice President, North Dakota State Board of Higher Education testified in opposition to the bill (#20 Testimony) Disagrees with Representative Carlson and Representative Dosch; they are misinformed and did not want to get the information—not at the full House hearing on the bill. Have to do their constitutional jobs and answer that question NO. Respectfully request that you read all of the information that has been submitted. Today it boils down to the idea that we might agree with what the proponents have had to say, but the board of education wears a slightly different hat—don't represent one facility, one sport—represent the entire institution—all athletes, all sports, all faculty, all administrators, all support personnel. Represents all aspects of UND; at the end of the day is being on NCAA sanctions in the best interest? As board members they have to set aside their personal feelings about the Fighting Sioux nickname and logo.

Senator Marcellais: What is the mission statement for the board of higher education? **Grant Shaft:** Constitutionally—have authority over the institutions of higher education in the state of North Dakota. More specifically they have authority over the various policies adopted by the institutions, and have the authority to administer the funds that are appropriated by the legislature to those institutions.

Senator Flakoll: (answered by Grant Shaft) How do these groups feel about the issue—do they support this bill? UND student government (oppose); NCAA (oppose); UND faculty (oppose); North Dakota State Student Association (unsure); Board of Higher Ed (oppose); Standing Rock tribe (oppose); Spirit Lake tribe (support).

Chase Iron Eyes, assistant in-house attorney for Standing Rock Sioux tribe, testified in opposition of the bill. You can vote a Do Pass to please your constituents and let the Governor deal with it. It is a tough choice, but that is the nature of a republican form of government. The tribal government—have citizens that elect leaders to make tough decisions. Voices have been heard; complex issue and lot of passion both ways. There

were two competing petitions going around Standing Rock—one for the name and logo, the other against. Both petitions had over 1,000 signatures on them so the Tribal Council did not act on either. The chairperson of a district calls for a vote and everyone has the chance to vote on issues. Six of the eight (direct democracy government) districts voted against the name and logo. He feels the UND naming ceremony was only for the then president of the college. Respect the leadership that performed the ceremony, but times change. There was a time when it was okay for us to demean ourselves for the dominant society's entertainment and purposes. That time doesn't exist anymore so would like all to take into consideration how it affects our youth today.

Senator Gary Lee: It seems that if Standing Rock would have allow all of the people to vote yes or no on the name as a citizenry of that tribe we wouldn't be here today—it would have been over one way or the other. Wouldn't that be the case? **Chase Iron Eyes:** Not sure; he would of liked to had an educational campaign and then a vote. The Standing Rock Nation is not part of this suit; the state of North Dakota, UND, and the NCAA are. Would be willing to bet that it still would have ended up here today even with a vote that everyone wanted it changed. **Senator Gary Lee:** Was Standing Rock a part of the agreement in the sense of agreeing to being one of the two tribes that needed to be approached in terms of yes or no in favor of the logo? **Chase Iron Eyes:** Does not think so; not to his knowledge.

Senator Flakoll: A petition was brought 1,004 signatures asked to change the Council's position and let the people vote; 1,010 opposed the referendum? **Chase Iron Eyes:** Yes very accurate. There are two competing ideas and that's good democracy; the 17 tribal legislators were being pressured by the people that wanted to have a referendum vote and so other people organized and generated enough support to show that their jobs were on the line. Both petitions were recognized by the council, but didn't formally sanction either one. **Senator Flakoll:** Are they co-equals—the Council to the Tribe, as is the legislature to the state in that we're both elected representatives? **Chase Iron Eyes:** Yes, but the tribal government is on a smaller scale and more direct. Lot of people attend council meetings.

Rod Froelich, self, opposes the bill. (#21 Testimony and picture)

Senator Marcellais: What is your invested interest as a non-native? **Rod Froelich:** Two issues—his children and grandchildren are not mascots and should not be portrayed as such. Secondly in 1999 when he ran for the state legislature, he and the other delegates went to the Standing Rock Sioux tribe and asked what can we do to help out? They said we'd like to have you change this name; feel it is offensive. He was the prime sponsor of a resolution and knew it was going to be a tough sell. Guess what—the prime sponsor of this bill today was one of the people that got up and said this is none of our business; it is up to the board of higher education and University of North Dakota. Now here we are 12 years later and it has become the legislature's business—finds that really ironic.

(break for lunch and floor session)

Brian Faison, Athletic Director at UND: He administers a 20 team program going through a transition to full Division I membership. Involves over 400 student athletes. Two points that have to do with competition and scheduling for student athletes and the impact

the current situation has had and the potential impact that the situation could have for the future. Specifically the ability to host NCAA championships; has been several points made about this. The reality is that there is an immediate impact for their programs. Will become a full Division I member in 2012; that is the first season to be able to compete in postseason playoffs. The first team that would have that opportunity at home is the football program—so there is a little time issue for them in terms of how to look at this. More specifically and immediately the current playoff structure for women's hockey calls for the top four seeds in the NCAA Tournament to play at home first round games. Their hockey program on the women's side has gone through leaps and bounds—finished ninth this year, and just missed the playoffs. Feels they have a legitimate chance in the next two years to be one of those top four seeds, and have the opportunity to play at home. Under the current set of circumstances that would not be possible. So there is an immediate impact with respect to competition for student athletes. Scheduling is the other issue– has been a big issue and part is driven by schools that would not play UND under the current circumstances with the name and logo, in addition to being further away from a lot of schools that were able to schedule them. Specifically spoke with the AD at Minnesota and they wanted to know where they were in terms of scheduling with UND if this legislation passed—so the concern is real. Another concern with the scheduling issue, particularly Minnesota and Wisconsin, there is every good reason that there will be a big ten hockey league in two or three years and those schools will leave the conference. If the University of Minnesota renews their policy of not scheduling UND for non-conference sports, they then become a non-conference opponent for them and is a good chance of putting the Minnesota series at risk in hockey as well. Have legitimate issues and concerns about competition; at the end of the day it is his job to make sure the student athletes have the best competitive experience they can—and part of that experience is the ability to win championships and advance to postseason play. Need to make sure that we ensure and protect that opportunity for those young people.

Senator Flakoll: How many dollars worth of royalties are generated from the logo, and how many dollars worth of merchandise are sold on an annual basis? **Brian Faison:** Can't give that information; it is a significant amount.

Tyler Rose, UND junior athlete testified in opposition to the bill. He spoke on behalf of the cross country and track/field teams. They feel that as long as the controversy goes on it affects student athletes. University of Minnesota refuses to compete with them because of the logo. When they are traveling they are always asked what is going on with the name fiasco. Is that ever going to be resolved? Other teams are the ones that treat the name disrespectfully. Controversy will always make a burden for the teams.

Grant Hauschild, UND senior student testified in opposition to the bill (#22 Testimony)

Evan Andrist, State Governmental Affairs Commissioner & lobbyist for the UND Student Government testified in opposition to the bill (#23 Testimony)

Robert Boyd, Transition Officer for the Nickname and Logo, UND testified in opposition of the bill (#24 Testimony)

Phyllis Young, Standing Rock testified in opposition of the bill. Her children are all UND alumni; she believes in educational opportunities to students. Looking for all people to be able to vote. Quentin Burdick gave her hope as a young person.

Margaret Scott, UND senior testified in opposition to the bill (#25 Testimony)

*(**Chairman Freborg** allowed more testimony in favor of the bill as those in opposition were given extra time.)*

David Davidson, self: (His wife is full blood Sioux) Testified in favor of the bill; Standing Rock chairman states that six of the eight oppose but that didn't represent all of the people. Shared history from the late 1990's to present (#26 Testimony and DVD)

LaVonne Alberts, enrolled Spirit Lake Tribe and member of the Committee for Understanding Respect testified in favor of the bill. The majority vote should rule; nothing anyone says can change who we are.

Senator Flakoll: Would this be appropriate in a work environment? **Lavonne Alberts:** That is a different environment.

Sean Johnson, Bismarck UND alumni testified in favor of the bill (#27 Testimony)

Senator Flakoll: Did you have a DVD of the respectful flag ceremony before all hockey games (Yes; #30 DVD)

Senator Hogue, District 38 presented a potential amendment (#28) 11.0349.01003; he is neutral on the bill but feels it could be improved in four different ways. First, proposed amendment is to remove the last sentence of the bill; doesn't do anything except create confusion. The Attorney General can do this without it being stated in the bill and he doesn't feel it is necessary or likely. There is an existing agreement between the state of North Dakota and the NCAA which says if the University and the state doesn't get namesake approval the consequence is twofold—cannot host postseason athletic events, and cannot wear the logo on uniforms during postseason play.

Second amendment--neither the state board of higher education nor the University of North Dakota may use any public or private funds to take any action to change the Fighting Sioux logo. There have been political arguments regarding the constitutional authority of the North Dakota legislature and that for some reason they lack the authority to address this issue. Don't think that is the case; brought copies of Article 8 of the North Dakota Constitution (#29) as he thought it might be useful to have. Makes pretty clear in Section 5 absolute and exclusive control for our higher ed institutions rests with the state. Who is the state? The board of higher ed and the legislative body make up the state. Section 6b makes clear that the institutions of higher education would have to be organized pursuant to statutory and constitutional limitations.

Third amendment—neither the state board of higher education nor the University of North Dakota may take any action to transfer the intellectual property rights or licensing rights of the Fighting Sioux nickname mark or logo to any other person without first receiving

approval from the legislative assembly. If you read through the settlement agreement, there is a provision under intellectual property rights that says if we can't get namesake approval, those intellectual property rights still belong to the University of North Dakota. But the next sentence goes on to say the University of North Dakota or the board may transfer those to any other entity as it sees fit. Didn't understand why we would want to do that—that would be a loss of control.

Fourth amendment—the University of North Dakota shall report to the legislative management at least once each biennium regarding whether UND or any athletic team at UND was eligible to host a National Collegiate Athletic Association championship competition, whether the University of North Dakota applied to bid the competition, and whether the application or bid was accepted or denied. That deals with the consequence of the settlement agreement between the NCAA and the state; would be nice to know going forward if we pass the bill what athletic postseason event did we lose the right to host as a results of keeping the namesake and the logo. Would like to know what that cost will be.

Senator Flakoll: #2 prohibits the Attorney General from acting in regards to the logo and mascot? **Senator Hogue:** no; not authorized to spend dollars for that purpose. **Senator Flakoll:** If the NCAA denies and the campus is denied the right to play, how do we defend this? Or if they re-impose sanctions? **Senator Hogue:** Are you talking about down the road? Look at this again. Costs go up; further sanctions, etc. **Senator Flakoll:** Does this language still require the current logo stay? **Senator Hogue:** The original bill already does that; the logo in use today. Another reasonable amendment. **Senator Flakoll:** What are intellectual property rights? **Senator Hogue:** The agreement between the state and NCAA states that. **Senator Flakoll:** Can you give an example? **Senator Hogue:** Intellectual—logo, name, etc.

Senator Marcellais: Who owns the Ralph Englestad Arena? **Senator Hogue:** It is not state owned. **Senator Marcellais:** Don't know? **Senator Hogue: ??? Senator Marcellais:** Is it common for the state to subsidize a private business? **Senator Hogue:** Actually very common. **Senator Marcellais:** Does the state own the name and logo? **Senator Hogue:** The state owns the logo; the name is common usage. NCAA does not accept the use of hostile and abusive images, but thinks they will back down. He doesn't think anyone owns "Fighting Sioux".

Senator Marcellais: The Attorney General name has come up several times; he would like to hear from him in regards to the bill. **Chairman Freborg:** We can ask him to come to another meeting.

Testimony in opposition; written but not able to testify at the hearing due to time constraints: **Dr. Sharon Carson & Professor Lucy Ganje, UND** (#31 Testimony, articles and attachments) **Sharon Carson & James Antes, UND Professors** (#32 UND Faculty Petition) **Leigh D. Jeanotte, Director, UND American Indian Student Services** (#33 Testimony) #34 Attachment—postcard "I am not a logo" Myth vs Fact **Mary E. Bluemle, UND Alumni** (#35 Testimony) **Andrew Varvel, UND Alumni** (#36 Testimony) **Amy Phillips, Grand Forks** (#37 Testimony and research paper with Dan Rice) **Auntie Carel Two-Eagle** (#38 Testimony) **Dr. Birgit Hans, Chair, Indian Studies Department, UND** (#39 Testimony)

2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

Committee Work on HB 1263
March 8, 2011
15120

☐ Conference Committee

Committee Clerk Signature T. Gorge

Minutes: See attachments.

Senator Flakoll: Move to adopt the amendment 11.0349.01002 to HB 1263; second by **Senator Luick.** The amendment limits to $1 million the amount of any action taken to carry out this Act.

Senator Luick: Someone suggested taking out lines 13-15 of the bill; the last sentence—would that make more sense than adding the disclaimer? **Chairman Freborg:** Does that have anything to do with the amendment we are looking at? Is it a separate issue? Did you want to incorporate that into this amendment if possible? **Senator Luick:** The amendment, page 1 line 15 basically puts a limit onto "if any lawsuit should take place" but if the lawsuit could never take place we wouldn't need to have this directive limiting it to $1 million.

Senator Flakoll: Senator Hogue presented thoughts on that and he was of the belief that the attorney general could bring action against them. Thinks that by having it in the bill it helps confirm that, and all issues related to this are fairly legal in nature. Guess it is okay to leave it in there; if we are going to go one way or the other on this—let's go all the way. And we also heard testimony that it cost in excess of $800,000 to bring suit against the NCAA. Heard from a board member that it was $880,000 they believed it cost; there are a variety of legal issues that could happen. The Attorney General could bring suit against the NCAA, the board of higher education could bring suit against the state of North Dakota/legislature which would put the Attorney General in an awkward position as normally he would represent the legislature on this issue and this helps confirm that because there is the issue of #1 do we have the authority to do this and #2 what suit can be brought against the NCAA. We provide somewhat a cap on the limitation by saying no more than $1 million because it could be much higher. We also remember back in 2005 when the school districts brought litigation against the state of North Dakota prior to even going to court, essentially, they were at approximately $386,000 in legal costs so these things can grow fairly fast. We certainly have gotten e-mails about how much time we are spending with it; how many state dollars should we spend on this.

Senator Schaible: You set a limit of $1 million on a lawsuit, so if close to a lawsuit or potentially a couple hundred or half million over that you just don't do it or what? How does that work? **Senator Flakoll:** Believe in the case of the $880,000 a private entity that paid for the rest of the legal fees. Thought about if we should provide for matching funds up to

$X but that gets really sticky as you move up costs or available hours to that point. So he just capped the state's obligation at $1 million and they could go over and above that if others want to make it happen.

Senator Marcellais: You mentioned the higher education board can take sue the legislators? Is that only the ones that voted in favor of it? (laughing) **Senator Flakoll:** Individual legislators have immunity, but they could bring suit against the legislature as a body. Kind of a "family" fight, and not saying that would happen but it can happen. Hope that helps answer your question.

Senator Gary Lee: Think we should vote on the bill the way it is, up or down, and let it go. Thinks they are just going to complicate issues; thinks Senator Schaible's thought is a good one on the $1 million. What if you put a lawsuit in place, there isn't the funding to see it through, what do you do? It is an arbitrary number that was picked and wish there was a different bill in front of them—there was a better bill that wasn't passed through the House. Let's vote on what's there so we only have to vote once. Put this in and then could have conference committee if it passes on the floor and have to deal with it again. Just as soon get the issue behind them.

Senator Flakoll: Was looking more at protecting the taxpayers from the limitation standpoint. We've already set a precedence in at least one occasion whereby a number of sessions ago we provided up to $2 million set aside for litigation in a rail rate case/problems with commodities between US and Canada. Already set that in place by saying here is how much we are going to set aside for that issue. Would hate to see it go to some exorbitant amount of money.

Senator Gary Lee: Puts the other side in a pretty good position if they know that is all you are going to spend and that's all you have. They can say well we'll spend $1.1 million or whatever, so don't think it is a good position to be in either.

Chairman Freborg: Maybe they could drag the lawsuit out long enough to have another session. **Senator Flakoll:** And we'll certainly be coming back here this fall; that would be at $200 per hour, what, 5,000 billable hours?

Chairman Freborg: Do have a motion on Do Pass the amendment 11.0349.01002. Motion failed 2-5-0 (Vote 1A)

Senator Marcellais moved a Do Not Pass to HB 1263; second by **Senator Schaible**. Motion carried 5-2-0. (Vote 1B) **Senator Marcellais** will carry the bill.

11.0349.01002
Title.

Prepared by the Legislative Council staff for
Senator Flakoll
March 3, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1263

Page 1, after line 6, insert:

"1."

Page 1, after line 15, insert:

"2. No more than one million dollars of state funds may be used for any action taken to carry out this Act."

Renumber accordingly

(#1)

Date: 3/8/11
Roll Call Vote # 1A

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1263

Senate Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0349.01002

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Flakoll Seconded By Sen. Luick

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg		X	Senator Joan Heckaman		X
Vice Chair Donald Schaible		X	Senator Richard Marcellais		X
Senator Tim Flakoll	X				
Senator Gary A. Lee		X			
Senator Larry Luick	X				

Total (Yes) 2 No 5

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 3/8/11
Roll Call Vote # 16

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1263

Senate Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen Marcellais Seconded By Sen. Schaible

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg		X	Senator Joan Heckaman	X	
Vice Chair Donald Schaible	X		Senator Richard Marcellais	X	
Senator Tim Flakoll	X				
Senator Gary A. Lee		X			
Senator Larry Luick	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Sen. Marcellais

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1263: Education Committee (Sen. Freborg, Chairman) recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1263 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1263

TESTIMONY ATTACHMENT 1

HB 1263

EDUCATION COMMITTEE

REP. RaeAnn Kelsch

January 26, 2011 9am

Chairwomen Kelsch and members of the Education Committee for the record my name is Mark Dosch representing the 32nd district of the great State of North Dakota.

I am here today to voice my support of HB 1263. As a 1982 graduate and alumni of UND and the fighting Sioux, I felt compelled to co-sponsor this bill.

I believe one of mans greatest fears is to someday be forgotten – not remembered. We all want to leave our legacy behind, either individually, or as a people. We often hear of the desire to tell our stories, to teach our language and traditions, so it can be passed down from generation to generation.

I remember returning to UND several years ago to attend a Hockey game. I was excited to see the new Ralph Engelstad Arena. I remember standing in au as I first saw the towering statue of Sitting Bull lit in the night's sky. I observed the sea of fans, thousands of them all dressed in their fighting Sioux attire, proudly wearing their logoed attire (designed by the way by a Native American artist). And then the moment I stepped into the stunning arena, adorned with the Indian head logo inlayed into the marble floors and walls. What a first class facility I thought. Then the moment I walked into the arena itself. The flood of memories of the countless number of games I attended in the past, and the swell of pride I felt when the student section began the cheer go Sioux go. The chants continued "Who are we? We are the fighting Sioux. I felt at home, a member of a family, a feeling of belonging. We were the fighting Sioux, age did not matter, your sex did not matter, nor the color of your skin. We all were there for the same reason, and that was to cheer our team to victory.

I was later shocked and saddened when the news came with the accusations of disrespect and racism in connection of the use of the name the Fighting Sioux. How could that even be possible? Had they never attended a hockey game? Had they never heard the cheers from the thousands of students and fans proudly displaying the logo and cheering their team to victory? I seriously doubt it, because if they did, they could have never come to that conclusion – never. Especially if a minority feels it is important to preserve their image, to preserve their culture, to preserve the memory of their people, for a people working to create a better relationship with all the people of ND. My question is how could they and us stand by and allow all this to be lost? Don't they and their leadership realize the consequences?

If the name and logo were dropped? Things like the removal of the proud statue of Sitting bull. The Indian head logo proudly imbedded in the tile of the Engelstad Arena to b e covered with black paint, and jerseys and attire that once displayed the logo be removed from the shelves. And perhaps the saddest thing is that with each passing year of new freshmen students none of whom would be given the opportunity to cheer for the mighty Sioux, the once proud image and name of the Sioux would soon be forgotten. How could this possibly be good for the Native Americans of our state?

There is a saying that goes, be careful of what you which for, because it may just come true. Perhaps this is what some may want, but I do believe for many of the proud American Indians and for the 10s of thousands of UND grads, I believe this is not what they want. For I believe, it is not about the color of one's skin, but the spirit that is in our heart... the proud tradition that we all share... for we are the Fighting Sioux.

TESTIMONY ATTACHMENT 2

Testimony on HB 1257

Rep. David Monson

Chairman Kelsch and members of the House Education Committee, for the record I'm Rep. David Monson of Dist. 10. District 10 is located in northeastern North Dakota along the Canadian border not too far north of the Spirit Lake reservation.

I introduced HB 1257 for a number of reasons:

1. I'm a graduate of UND actually with two degrees from UND, so I'm a long-time Sioux fan.
2. I believe the Sioux name and logo show great respect and honor to the great people who dominated the ND plains for many years. A school chooses names and logos they respect.
3. I believe the Sioux name and logo help preserve our history and provide an opportunity for people all over this nation to learn about ND and who the Sioux really are.
4. I feel the board of higher education and the chancellor were "bullied" into making a decision to drop the name and logo by an outside entity, the NCAA. What really angered me about this is the fact that the NCAA has a double standard which allows some schools to use Indian names and logos but not UND. This is akin to the UN criticizing the US for human rights violations when they say nothing to China, Iran, and numerous others. How do you defeat a bully? You stand up to them and face them head on. You don't run away.
5. The most important reason I introduced this bill is because the voices of the majority of the Sioux people at Spirit Lake and Standing Rock were ignored. Their voices went unheard. Today, with these 3 bills, they get to have their voices heard. That's what our legislative process is all about. We're letting the voice of the people involved be heard.
6. I might add a last reason I introduced this bill. About a month ago I heard about a group of people at UND who were not content with getting the board to retire the Sioux name and logo. They were going to try to obliterate the memory of the Sioux off the entire campus. I don't know if that awoke the Viking blood in my veins or the Sioux spirit instilled in me at UND, but those were fighting words! That was the final impetus for me to contact people at Spirit Lake to ask if they wanted me to introduce a bill. They wanted the bill.

Each of the three bills before you today is different. Mine takes the stance that the only people who should be able take the name and logo away are the people who gave the blessing for UND to use the name in the first place. A handful of unelected people (the board and chancellor) and an outside organization (the NCAA) guilty of using anti-trust bullying tactics should not decide. My bill also contains the emergency clause to stop the process of retiring the name and logo as soon as possible. It also only makes reference to the name "Sioux" and leaves the "fighting" connotation off. I felt that may be less offensive to some people.

I have told Rep. Kelsch that since I have another bill up in another committee at the same time as this one, I will be brief and respectfully decline to answer questions at this time. If you have questions of me you can call me in at a later time. I will take a couple of minutes to try to head off some questions and answer some of the ones people have already asked me as I talked with them about the bill.

Some people asked, "Isn't this bill too late? The decision has been made and we should just move on." My response is that it is never too late to right a wrong. The Sioux people were wronged when the board and chancellor didn't listen to their voices. Right can still be done by passing this bill. I would have introduced this bill in 2009 if I had dreamt the board and chancellor would have made their decision in the manner in which they did. Had I introduced this bill in 2009, I have little doubt that some would have thought the bill was too soon.

Some people have said that only the higher education board has the right to decide this issue. I've even heard some people say passing these bills would be unconstitutional. Well, I say that the board of higher education may be in the constitution, but they aren't one of the three branches of government. The legislature is the branch of government that is charged with making laws. We have an entire volume of laws passed by the legislature that pertains to all sorts of higher education as well as K-12 education issues. And, I might add, every bill we pass is constitutional until 4 of 5 Supreme Court Justices say otherwise.

Some people say using the Sioux name and logo is disrespectful. In all my years as a Sioux fan and UND student, I've seen only second hand evidence reportedly given on this issue. Any instances I've heard about have been handled in a very positive way by the faculty and administration at UND. They've used that as a "teachable moment'. Probably the most disrespect shown the Sioux people was when their voices were ignored, and it was decided to retire the Sioux name without regard for the wishes of the majority of the Sioux people.

One last comment I've heard is that the athletes may be hurt if this bill passes. I know others here are much more qualified than I to refute that claim and will do so. However, I would like to say that I believe if the Sioux name goes away, the ability to raise money from UND alumni for scholarships and other programs will be seriously diminished.

There are many who follow me who wish to have their voices heard. They are the real experts on this issue. Please listen to them and consider their wishes to keep the Sioux name and logo.

TESTIMONY ATTACHMENT 3

TESTIMONY OF DAVID HOGUE REGARDING HOUSE BILLS 1208, 1257, and 1263

House Education Committee

January 26, 2011

9:00 am

Good Morning Madam Chair Kelsch and members of the House Education Committee. My name is David Hogue. I am a North Dakota Senator representing District 38, which includes Northwest Minot and the city of Burlington.

I have no testimony in favor of or in opposition to these three bills, but I do offer testimony in support of the legislative assembly's constitutional authority to pass into law any one or all three of these bills. I would not have thought testimony about your constitutional authority to act necessary or even useful to your committee, but after receiving several emails, correspondence, and two editorials on the subject, I'm persuaded some review of the North Dakota Constitution would be useful to your committee.

I think the tipping point for my decision to offer testimony on this subject was a column in a local paper that asserted the North Dakota State Board of Higher Education is the fourth branch of government under the North Dakota Constitution and that the ND Legislative Assembly has no constitutional authority to consider the subject matter in these three bills.

I want to briefly examine both the structure and text of the North Dakota Constitution to demonstrate that both the Legislative Assembly and the State Board of Higher Education have policy making authority over our institutions of higher education, but the ultimate and final authority rests with the Legislative Assembly, which holds sole possession of the right to authorize or limit the expenditure of funds for any purpose on every state institution of higher education.

Let's start with the structure of our Constitution. Our Constitution is divided into articles and sections. The Articles are reserved for major subjects. The structure is attached to this written testimony. Articles IV, V, and VI relate to the Legislative, Executive, and Judicial branches, respectively. The duties, qualifications, and authority of each of these three branches is set forth in a separate Article. There is no mention of a branch of higher education. There is no "Board of Higher Education" Article or even an Article devoted to Higher Education.

Article VIII, stated as the "Education" Article describes the duties of the Legislative Assembly with respect to education at every level., the State, and the board of Higher Education with respect to education generally. There are eight sections in the Education Article and the Board of Higher Education is referenced in section 6 and 7. The Legislative Assembly is referenced in sections 1, 2, 4, and 6.

While the structure of the ND Constitution is helpful generally in understanding the interrelationships between the instruments of our state government, the actual language—the text of the constitution—also makes clear that Legislative Assembly and

the board of Higher Education share policy making authority within the realm of higher education. Let's look specifically at Article VIII.

Section 2 instructs the Legislature to establish a free public education system but gives the Legislative Assembly the authority to set tuition and fees an higher education institutions. As you well know Madam Chair, the Legislative Assembly has ceded its constitutional authority to establish tuition to the state board of higher education. Of course, Madam Chair, that was not an irrevocable grant to the Board of Higher Education. The Legislative Assembly retains the prerogative to change its mind, and to reclaim its constitutional authority to establish tuition and other charges for higher education.

Section four of the Education Article directs the Legislative Assembly to take all necessary steps to provide a uniform system of education.

I want to draw your attention to section five. That section reads:

"**Section 5.** All colleges, universities, and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall **remain under the absolute and exclusive control of the state**. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school. "[Emphasis added.]

Note the boldface language that the institutions will remain under the "absolute and exclusive control of the state." The authors of the constitution used the words

"absolute and exclusive" to denote that the state could never surrender control to a political subdivision, the US government, or a private sector entity.

Now lets go to section six which relates to the Board of Higher Education. Does that section give the Board "absolute and exclusive" control of higher education? No, Madam Chair, it does not.

Section six provides the Board with "full authority." In section 6(6)(b), the Constitution gives clear description of the relative powers of the Board of Higher Education and the ND Legislative Assembly. That section reads in relevant part:

> The said state board of higher education shall have full authority to organize or reorganize **within constitutional and statutory limitations**, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions. [Emphasis added.]

Again, note the boldface language that the board of higher education can organize or reorganize each institution within "statutory limitations." Madam Chair, as you well know, "statutory limitations" come exclusively from the statutes enacted by the Legislative Assembly.

From these constitutional provisions, two things seem clear. First, if the Constitution wanted to grant "exclusive" control of higher education institutions to the Board of Higher Education, it most assuredly would have done so in Article VIII, Section 6. It used the phrase "absolute and exclusive" control to make clear that the state must always be in charge of our institutions of higher education. Second, the board of higher education has "full" authority to govern the higher education institutions, but that

authority is not "exclusive" and must yield to statutory limitations the Legislative Assembly might choose to enact.

The checks and balances incorporated into our state constitution are not novel or limited to the interplay between the Board of Higher Education and the Legislative Assembly. For example, if the legislature disagrees with the way the North Dakota Supreme Court has construed a statute, the Legislative Assembly is free to change that judicial interpretation by changing the statute. This review and legislative reaction to judicial decisions is a normal, healthy development in our state democracy.

For another example, when a member of the executive branch seeks to expand its authority or to regulate in a different way, it will, by constitutional necessity, seek the approval of the Legislative Assembly through a statutory measure.

Madam Chair, this concludes my written testimony.

ARTICLE VIII

EDUCATION

Section 1. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

Section 2. The legislative assembly shall provide for a uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including schools of higher education, except that the legislative assembly may authorize tuition, fees and service charges to assist in the financing of public schools of higher education.

Section 3. In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind.

Section 4. The legislative assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific, and agricultural improvements.

Section 5. All colleges, universities, and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school.

Section 6.

1. A board of higher education, to be officially known as the state board of higher education, is hereby created for the control and administration of the following state educational institutions, to wit:

   a. The state university and school of mines, at Grand Forks, with their substations.

   b. The state agricultural college and experiment station, at Fargo, with their substations.

   c. The school of science, at Wahpeton.

   d. The state normal schools and teachers colleges, at Valley City, Mayville, Minot, and Dickinson.

   e. The school of forestry, at Bottineau.

   f. And such other state institutions of higher education as may hereafter be established.

2. a. The state board of higher education consists of eight members. The governor shall appoint seven members who are qualified electors and taxpayers of the state, and who have resided in this state for not less than five years immediately preceding their appointments. These seven appointments are subject to confirmation by the senate.

The governor shall appoint as the eighth member of the board a full-time resident student in good academic standing at an institution under the jurisdiction of the state board. Except for the student member, no more than two persons holding a bachelor's degree from a particular institution under the jurisdiction of the state board of higher education may serve on the board at any one time. Except for the student member, no person employed by any institution under the control of the board shall serve as a member of the board and no employee of any such institution may be eligible for membership on the state board of higher education for a period of two years following the termination of employment.

The governor shall nominate from a list of three names for each position, selected by action of four of the following five persons: the president of the North Dakota education association, the chief justice of the supreme court, the superintendent of public instruction, the president pro tempore of the senate, and the speaker of the house of representatives and, with the consent of a majority of the members-elect of the senate, shall appoint from the list to the state board of higher education seven members. The governor shall ensure that the board membership is maintained in a balanced and representative manner. The term of office of members appointed to fill vacancies at the expiration of said terms shall be for four years, and in the case of vacancies otherwise arising, appointments shall be made only for the balance of the term of the members whose places are to be filled. A member may not be appointed to serve for more than two terms. If a member is appointed to fill a vacancy and serves two or more years of that term, the member is deemed to have served one full term.

b. In the event any nomination made by the governor is not consented to and confirmed by the senate, the governor shall again nominate a candidate selected from a new list. The nomination shall be submitted to the senate for confirmation and the proceedings shall continue until an appointee has been confirmed by the senate or the session of the legislature has adjourned.

c. If a term expires or a vacancy occurs when the legislature is not in session, the governor may appoint from a list selected as provided, a member who shall serve until the opening of the next session of the legislature, at which time the appointment must be certified to the senate for confirmation. If the appointee is not confirmed by the thirtieth legislative day of the session, the office shall be deemed vacant and the governor shall nominate another candidate for the office. The same proceedings shall be followed as are set forth in this section. If the legislature is in session at any time within six months prior to the date of the expiration of the term of any member, the governor shall nominate a successor from a list selected as above set forth, within the first thirty days of the session and upon confirmation by the senate the successor shall take office at the expiration of the incumbent's term. No person who has been nominated and whose nomination the senate has failed to confirm is eligible for an interim appointment. On or before July first of each year, beginning in 1995, the governor shall appoint a student member from a list of names recommended by the executive board of the North Dakota student association for a term of one year, beginning on July first. A student member may not serve more than two consecutive terms.

3. The members of the state board of higher education may only be removed by impeachment for the offenses and in the manner and according to the procedure provided for the removal of the governor by impeachment proceedings.

4. Each appointive member of the state board of higher education, except the student member, shall receive compensation set by the legislative assembly for the time actually spent devoted to the duties of the member's office. All members shall

receive necessary expenses in the same manner and amounts as other state officials for attending meetings and performing other functions of their office.

5. The legislature shall provide adequate funds for the proper carrying out of the functions and duties of the state board of higher education.

6. a. The state board of higher education shall hold its first meeting at the office of the state board of administration at Bismarck, on the 6th day of July, 1939, and shall organize and elect one of its members as president of such board for a term of one year. It shall also at said meeting, or as soon thereafter as may be practicable, elect a competent person as secretary, who shall reside during his term of office in the city of Bismarck, North Dakota. Said secretary shall hold office at the will of the board. As soon as said board is established and organized, it shall assume all the powers and perform all the duties now conferred by law upon the board of administration in connection with the several institutions hereinbefore mentioned, and the said board of administration shall immediately upon the organization of said state board of higher education, surrender and transfer to said state board of higher education all duties, rights, and powers granted to it under the existing laws of this state concerning the institutions hereinbefore mentioned, together with all property, deeds, records, reports, and appurtenances of every kind belonging or appertaining to said institutions.

b. The said state board of higher education shall have full authority over the ~~institutions under its control with the right, among its other powers, to prescribe,~~ limit, or modify the courses offered at the several institutions. In furtherance of its powers, the state board of higher education shall have the power to delegate to its employees details of the administration of the institutions under its control. The said state board of higher education shall have full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions.

c. Said board shall prescribe for all of said institutions standard systems of accounts and records and shall biennially, and within six (6) months immediately preceding the regular session of the legislature, make a report to the governor, covering in detail the operations of the educational institutions under its control.

d. It shall be the duty of the heads of the several state institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said state board of higher education; and said state board of higher education shall consider said budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state; and thereafter the state board of higher education shall prepare and present to the state budget board and to the legislature a single unified budget covering the needs of all the institutions under its control. "Said budget shall be prepared and presented by the board of administration until the state board of higher education organizes as provided in subsection 6a." The appropriations for all of said institutions shall be contained in one legislative measure. The budgets and appropriation measures for the agricultural experiment stations and their substations and the extension division of the North Dakota state university of agriculture and applied science may be separate from those of state educational institutions.

e. The said state board of higher education shall have the control of the expenditure of the funds belonging to, and allocated to such institutions and also those appropriated by the legislature, for the institutions of higher

education in this state; provided, however, that funds appropriated by the legislature and specifically designated for any one or more of such institutions, shall not be used for any other institution.

7. a. The state board of higher education shall, as soon as practicable, appoint for a term of not to exceed three (3) years, a state commissioner of higher education, whose principal office shall be at the state capitol, in the city of Bismarck. Said commissioner of higher education shall be responsible to the state board of higher education and shall be removable by said board for cause.

   b. The state commissioner of higher education shall be a graduate of some reputable college or university, and who by training and experience is familiar with the problems peculiar to higher education.

   c. Such commissioner of higher education shall be the chief executive officer of said state board of higher education, and shall perform such duties as shall be prescribed by the board.

8. This constitutional provision shall be self-executing and shall become effective without the necessity of legislative action.

CONSTITUTION OF NORTH DAKOTA

Article
Preamble
I. Declaration of Rights
1. [Inalienable rights]
2. [Inherent political power]
3. [Freedom of religion]
4. [Freedom of speech]
5. [Freedom of assembly]
6. [Involuntary servitude]
7. [Freedom of employment]
8. [Searches and seizures]
9. [Administration of justice]
10. [Indictment or information]
11. [Bail]
12. [Rights of the accused]
13. [Trial by jury]
14. [Habeas corpus]
15. [Imprisonment for debt]
16. [Private property not taken without just compensation]
17. [Treason]
18. [Bill of attainder — Ex post facto laws — Impairment of contract obligations]
19. [Military subordinate to civil power]
20. [Rights retained]
21. [Privileges or immunities]
22. [Uniform operation of laws]
23. [Supreme law of the land]
24. [Interpretation of constitution]

II. Elective Franchise
1. [General election and elector qualifications]
2. [Elector disqualifications]

III. Powers Reserved to the People
1. [Powers reserved]
2. [Petition]
3. [Circulation]
4. [Signature requirement]
5. [Submission]
6. [Certification]
7. [Judicial review]
8. [Enactment]
9. [Initiated constitutional amendment]
10. [Recall]

IV. Legislative Branch
1. [Composition of senate and house of representatives — Designation as legislative assembly]
2. [Senatorial districts — Apportionment]

Article
3. [Election of senators and representatives]
4. [Terms of senators and representatives]
5. [Qualification of members of legislative assembly]
6. [Disqualification due to office held]
7. [Terms of office — Organizational meeting — Session meeting date — Session length — Adjournment]
8. [Presiding officer of house of representatives]
9. [Bribery]
10. [Disqualification due to criminal act]
11. [Vacancies]
12. [Quorum — Judge of qualifications — Rules of proceedings]
13. [Journals — Recorded vote — Voting by lieutenant governor — Bill passage — Effective date of acts — Laws to implement constitution — Local or special laws]
14. [Open sessions and meetings]
15. [Immunity of members from arrest — Freedom of debate]
16. [Future constitutional amendments]
17. 17 and 18. [Repealed]
19. [Renumbered]
20. 20 to 46. [Repealed]
43. [Repealed.]
44. and 45. [Repealed.]
46. [Repealed.]

V. Executive Branch
1. [Governor — Executive power]
2. [Election of state officials — Duties]
3. [Joint ballot for governor and lieutenant governor]
4. [Qualifications]
5. [Terms of office]
6. [Offices to be held in state capital]
7. [Powers and duties of governor]
8. [Power to fill vacancy]
9. [When bill becomes law — Veto power — Line-item veto]
10. [Bribery]
11. [Lieutenant governor]
12. [Lieutenant governor — President of senate]

VI. Judicial Branch
1. [Judicial power]
2. [Supreme court jurisdiction]
3. [Supreme court authority]
4. [Supreme court quorum]
5. [Supreme court decisions]
6. [Appeals]
7. [Election and terms of justices]
8. [District court jurisdiction]
9. [Election and terms of district court judges]
10. [Qualifications and restrictions]
11. [Disqualifications]
12. [Retirement and removal]

Article
12.1. [Retirement and removal]
13. [Vacancies]
VII. Political Subdivisions
1. [Purpose]
2. [Political subdivisions]
3. [Counties]
4. [County seat]
5. [Annexation, merger, consolidation, reclassification, or dissolution of counties]
6. [Home rule]
7. [Optional forms of county government]
8. [County services and functions — Term of elective offices]
9. [Election on form of county government]
10. [Service agreements]
11. [Utility franchise by city]
VIII. Education
1. [Public education]
2. [Free public schools]
3. [Instruction in schools]
4. [Prevention of illiteracy]
5. [State control of higher education]
6. [Board of higher education]
IX. Trust Lands
1. [Common school trust fund — Institutional trust funds]
2. [Fund income apportioned among schools]
3. [Board of university and school lands]
4. [County boards of appraisal]
5. [Sale of common school lands]
6. [Terms of sale of original grant school or institutional lands]
7. [Appraisal and sale of ousted institutional lands]
8. [Lease of grant lands]
9. [Claims to public lands]
10. [Sale of public lands]
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X. Finance and Public Debt
1. [Raising of revenue — Property tax prohibited]
2. [No surrender of tax power]
3. [Legal basis for taxes]
4. [Property assessment]
5. [Tax uniformity and exemptions]
6. [Poll tax]
7. [Acreage tax for hail damage indemnification]
8. [Implementation of tax provisions]
9. [Hail tax fund]
10. [Sate medical center tax]
11. [Highway fund]
12. [State moneys — Appropriation requirement]

Article
13. [State debt]
14. [Natural resource development bonds]
15. [Political subdivision debt]
16. [Political subdivision debt repayment]
17. [Bond endorsement requirements]
18. [Public business]
19. [Out-of-state grain terminal elevators]
20. [In-state grain terminal elevators]
21. [Coal development impact trust fund]
22. [Resources trust fund]
23. [Payment for service in the Persian Gulf theatre or in Grenada, Lebanon, or Panama areas of armed conflict]
24. [Oil extraction tax revenues — Common schools trust fund — Foundation aid stabilization fund]
25. [Veterans' postwar trust fund]

XI. General Provisions
1. [Name and boundary of state]
2. [Great seal]
3. [Waters]
4. [Oath or affirmation]
5. [Open meetings]
6. [Open records]
7. [Emergency governmental operations]
8. [Power of impeachment]
9. [Trial of impeachment]
10. [Officers subject to impeachment]
11. [Removal of officers not subject to impeachment]
12. [Suspension of duties between impeachment and acquittal]
13. [Lieutenant governor not to try governor]
14. [Service of copy of impeachment]
15. [Impeachment only once]
16. [Composition of militia]
17. [Organization of militia]
18. [Active militia]
19. [Officers in militia]
20. [Commissioned officers]
21. [Militia forces privileges from arrest]
22. [Rights of debtors]
23. [Property rights of married women]
24. [Child labor]
25. [Games of chance]
26. [Compensation of elected officials]
27. [Right to hunt, trap and fish]
28. [Definition of Marriage]

XII. Corporations Other Than Municipal
1. [Definition of corporation]
2. [Corporation laws]
3. [Repealed.]
4. [Repealed.]

Article
5. [Corporations subject to eminent domain]
6. [Voting for directors or managers]
7. [Repealed.]
8. [Repealed.]
9. [Repealed.]
10. [Local consent for utility rights]
11. [Repealed.]
12. [Repealed.]
13. [Repealed.]
14. [Repealed.]
15. [Repealed.]
16. [Price fixing]
17. [Repealed.]
XIII. Compact With The United States
1. [Toleration of religious sentiment]
2. [Military reservations]
3. [Land grants]
4. [Continuation of provisions of Enabling Act]
Transition Schedule
1. 1 to 25. [Repealed]
26.

PREAMBLE

We, the people of North Dakota, grateful to Almighty God for the blessings of civil and religious liberty, do ordain and establish this constitution.

ARTICLE I

DECLARATION OF RIGHTS

Section 1. All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed.

Source: Const. 1889, Art. I, § 1; Initiated amendment approved November 6, 1984 (S.L. 1985, ch. 702).

Note.

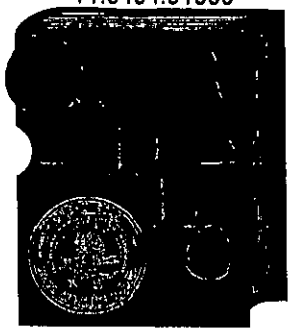
The section as originally adopted read:

"All men are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; and pursuing and obtaining safety and happiness."

Commercial Paper Use.

Right to use commercial paper in a commercial setting is not a fundamental right guaranteed by this section. State v. Goetz, 312 N.W.2d 1 (N.D. 1981), cert. denied, 455 U.S. 924, 102 S. Ct. 1286, 71 L. Ed. 2d 467 (1982).

11.9104.01000



North Dakota Legislative Council

ATTACHMENT 4

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360

Jim W. Smith
Director

Jay E. Buringrud
Assistant Director

Allen H. Knudson
Legislative Budget
Analyst & Auditor

John Walstad
Code Revisor

January 21, 2011

Honorable Al Carlson
State Representative
2548 Rose Creek Parkway South
Fargo, ND 58104-6699

Dear Representative Carlson:

This is in response to your request for information regarding the constitutional authority of the Legislative Assembly to enact legislation affecting the State Board of Higher Education and the institutions under the authority of the board.

CONSTITUTIONAL AUTHORITY OF STATE BOARD OF HIGHER EDUCATION

Article VIII, Section 6, of the Constitution of North Dakota establishes a State Board of Higher Education to control and administer state institutions of higher education. Subdivision b of subsection 6 of that section states:

> The said state board of higher education shall have full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions. In furtherance of its powers, the state board of higher education shall have the power to delegate to its employees details of the administration of the institutions under its control. The said state board of higher education shall have full authority to organize or reorganize **within constitutional and statutory limitations**, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions. (emphasis supplied)

The plain language of subdivision b indicates the authority of the State Board of Higher Education is subject to constitutional and statutory limitations and does not exclude the Legislative Assembly from enacting legislation that would affect the board or the institutions under its control.

The Legislative Assembly has enacted legislation that mirrors the constitutional language regarding the authority of the State Board of Higher Education. That legislation is codified as North Dakota Century Code Section 15-10-11.

NORTH DAKOTA SUPREME COURT DECISIONS

The Supreme Court of North Dakota has generally addressed the authority of the State Board of Higher Education in two recent decisions. However, the court has not directly addressed the issue of limitations on the authority of the Legislative Assembly to enact legislation that affects the board or institutions under the control of the board.

In a 2009 case, *Ellis v. N.D. State Univ.*, 2009 ND 59, 764 N.W.2d 192, the Supreme Court discussed the balancing of the constitutional authority of the State Board of Higher Education and the authority of the Legislative Assembly to enact laws generally for all its citizens. In its opinion, the court relied on a 1957 decision in which the court upheld the constitutional authority of the university to dismiss faculty members. In arriving at its decision, the Supreme Court expressed concern as to whether a statutory enactment may supersede the constitutional authority of the State Board of Higher Education to hire and discharge its employees, but determined that the constitutional issues need not be addressed. However, it further stated that there is some judicial precedent in others states which indicates a "legislature may enact provisions giving certain rights to the employees of institutions of higher education governed by boards with exclusive constitutional authority."

Although the Supreme Court did not address the constitutional issue, the dissenting opinion in the *Ellis* case pointed out the majority opinion's "expansive reading of the constitutional authority of the Board, however, fails to acknowledge that the Board is still subject to legislation. Article VIII, § 6(6)(b) of the North Dakota Constitution

plainly states, in relevant part: 'The said state board of higher education shall have full authority to organize or reorganize *within constitutional and statutory limitations*, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions.'"

In April 2010 the Supreme Court addressed the question of whether the State Board of Higher Education could be enjoined from ordering the retirement of the University of North Dakota's Fighting Sioux nickname and logo before the final deadline specified in a settlement agreement between the National Collegiate Athletic Association and the board. In *Davidson v. State*, 2010 ND 68, 781 N.W.2d 72, the Supreme Court concluded the board had the authority to order the name change before the date specified in the settlement agreement. Again, the court quoted the constitutional and statutory authority of the board to control the institutions of higher education. However, the court had no need to fully address the extent of or limitations on the authority of the board under the constitution because "[t]he plain language of the settlement agreement does not restrict the board's constitutional and statutory authority to change UND's nickname and logo, and we agree with the district court that nothing in the plain language of the settlement agreement limits the Board's constitutional and statutory authority, or requires the board or UND to continue using the nickname and logo throughout the approval period." Because the question of the authority of the policymaking branch of government to enact legislation which limits or affects the authority of the board was not before the court, the court did not address that issue.

THREE COEQUAL BRANCHES OF GOVERNMENT

Although there have been some assertions that the State Board of Higher Education is the fourth branch of government, Article XI, Section 26, of the Constitution of North Dakota is very clear that there are three coequal branches of government. Even before that provision was adopted in 1982, the Supreme Court, in a long line of decisions, recognized that each of the three branches of government is supreme in its sphere. The sphere of the legislative branch is to enact policy. In furtherance of that constitutional responsibility, the Legislative Assembly has regularly enacted legislation that affects or regulates the institutions of higher education and the board. Title 15 is filled with examples of the Legislative Assembly limiting or placing conditions upon the authority of the State Board of Higher Education.

It should also be noted that Section 26 was enacted after the article that established the State Board of Higher Education and did not include the board as a fourth branch of government. Thus, it is clear that although the State Board of Higher Education is constitutionally created, it is not a branch of government that is entitled to the deference the three coequal branches of government offer each other when acting within their spheres of responsibility.

PRESUMPTION OF CONSTITUTIONALITY

Each enactment of the Legislative Assembly is presumed to be constitutional. Furthermore, under Article VI, Section 4, of the Constitution of North Dakota, it takes four of the five Supreme Court justices to declare a state law unconstitutional.

SUMMARY

The Constitution of North Dakota provides the State Board of Higher Education has authority over the state institutions of higher education within constitutional and statutory limitations. Although the Supreme Court has recognized the constitutional authority of the board, it has not specifically addressed the issue of the authority of the Legislative Assembly to enact legislation affecting the board or institutions under its control. The constitution provides for three coequal branches of government, one of which is responsible for enacting policy. Although constitutionally created, the State Board of Higher Education is not one of the three branches of state government and is not an autonomous entity with the authority to act independently of legislative policymaking.

Sincerely,

John Bjornson
Counsel

JB/BM

Prepared by the North Dakota Legislative Council
staff for Representative Carlson
January 2011

HISTORY OF THE FIGHTING SIOUX NICKNAME AND LOGO

This memorandum provides a chronology of the events that have occurred since the inception of the University of North Dakota (UND) Sioux nickname and logo. This memorandum includes excerpts and information derived from an article written by Mr. David Vorland entitled "The Fighting Sioux team name and logo at the University of North Dakota: An historical and contextual summary" and from an April 2010 article in the *Fargo Forum* entitled "Fighting Sioux Timeline." This memorandum also includes a list of those schools located on Indian reservations in the state which use a tribal or tribal-related name as their nickname, mascot, or logo.

CHRONOLOGY OF FIGHTING SIOUX NICKNAME AND LOGO

In Mr. Vorland's article, he notes that turn-of-the-century copies of UND's yearbook--the "Dacotah"--reveal Indian imagery in use on the campus in the university's earliest days at various events and celebrations. He also noted that this was not unusual given that the earliest settlers used Indian names to name cities, waterways, geographic features, and businesses, as well as the name of the state of North Dakota itself.

Athletic programs at UND date back to shortly after the institution's founding in 1883. For many years, the teams were known as the "Flickertails." Sometimes the teams were referred to as the "Nodaks."

1930s

In 1930 after the adoption by the then North Dakota Agricultural College of the nickname "Bison" and a campaign led by the student newspaper, the university's Athletic Board of Control adopted the name "Sioux." During a decade when UND athletic teams dominated the North Central Conference, the new name quickly became popular at UND. Beginning in 1937, the "Nickel Trophy," featuring an Indian image on one side and a bison on the other, was awarded to the winner of the UND-North Dakota State University football game. Similarly, a "Sitting Bull" trophy was awarded to the winner of UND-University of South Dakota rivalry. The addition of the word "Fighting," modeled after the University of Notre Dame's "Fighting Irish," occurred later.

1950s and 1960s

During the 1950s and 1960s, graphic symbols with Indian themes were used at UND for athletics as well as in the nonathletic realm. "Sammy Sioux," a cartoon character, appeared on coffee cups and other items. A men's pep club--the "Golden Feather" organization--centered on Indian themes. For many years female basketball cheerleaders wore fringed buckskin dresses and feather headdresses. Until the mid-1990s, the university's elite men's chorus--the Varsity Bards--entered and departed each concert venue while "war whooping" at the tops of their lungs. Indian themes were commonly depicted in the giant ice sculptures created annually by UND's fraternities and sororities as part of the now defunct "King Kold Karnival." In 1969 Sioux Indians from the Standing Rock Reservation gave UND President George Starcher the name "Yankton Chief" in a campus ceremony and authorized the use of the name Fighting Sioux by UND athletic teams.

1970s

The administration of UND President Thomas Clifford (1971-92) began with protests and violence directed initially against a fraternity that had erected an obscene ice sculpture with a Native American theme. President Clifford negotiated with the aggrieved parties, including leaders of the national American Indian Movement, and agreed to eliminate those aspects of the use of Native American imagery that were clearly demeaning and offensive. Nearly all of the Indian-related logos and symbols, including the popular "Sammy Sioux" caricature, were no longer permitted to be used.

1976

A new geometric Indian head logo was introduced in 1976 and adopted for most athletic purposes. The Chicago Blackhawks logo, which had been used by the hockey team since the late 1960s, however, was retained. President Clifford also insisted that Indian imagery be used with respect, and took steps to ensure that students, fans, and others were aware of UND policy regarding the symbols. He also intensified UND's efforts to include a focus on Native Americans in the curriculum, initially through a minor in Indian Studies, and to develop yet more programs to assist students.

1977

In 1977 President Clifford convinced the Legislative Assembly to provide permanent state funding for both a new academic Department of Indian Studies and a separate Native American Programs Office to coordinate support services for Indian students. President Clifford also encouraged the Chester Fritz Library to build upon its important collection of Indian documents and artifacts.

1990s and Beyond

President Clifford's last public statement on the use of the name and symbol was published in a newspaper interview on March 15, 1991: "I just don't see the reason for changing it right now. The very leaders of the Sioux Nation supported that. When the

leaders of the Sioux Nation come and tell me they don't want it, I'll respect that."

1992-93

In 1992, shortly after the beginning of the Kendall Baker administration (1992-99), an incident involving racial slurs and rude gestures aimed at Native American students and children occurred during UND's homecoming parade. Following the incident, the Standing Rock Sioux Tribal Council requested that UND change the team name, and the University Senate approved a resolution opposing continued use of the Fighting Sioux name. President Baker convened two well-attended university-wide forums and visited the North Dakota reservations to seek input. President Baker announced his decision on July 27, 1993, that UND would not change the name; however, it would drop the Blackhawks logo. A committee was formed to propose steps that could be taken by the athletic department to ensure respectful use of the team name. One result was a mandatory public address announcement before every athletic event. President Baker also stated that UND would renew its commitment to cultural diversity with new, positive activity on many fronts and would leave open the question of the team name for further discussion and education.

1999

In 1999 President Baker's last public statement on the issue was read into the record at a legislative hearing during the legislative session:

> A controversy over the use of the Sioux team name was among the first issues that faced me when I came to North Dakota in 1992. After much conversation and consultation, it was my conclusion that there was no consensus on this issue, not even among Native Americans. I decided, therefore, that the respectful use of the team name should continue and, indeed, that the appropriate use of the name could be a positive influence in helping UND encourage respect and appreciation for diversity in all of its forms. Although some individuals disagreed with me then, as they do today, this remains my position on the issue.
>
> In closing, let me be very clear: Although the approach UND took regarding the team name was and is, in my view, an appropriate one, I also have stated on numerous public occasions that the issue remains on the agenda for dialogue, discussion, and learning.

The North Dakota House of Representatives, in rejecting 1999 House Concurrent Resolution No. 3024, voted 71-26 against urging UND to drop its nickname. The UND Student Senate approved a motion asking UND to drop the name, but the student president vetoed it. Also in 1999, a new Indian head logo was unveiled, created by noted Native American alumnus and benefactor, announced a gift of $100 million for a new hockey arena and other projects at UND.

2001

After hearing that UND might opt for a new name and logo in the middle of the new hockey facility's construction period, Mr. Engelstad wrote a letter to UND President Charles Kupchella in which he threatened to abandon the project if UND dropped the Fighting Sioux nickname. Subsequently, the State Board of Higher Education voted 8-0 to keep the nickname and a newly designed logo.

Also in 2001, the United States Commission on Civil Rights called for an end to Indian nicknames at non-Indian schools. In August 2001, workers scraped a Sioux Indian head logo from the floor of Hyslop Sports Center after President Kupchella ordered its removal.

In October 2001, the Ralph Engelstad Arena was dedicated.

2005

On August 5, 2005, the National Collegiate Athletic Association (NCAA) formally announced the adoption of a policy forbidding its member institutions from employing "hostile and abusive . . . mascots, nicknames or imagery" during NCAA championship play. President of the NCAA, Mr. Myles Brand, stated that the policy was designed to promote the core values expressed in the NCAA Constitution, including "cultural diversity, ethical sportsmanship and nondiscrimination." The NCAA claimed that the impetus for the policy was a combination of NCAA member feedback, a report from the United States Commission on Civil Rights dealing with Native American imagery in sports, and recurring NCAA debates over the use of the Confederate flag in similar situations. Eighteen institutions were initially found by the NCAA to be using hostile and abusive Native American references, causing them to fall within the scope of the policy.

Under the policy, NCAA teams were immediately prohibited from wearing uniforms with "hostile or abusive" indicators at NCAA championship events. Effective February 1, 2006, colleges and universities having such Native American mascots were to be prohibited from hosting any NCAA championships at their facilities. By August 1, 2008, all schools with hostile or abusive mascots or references on their cheerleader, dance team, or band uniforms would be prohibited from wearing them at NCAA championship events. Two weeks after the policy was announced, the NCAA Executive Committee approved an appeals process by which colleges and universities subject to the sanctions could challenge their individual status.

On August 23, 2005, the Executive Committee applied a newly created policy exception to exempt Florida State University--a large Division I school--from the policy. In support of this action, the NCAA

namesake sovereign tribe, regarding when and how its name and imagery can be used, must be respected even when others may not agree" while maintaining that it still considered Florida State University's use of Native American imagery to be "hostile and abusive." The NCAA Executive Committee subsequently removed Central Michigan University, Catawba College, Mississippi College, and the University of Utah from the list of schools prohibited from using Native American names and imagery based upon the namesake tribe exception.

The University of North Dakota responded to the 2005 NCAA policy with an appeal to the NCAA Executive Committee's staff review committee; this appeal was denied. In a letter addressed to the NCAA President Myles Brand and Vice President Bernard Franklin, President Kupchella expressed his concerns about the "organizational self-righteousness" and "executive fiat" evident in the NCAA's policy. Specifically regarding the appeals determination in UND's case, President Kupchella stated that the "unfair, arbitrary, capricious, fundamentally irrational, and harmful manner" in which the policy was applied to UND "leaves us no recourse but to consider litigation."

2006

The UND Indian Association--a student group--voted 26-2 to oppose the name because "use of American Indian names and logos in athletics is demeaning whether intended or not."

In October 2006 North Dakota Attorney General Wayne Stenehjem filed a complaint in a state district court against the NCAA. The complaint was filed on behalf of both UND and the State Board of Higher Education. The complaint stated three causes of action--breach of contract, breach of contract for implied covenant of good faith and fair dealing, and unlawful restraint on trade. Along with the complaint, the Attorney General filed for a preliminary injunction to "prevent tremendous consequences to UND and its athletic . . . programs by immediate application of an absurd, unauthorized and unlawful Policy of the NCAA."

In the brief filed by the Attorney General, the general allegations indicated that in applying the NCAA Executive Committee's exemption policy, Central Michigan University was removed from the list of schools prohibited from using Native American mascots, names, and imagery based upon namesake tribe approval from the Saginaw Chippewa Indian Tribe of Michigan. Numerous other federally recognized tribes utilize the "Chippewa" name or refer to themselves as "Chippewa," including others within the state of Michigan, of which a large number opposed the use of the name by Central Michigan University.

According to the brief, the "NCAA Executive Committee did not consider opposition to Central Michigan University's use of the name 'Chippewa' by other Chippewa tribal authorities. The NCAA Executive Committee did not inquire about the views of other federally recognized Chippewa tribes other than the Saginaw Chippewa Tribe of Michigan. The NCAA Executive Committee has applied a different 'standard' to UND." In addition, according to the brief, "[Florida State University] and other schools removed from the list on the basis of namesake tribe approval are free to participate in any NCAA championship event in any venue while continuing to display their schools' Native American names, mascots, and imagery."

The brief also indicated that "UND does not sanction the use of stereotypical behavior historically associated with Native American imagery, including, but not limited to, drum beats, 'tomahawk chops,' and the like. Before home games, a short presentation on the history of the 'Fighting Sioux' name is shown. All incoming students to UND additionally receive information on cultural diversity generally."

Attorney General Stenehjem declared that the grounds in support of the preliminary injunction included the irreparable damages that would result to UND, the strong likelihood UND would ultimately prevail at trial based on the merits of the case, the fact that UND would suffer a relatively greater harm from not having the injunction than the NCAA would if the injunction were granted, and that the injunction serves the public interest of the people of North Dakota, as "[they] have a pivotal interest in having a nationally recognized, superior state institution of higher education with a correspondingly superior academic program." This preliminary injunction was granted by the presiding judge, Judge Lawrence Jahnke, with the trial set to begin in December 2007.

Also in 2006 the University of Minnesota said because of the nickname, it would not compete against UND in any sport except men's and women's hockey.

2007

In 2007 award-winning author Ms. Louise Erdrich declined an honorary degree from UND because of the Fighting Sioux nickname and logo. Also in 2007 the Ralph Engelstad Arena hired Mr. Sam Dupris of the Cheyenne River Sioux Tribe in South Dakota to meet with tribal officials in North Dakota about the nickname. Cheyenne River leaders later distanced themselves from Mr. Dupris and reaffirmed their opposition.

In October 2007 a settlement was reached between the NCAA and UND. Under the agreement, UND was given three years to obtain approval for using the name and logo from the two major Sioux tribes in North Dakota--the Spirit Lake Tribe and the Standing Rock Sioux Tribe. If this occurred, UND would become exempt from the policy. However, if UND were unable to obtain the tribes' approval within the allotted three years, the school would have to officially retire the "Fighting Sioux" nickname and logo and be forced to adopt a new one that did not violate the 2005 policy's "hostile and abusive" standard.

2009

In 2009 the Summit League stated that UND's application for membership would not be considered until the university's nickname issue was resolved. In addition a resolution opposing the nickname passed UND's University Senate by a vote of 25-17, with unanimous opposition from student senators.

On April 21, 2009, a Spirit Lake Tribe referendum in support of the continued use of the Sioux nickname and logo was approved by more than a 2-to-1 margin.

On May 5, 2009, the State Board of Higher Education directed UND to drop the name and logo unless it could obtain binding 30-year agreements with the namesake tribes by October 1, 2009.

In November 2009 several members of the Spirit Lake Tribe filed a lawsuit challenging the deadline for tribal action, and a district court issued a temporary injunction prohibiting action to retire the nickname. Following a hearing, the district court dismissed the lawsuit, but plaintiffs appealed to the North Dakota Supreme Court.

2010

In January 2010 nickname supporters from the Spirit Tribe Lake filed an appeal to the North Dakota Supreme Court from a district court judge's ruling that the State Board of Higher Education has the authority to change the nickname at any time.

On March 22, 2010, petitions in support of a referendum on the nickname and logo issue, which contained 1,004 signatures, were submitted to the Standing Rock Sioux Tribal Council.

On April 8, 2010, the North Dakota Supreme Court issued an opinion that affirmed the district court's decision.

At an April 8, 2010, meeting in Mayville, State Board of Higher Education President Richie Smith said the board would stand by its May 2009 decision to change the nickname and start the transition unless a motion was made to reconsider that action. Board member Claus Lembke of Bismarck made a motion to reconsider, but the motion died due to lack of a second. Board Chancellor William G. Goetz was instructed to direct UND President Robert Kelley to start the process of retiring the Fighting Sioux nickname and logo. Following the announcement of the retirement of the nickname and logo, several rallies of support were conducted on the UND campus.

On April 21, 2010, North Dakota Governor John Hoeven urged the State Board of Higher Education to give "due consideration" to the results of a possible Standing Rock Sioux Tribal Council referendum on whether UND should keep its Fighting Sioux nickname.

On May 6, 2010, President Kelley announced the appointment of Dr. Robert Boyd, UND Vice President for Student and Outreach Services, as the transition officer for the retirement of the nickname and logo. President Kelley indicated that the process must be

The State Board of Higher Education voted unanimously on May 10, 2010, to extend the deadline for UND to retire its nickname and logo to August 15, 2011.

On May 26, 2010, UND announced a timeline for retiring the use of the Fighting Sioux nickname and logo on merchandise. According to the timeline, by July 1, 2010, the Fighting Sioux logo and nickname will be removed from the Trademarx artwork website. No new designs bearing the Fighting Sioux logo and nickname will be approved after October 1, 2010. The last day to sell merchandise bearing the Fighting Sioux logo and nickname at retail is June 30, 2011.

Mr. Charles Murphy, the chairman of the Standing Rock Sioux Tribal Council, announced on June 9, 2010, that he would try to arrange a tribal council meeting for the following week to consider petitions seeking a referendum on support for the UND Fighting Sioux nickname.

On June 17, 2010, the Standing Rock Tribal Council, by a vote of 10-4, voted to make a final decision that UND's Fighting Sioux nickname should remain retired.

A September 10, 2010, statement from the NCAA indicated that the NCAA was satisfied with UND's plan to retire the Fighting Sioux nickname and logo. The report stated that "UND has been removed from the list of schools subject to the policy regarding Native American nicknames and imagery at NCAA championship events."

On September 21, 2010, UND President Robert Kelley and Vice President of Student Affairs Robert Boyd held an open forum regarding the process behind the retirement of the Fighting Sioux nickname and logo. At the forum, it was reported that the transition from the Fighting Sioux nickname and logo would happen in three stages. Each of the three stages has committees that have been selected or are in the process of being constructed. The first committee--the Honoring History and Traditions Task Group--is charged with examining how the images and history of the 80-year-old name that has been the athletic identity for the majority of the university's existence will be remembered. The second committee--the Communications Task Group--is charged with maintaining communication between the committees, the general public, and President Kelley. The final group--the New Directions Task Group--will oversee the process of finding a new nickname and logo.

On October 12, 2010, the Honoring History and Traditions Task Group held its first meet. The task group's duties are to investigate, meet, and discuss the best way for UND to recognize the former logo and its history. The task group is also required to make recommendations to President Kelley and Vice President Boyd. Subsequent meetings of the task group were held on October 26, November 9, November 30, and December 14. The task group indicated at its November 30, 2010, meeting that

President Kelley regarding the group's comments, recommendations, and supporting data.

USE OF TRIBAL NICKNAMES BY NORTH DAKOTA SCHOOLS LOCATED ON RESERVATIONS

The following is a list of North Dakota schools that are located on Indian reservations in the state which use a tribal or tribal-related name as their nickname, mascot, or logo:

1. Four Winds Community High School Indians - Spirit Lake Reservation.
2. Warwick Public School Warriors - Spirit Lake Reservation.
3. Mandaree Public School Warriors - Fort Berthold Reservation.
4. Parshall High School Braves - Fort Berthold Reservation.
5. White Shield High School Warriors - Fort Berthold Reservation.
6. Turtle Mountain Community High School Braves (Belcourt) - Turtle Mountain Reservation.
7. Selfridge Chieftains - Standing Rock Reservation.
8. Solen High School Sioux - Standing Rock Reservation.
9. Standing Rock High School Warriors (Fort Yates) - Standing Rock Reservation.

TESTIMONY ATTACHMENT 5

Hello to all the Legislatures and thank you for letting me testify to as why keeping the Fighting Sioux name and logo should stay.

My name is Eunice (Abraham) Davidson, I am an enrolled member of the Spirit Lake Tribe and a member of the committee to save the name and logo....I have been asked by many why do you think it is an honor to have the University of North Dakota to use the name The Fighting Sioux? When I was young I heard a lot of negative things said about the Indians so I never had a good feeling about being Native American and that came mainly from Native Americans, I didn't have a whole lot of contact with white people back then. But when I started hearing them on the radio and television mentioning the Fighting Sioux name it made me feel good and that being an Indian must not be a bad thing. The first time I heard it on the radio "Here come the Fighting Sioux" things changed for me. I could go on and on about how it has affected my life, but I will just say, if it were not for that day long ago. I would not have the confidence to stand here before you today. I would not be able to speak my opinion, because I would fear the small handful of tribal leaders who want enrolled members to roll over and play dead. I have respect for myself and my people. I wanted to tell people back then there talking about my people and me, it gave me pride in who I was. I never thought of it as derogatory or abusive. Unlike the opposition, I have fought for the people's right to have a voice, instead of trying to silence them.

Statements have come from the leaders of both Tribes that the people are against the name and logo. But as 67% voted on Spirit Lake that proves they are not speaking for their members. It must be noted for the record that when it was clear that the people of Spirit Lake were to have a vote, Erich Longie leader of the opposition on Spirit Lake tried to silence the people through an injunction against having a vote. All attempts to silence the people of Spirit Lake by the opposition failed.

I cannot speak for the people of Standing Rock, what I can say is I was totally shocked and ashamed, when on May 14, 2009 I heard the words flow out of the mouth of their former chairman. It became clear to me on that day that the Standing Rock Tribal government had nothing but contempt for their people and traditions. Why else would you distort the truth and silence the members of Standing Rock. But these are issues you have no control over. But you do or should have some control over the State Board of Higher Ed and the UND Administration. History books are full of the stories of white leaders seeking out a handful of Native Americans to accomplish their personal goals. With total disregard for the damages the entire tribe suffers. I believe that is the case here.

The news reports to this day, say that the name change is due to the Sioux of North Dakota. But what are the facts? The fact is that every time the Tribes exhibited any type of support, new deadlines and requirements were talked about and put into place by the State Board.

The North Dakota State of Higher Ed's actions have caused turmoil on both reservations, turmoil that was completely unnecessary. They have put the Sioux at the center of the issue, by media reports. But in court they have said we have no say in this issue. They have worked with the handful of opponents in the Sioux community to silence the majority's voice. They have demanded requirements that even they could not agree to. They stood by silently as supporters were attacked falsely, time and time again.

The ND State Board of Higher Ed had the ability before, during and after the court agreement was signed on Oct 26, 2007 with the NCAA to change the name and logo, and tell the public we are changing the name regardless of the Sioux of North Dakota. But they chose to make us the center point and then worked to have us reject the name.

The majority of Sioux of North Dakota have shown over and over again, that they support the name and logo and the ND State Board of higher Ed has allowed us to become the center point. I ask that you do not allow our rights to be taken away by a handful.

I ask that you respect us and require our full voice on this issue. If we are to be blamed, then require our full voice. I ask that you support House Bill No. 1257.

I thank you for the opportunity to be heard.

TESTIMONY ATTACHMENT 6

Madame Chairwoman Kelsch and Honorable Members of the house and education committee...Good Morning.

My name is David Davidson and I have been married to Eunice Davidson for 42 years, and closely connected to the Spirit Lake Tribe for over 50 years. But with all that, I would not presume to talk for the Sioux. I am here to talk to you as a white man who carries many black eyes. Black eyes caused by white man manipulating a few tribal members at the expense of the whole tribe. I feel this is such a case...

TIMELINE

Starting back in September 2008, when Spirit Lakes plan to raise the tribal flag next to Standing Rocks at the REA, in the press chancellor Goetz starts talking about changing deadlines.

After the Oct 2008 flag raising ceremony, statements from the State Board are the need to hurry and change the deadline date and the Summit League is brought into the debate.

By March 2009, its clear Spirit Lake will vote on the issue and more statements from the Board on the need to hurry because of Summit League!

April 16, 2009, Knowing of the vote staff from UND aid opposition leaders on Spirit Lake to convince members to reject the name & logo, also opposition leaders turn in their injunction against the people voice the same day.

April 21, 2009, 67% of Spirit Lake voice support and within hours UND staffs question the intellectual ability of the people of Spirit Lake.

(level headed individuals would not support the name and logo)

May 10, 2009, at a forced meeting with Chancellor Goetz at the Att. Gen. Office in Bismarck, he admits threw his attorney, of unofficial meetings between the Board and the opposition, but he gives no response to why they have not meet with supporters.

May 14, 2009, at the meeting in Dickenson ,Duaine Espergard call the chairman of Standing Rock to rebut supporters views, a speech that Grant Shaft said they heard many times. It was supporters first and only time to voice their views. AND A STRICT AGEND DID NOT APLY TO HIM

May 14, 2009, the Board votes unanimously to retire name & logo, 18 months early. Reason "Summit League."

By July of 2009, it was clear on Spirit Lake, that they now were fighting not just the NCAA, but also the State Board and UND administration. And that the Sioux were going to be blamed for a decision, that they had no input into.

They fought this though District Court and on to the North Dakota Supreme Court. Where both courts agreed reluctantly, that under the Boards authority, they have the power to change the name & logo any time for any reason they choose. And the Sioux were not part of the agreement and had no rights on this issue.

It was also stated by Ass. Att. Gen. Doug Barr at the North Dakota Supreme Court, the Board could not sign an agreement that would forfeit they power to change the name at any time, yet they demanded just that from two sovereign nations.

Nov. 2010, UND's scheduled meeting for acceptance in the

Summit League was cancelled and they joined the Big Sky League. (Was the Summit League just a farce?)

Because the Sioux are still being blamed for a decision they had no input into brought about by statements from the State Board of Higher Ed.

I feel the Board forfeited its right to change the name, without the voice of the majority of Sioux of North Dakota.

Your actions here today if successful do not silence the Sioux's voice it requires the voice of the Sioux, a sign of respect and honor!
AND HELP RIGHT A WRONG

Thank you for allowing me time to testify....

INFORUM
The Forum of Fargo-Moorhead

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UND president repeats denial that he asked Summit League to publicly criticize nickname

BISMARCK - University of North Dakota President Robert Kelley repeated this morning his denial that he ever asked Summit League Commissioner Tom Douple to publicly come out against accepting the Fighting Sioux as a league member until the school's controversial nickname issue was resolved.

By: By Chuck Haga, Forum Communications Co., INFORUM

BISMARCK - University of North Dakota President Robert Kelley repeated this morning his denial that he ever asked Summit League Commissioner Tom Douple to publicly come out against accepting the Fighting Sioux as a league member until the school's controversial nickname issue was resolved.

"Tom has been very consistent with me that once we resolved the logo issue, the Summit League would review our appeal,' Kelley said today as he waited for the House Education Committee to begin hearings on three bills that would require UND to retain the nickname and logo.

"I am very surprised to find Tom thought there was pressure put on him to speak out on this issue," Kelley said.

"There has been some urgency on our part to get this resolved. I think he felt some urgency on our part. But I don't recall every putting pressure on Tom as he implied."

Kelley said he has not spoken with Douple about the commissioner's statement.

"I have not had any conversations with Tom since our acceptance into the Big Sky Conference in November," he said.

"I can't speculate on where this is coming from or why at this time."

Kelley also said he "can't speculate on what he might have understood," or whether Douple may have heard something from someone else at UND.

"I have the highest respect for Tom, and I thought he understood perfectly that this (retirement of the logo) was the responsibility of the state board, and once it was resolved we would be able to move forward.

"My responsibility is to move ahead, and that's what we're doing."

Tags: higher education, sioux nickname, sports, news, updates, und

Published January 26 2011

Source: UND pushed early resolution on nickname

University denies asking Summit League to help accelerate state's decision

The University of North Dakota asked an athletic conference it once considered joining to publicly come out against accepting the Fighting Sioux as a member until the controversial nickname and logo issue was resolved, according to Summit League Commissioner Tom Douple.

By: Jeff Kolpack, INFORUM

The University of North Dakota asked an athletic conference it once considered joining to publicly come out against accepting the Fighting Sioux as a member until the controversial nickname and logo issue was resolved, according to Summit League Commissioner Tom Douple.

UND spokesman Peter Johnson said Monday and repeated Tuesday that university President Robert Kelley "categorically denies" UND officials ever made such a request to the Summit League.

"False. Not true at all," Johnson said. "Neither the president or the athletic director or anybody else from UND ever talked to (the Summit League) from that angle. In no way, shape or form did we ask (Douple) to make that an issue."

If Douple's statement is true, it would be a 180-degree reversal of what has commonly been reported for more than two years: that Summit League officials insisted the nickname issue be resolved sooner than the NCAA-imposed deadline of Nov. 30, 2010, so UND could be considered for inclusion in their conference.

In trying to meet the hurried deadline for the Summit League, the state board of higher education last April moved up the deadline to retire the nickname, not exhausting the timeline earlier given to them.

Commissioner Douple did not want to go into further detail on the issue, but when asked why he agreed to UND's request – that the Summit League would publicly forward this idea – he said, "In support of the (UND) president. He thought it would help them and the board move quicker."

The Summit's message did help the state board of higher education act more quickly.

UND and the Summit League first started having serious membership conversations in 2009 when the Summit said it would make a site visit to the University of South Dakota, but not UND. At the time, Douple was quoted as saying the Summit would not visit UND "until the logo issue is resolved one way or another."

In response, UND athletic director Brian Faison told The Forum a day later, "This is one of the reasons we need to get it resolved. And a resolution doesn't mean it disappears. It could mean the tribes come to an agreement, but we need to get to that point sooner than later."

The Summit League's stance lingered over the issue until last January's state board of higher education meeting.

Kelley and Faison then urged the board to act as quickly as possible on the nickname, citing frequent questions they received on recruiting and postseason competition, according to the meeting minutes. The minutes also state that Faison told the board that if the nickname is resolved before the Summit's Presidents Council met last spring, then the league can act on UND's application and begin scheduling for 2011-12.

At the time, Faison told the board that the Big Sky Conference appeared to have no interest in UND. That, however, changed quickly last fall, and UND ultimately chose to join that conference instead of the Summit League.

Contacted Monday, Richie Smith, state board of higher education president when the Summit was considering UND, said he would be surprised if UND pushed Douple's stance on the nickname.

"That's news to me," he said.

Smith said he was one of a few board members who flew to Summit headquarters in Chicago and talked with Douple.

"He didn't care if the Sioux name stayed or left," Smith said of Douple. "He made it pretty clear that until the NCAA said the matter was resolved, that UND would not be admitted."

The Summit Presidents Council has the authority to admit or deny any prospective member.

UND fits the geographical footprint of the Summit, and its chief rival is 75 miles away in North Dakota State University.

The logo issue remains ongoing in the eyes of the North Dakota Legislature, which will hold a hearing on three bills in support of the nickname today. UND is not part of those discussions, saying it is honoring the state board's directive last spring to begin retiring the nickname.

Douple said Tuesday that while UND officials deny they pushed the Summit League to offer an ultimatum on the nickname, he would have had no other good reason to do it.

"I wouldn't put myself out there and put my membership through that on my own volition," he said. "But it's water under the bridge. That's OK. They've decided to move on, and we're moving on."

Forum reporter Jeff Kolpack can be reached at (701) 241-5546

ATTACHMENT 7

ARTICLE VII - DISTRICT ORGANIZATION

Each district recognized under Article III, Section 2, hereof, may organize local District Councils and elect District officers to consult, make recommendations and advise the Tribal Council, the Superintendent of the Reservation or officer in charge, and the Secretary of the Interior, on all matters of local or tribal interest. The District Councils and officers shall exercise such powers as the Tribal Council may delegate.

ARTICLE VIII - AMENDMENTS

This Constitution may be amended or rewritten by a majority vote of the qualified voters of the Standing Rock Sioux Tribe voting at an election called by the Chairman. The Chairman shall call an election upon a proposed amendment or rewrite to the Constitution at the request of three fourths (3/4) of the members of the Tribal Council or upon petition of twenty (20) per cent of the qualified voters of the Standing Rock Sioux Tribe.

ARTICLE IX - ADOPTION OF AMENDED CONSTITUTION

The amended or rewritten Constitution shall become effective when ratified by a majority of the qualified voters of the Standing Rock Sioux Tribe voting in an election called by the Chairman, pursuant to Article VIII of this Constitution.

ARTICLE X - NOT AN INDIAN REORGANIZATION ACT CONSTITUTION

This Constitution is not a Constitution pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934, c. 576, 48 Stat. 985, 987 (25 U.S.C. 476).

ARTICLE XI - BILL OF RIGHTS

Section 1. The Tribe shall not make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances.

Section 2. The Tribe shall not violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

Section 3. The Tribe shall not subject any person for the same offense to be twice put in jeopardy.

T AL COUNCIL
AT LARGE)
Jesse "Dave" Taken Alive
Margaret M. Gates
Avis Little Eagle
Dave Archambault II
Joseph McNeil Jr.
Jesse McLaughlin

Charles W. Murphy
Chairman

Mike Faith
Vice Chairman

Adele M. White
Secretary

TRIBAL COUNCIL
(DISTRICTS)
Sharon Two Bears
Henry Harrison
Duane Claymore
Kerby St. John
Errol D. Crow Ghost
Milton Brown Otter
Samuel H. Harrison

May 27, 2010

16

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe
PO Box D
Fort Yates, North Dakota 58538

Dear Chairman Murphy:

Once again, I am requesting the issue regarding the petition to be placed on the agenda at the next Regular Tribal Council Meeting in June 2010.

On April 6, 2010, the Tribal Council met and approved Motion No. 2 that provides that the "Tribal Council will resume discussing the matter once the N.D. State Board of Education makes its final decision on the retirement of the UND logo and nickname."

The following month, May 4, 2010 Tribal Council met and approved the following Motion. #2. *MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOSEPH MCNEIL, JR., TO APPROVE DUE TO THE RECENT DEVELOPMENTS REGARDING THE UND LOGO ISSUE THE S.R. SIOUX TRIBAL COUNCIL WILL RESUME DISCUSSING THE MATTER ONCE THE N.D. STATE BOARD OF HIGHER EDUCATION MAKES IT'S FINAL DECISION ON THE RETIREMENT OF THE UND LOGO AND NICKNAME. VOTE: 8 – YES 7 – NO 0 – NV MC.*

It is my view, that Tribal Council needs to determine how to proceed with the petition received in April 2010. As you have acknowledged, we have no policies and procedures established to conduct a referendum. The establishment of these policies and procedures needs to be addressed, to include specific criteria to certify this petition.

This matter must be decided by the Tribal Council.

Sincerely,

Adele White, Tribal Secretary
Standing Rock Sioux Tribe

EXHIBIT
16

TRIBAL COUNCIL
(AT LARGE)

Jesse "Jay" Taken Alive

Margaret M. Gates

Avis Little Eagle

Dave Archambault II

Joseph McNeil Jr.

Jesse McLaughlin

Charles W. Murphy
Chairman

Mike Faith
Vice Chairman

Adele M. White
Secretary

TRIBAL COUNCIL
(DISTRICTS)

Sharon Two Bears
Cannonball District

Henry Harrison
Long Soldier District

Duane Claymore
Wakpala District

Kerby St. John
Kenel District

Errol D. Crow Ghost
Bear Soldier District

Milton Brown Otter
Rock Creek District

Frank Jamerson Jr.
Running Antelope District

Samuel B. Harrison
Porcupine District

Standing Rock Sioux Tribe
Adele White, Tribal Secretary
Box D
Fort Yates, ND 58538
April 12, 2010

Dear Secretary White:

As you know, it is imperative for us as duly elected Tribal officials to promptly and satisfactorily address the concerns of our Tribal citizens. The Standing Rock Sioux Tribe is in receipt of a petition for a referendum vote on the issue of the UND Fighting Sioux logo. This petition has been signed by 1,004 existing and/or potential voters. As we do not have a formalized procedure in place for such a vote, we must utilize the existing structure and precedent to provide a vehicle for the citizens of Standing Rock to exercise their constitutional right to vote. As well, we must address the matter in a fair and timely manner and communicate with constituents as to the status of their petition.

As a result, I am requesting a specific action plan from your office for reviewing and verifying signatures on the petition. Please also include information for communicating with the primary petitioners as to the on-going status of their request.

Thank you for your time and attention in this matter. If you have any questions or concerns, please contact me at your convenience.

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

BOX D • NORTH SIOUX CITY AVE • PO BOX D • FORT YATES, NORTH DAKOTA 58538
PHONE 701-854-7201 • 701-854-8501 • FAX 701-854-7299

EXHIBIT
12

TESTIMONY ATTACHMENT 8

North Dakota University System
HB 1208, HB 1257 and HB 1263 – House Education Committee
January 26, 2011
Grant H. Shaft, Vice President, North Dakota State Board of Higher Education

Madam chair and members of the House Education Committee, good morning. For the record, my name is Grant Shaft, and I am the vice president of the North Dakota State Board of Higher Education. I am appearing today on behalf of the board.

As a member of the board, I had the primary responsibility for addressing the issue of the Fighting Sioux nickname and logo at the University of North Dakota. My purpose before your committee today is to provide you with information regarding what led the State Board of Higher Education to retire the Fighting Sioux nickname and logo and the process that led up to that decision.

NCAA ACTION

The University of North Dakota competes in athletics within the National Collegiate Athletic Association (NCAA). Accordingly, UND, like all other schools competing in NCAA-sanctioned events, is subject to the policies adopted by the NCAA.

In 2005, the NCAA adopted a policy that prohibited the display of Native American names or imagery deemed hostile or abusive on team uniforms and associated paraphernalia at NCAA championship events. Any school that continued to use Native American names and imagery was prohibited from hosting or bidding to host championship events. Further, the policy urged schools that were members of the NCAA to refrain from scheduling regular season competition with schools that use Native American names and imagery. The University of Minnesota is one institution that has taken this action against UND in all sports excepting hockey. UND was identified as a school using Native American names and imagery and was placed on the list of schools subject to the restrictions.

The NCAA provided a procedure to challenge a school's inclusion on the list and provided that a primary factor to be considered was whether a sovereign tribe had provided formal approval for the use of the name and imagery. This would be the exemption under which Florida State University is allowed to continue to use the Seminole name and imagery. UND appealed its inclusion on the list and exhausted the administrative appeal process afforded by the NCAA. On April 27, 2006, the NCAA issued a final decision rejecting UND's appeal.

With the administrative appeal options exhausted, the North Dakota State Board of Higher Education authorized the attorney general, on October 6, 2006, to initiate a lawsuit against the NCAA alleging breach of contract, breach of the implied covenant of good faith and fair dealing, and for violations of anti-trust law. Shortly after filing, the District Court issued a preliminary injunction prohibiting the NCAA from applying the restrictions against UND until trial.

On October 26, 2007, the attorney general briefed the State Board of Higher Education on the status of the lawsuit and his extensive negotiations with the NCAA toward settlement. Based on this briefing, both the State Board of Higher Education and the attorney general approved the terms of this negotiated settlement. The settlement agreement included the following terms:

1. **UND was provided a three-year period from November 30, 2007, to November 30, 2010, to secure approval from <u>both</u> North Dakota Sioux Tribes, (Spirit Lake and Standing Rock).**

2. **During the three-year period, UND would not be subject to the NCAA restrictions.**

3. **If UND obtained the consent of <u>both</u> tribes, they would no longer be subject to the NCAA restrictions <u>UNLESS</u>:**

   a. **The NCAA changed its policy and no longer allowed schools to be exempt from the restrictions, or**
   b. **<u>Either</u> North Dakota Sioux Tribe withdrew its approval, at any time.**

4. **The District Court lawsuit was dismissed, with prejudice, meaning the litigants are barred from relitigating the subject matter of the lawsuit.**

I have included with my statement a copy of the *STATEMENT OF ATTORNEY GENERAL WAYNE STENEHJEM ON THE SETTLEMENT OF THE LAWSUIT AGAINST THE NCAA dated October 26, 2007, and a copy of the Settlement Agreement dated October 26, 2007.*

It should be noted that the attorney general is a UND alumni, and five of the eight voting members of the board at the time of the settlement had attended UND and were supportive of UND's continued use of the nickname and logo. Further, with regard to the legal issues involved, three voting members on the board were also licensed and practicing attorneys.

POST SETTLEMENT ACTIONS BY THE BOARD OF HIGHER EDUCATION

With the Settlement Agreement in place, resolution of the matter shifted from the attorney general to the State Board of Higher Education. From the date of settlement forward, the board sought two resolves:

1. Written permission from both tribes in accordance with the Settlement Agreement, AND

2. A long-term agreement with the tribes so that UND's exemption from the NCAA restrictions would not be jeopardized each time there was a tribal election or referendum.

The board felt both components were necessary so that the issue would be stabilized for a period of years, and UND could plan accordingly.

Immediately following the NCAA settlement, the board unanimously supported an exhaustive effort to obtain tribal approval. The spirit of the Settlement Agreement intended meetings at the highest level of both higher education and tribal government. This effort involved engaging all

interested constituencies, including the Standing Rock and Spirit Lake leadership, Ralph Engelstad Arena, UND, alumni, local, state and federal officials.

The board initially instructed the chancellor of the North Dakota University System to contact both tribes' leadership to determine their positions as to UND's use of the name and logo. After several meetings and follow-up discussions with the leadership of both tribes, the chancellor reported to the board that both tribal councils emphatically opposed UND's continued usage of the name and logo. During this same time period, the board monitored private efforts at obtaining approval from the tribes. These, too, were not successful.

By October 2008, both the Spirit Lake and Standing Rock tribal councils continued their opposition to the nickname and logo and formally stated to the board that they would not participate in any further discussions or meetings, regardless of the level of the participants. The board resolved to continue making every effort to obtain their approval. In furtherance of this, a committee was formed to engage the tribal leadership. Considerable time and effort was spent insuring that the committee consisted of equal representation from nickname supporters and those opposed including members from both tribes, UND, REA, government officials and the Grand Forks community. The committee made several written requests to all members of both tribal councils to meet. NONE of our written requests were answered, nor were our phone calls. The committee was therefore unable to engage the tribal leadership.

Despite the committee's efforts being rejected by the tribal leadership, the board continued its resolve to obtain approval. Since the tribal leadership was not receptive, the board embraced the referendum process at Spirit Lake. Through the efforts of Spirit Lake tribal members, a successful referendum vote was held requiring the Spirit Lake tribal council to adopt a resolution authorizing UND to use the nickname and logo. An authorizing resolution was secured that conformed to the terms of the Settlement Agreement. It should be noted that, prior to expiration of the three-year NCAA Settlement period, petition efforts had been undertaken at Spirit Lake to revoke this authorization.

While the above process was ongoing, UND's president and athletic director notified the board that UND wished to seek league affiliation with the Division I Summit League. According to UND, their lack of solid league affiliation was jeopardizing UND's transition to Division I athletics. However, the Summit League refused to consider UND's application until the nickname and logo issue was resolved. Rather than wait for UND, the Summit League intended to continue seeking other interested schools in hopes of filling its league needs. Given the potential impact to the Fighting Sioux name and logo, the chancellor, board president and two board members traveled to the Summit League offices in Chicago and met with the league's director to confirm their position. He confirmed the information provided by UND including the possibility that the league would find another school to fill the opening sought by UND. Based on the urgency presented by UND and the Summit League's stated position on the nickname and logo, the board was forced to address whether it was in the best interest of UND and its athletic programs to delay application to the Summit League until November 30, 2010, or shorten the timeline for tribal approval so as to accommodate the Summit League application.

In May 2009, Standing Rock's leadership appeared before the board to formally express their continued opposition to the nickname and logo. They also informed the board that there was a tribal moratorium on the issue, and the referendum process was not available under the Standing

Rock constitution. This opposition was underscored in August 2009 when the Standing Rock leadership refused to schedule a referendum vote requested by members of the tribe. The Standing Rock leadership appeared before the board again on September 17, 2009, to restate its continued opposition.

Despite the urgency of UND's application to the Summit League and Standing Rock's clear opposition to name and logo approval, the board resolved to continue working for Standing Rock's approval in light of upcoming tribal elections in the fall of 2009. The elections were held, and a new chairman was elected along with several new council members. With hope of a change of posture on the part of the new tribal leadership, the chancellor and several board members immediately met with Chairman Murphy in order to clearly convey the urgency of the situation along with what approvals were needed. The new Standing Rock chairman clearly stated that the moratorium on referendum elections remained intact, that the name and logo issue was of low priority to the tribe, and, even if an agreement could be reached, it would not be binding on future elected councils. In other words, they could change their mind at any time.

Even in light of this disappointing position by the new chairman, the board continued to delay taking action on the name and logo while efforts among the tribal members at Standing Rock were underway to petition for a referendum, in spite of the existing moratorium on the same. On April 6, 2010, the Standing Rock Tribal Council received the signatures of 1,004 members supporting the nickname and logo and seeking a referendum vote. However, on June 12, 2010, the same Standing Rock Tribal Council received a petition signed by 1,010 tribal members urging the council to continue its opposition to the nickname and logo. On June 17, 2010, the tribal council voted 10-4 to refuse to consider the petitions, and stated that the council had reached a final resolution to not discuss or consider the Fighting Sioux nickname and logo further.

Overall, the Standing Rock tribal council has formally resolved on nine occasions between 1992 and 2010, under different chairmen and council makeup, to oppose UND's use of the nickname and logo or placing the issue on the ballot.

On April 8, 2010, based on the continued opposition from Standing Rock's leadership and information that UND's application would need to be submitted to the Summit League by June 1, 2010, to be considered for membership and competition in 2012, the board directed President Kelly to proceed with the process of retiring the nickname and logo. Immediately after taking this action, both the Division I Summit League and Big Sky Conference were in contact with UND regarding conference affiliation. UND has now joined the Big Sky Conference.

Between April 8, 2010, and November 30, 2010, the end date of the Settlement Agreement, the board continued to monitor Standing Rock's position with board members stating that if tribal approval was obtained by November 30, the board would reconsider the issue.

The final effort to obtain Standing Rock's approval was a Standing Rock Tribal Court action filed on October 18, 2010. Ten Standing Rock tribal members representing 1,004 petitioners filed an action against the Standing Rock Tribal Council and its individual members to compel the tribal council to give its support for UND's use of the nickname and logo or to allow a constitutional referendum vote. The tribal court denied their petition. An appeal was taken to the Standing Rock Sioux Supreme Court as case no. COMP-10-563 and, on November 15, 2010, the

Supreme Court dismissed the appeal and sent the matter back to the tribal court. The tribal court then dismissed the action in its entirety.

The above information is presented in summary fashion and cannot be specific to the hundreds of hours spent by board members attempting to secure approval from both tribes. The time and effort invested by board members greatly exceeds any reasonable expectations of such a board, and the time dedicated to doing so was often at the expense of other issues vital to UND and the other 10 institutions in North Dakota. However, during the entire process, contrary to public perception, all eight voting members of the State Board of Higher Education continued to believe that UND's use of the nickname and logo has always been respectful and dignified and that the tribes should be afforded every opportunity to give their approval.

As of November 30, 2010, the following strategies for retaining UND's use of the nickname and logo had been attempted:

1. NCAA administrative review and appeals;
2. Legal action against the NCAA in District Court;
3. Direct appeals to the tribal leadership;
4. Formation of a statewide committee to engage tribal leadership;
5. Tribal elections at Standing Rock;
6. Referendum efforts at both Standing Rock and Spirit Lake
7. Tribal court action and appeal.

This listing does not include other equally involved efforts undertaken by tribal members and private groups.

I am unable to think of any additional action, nor has anyone been able to suggest additional action, that the State Board of Higher Education or any government official or any tribal or private party could have taken to secure the approval of both tribes.

Thank you for the opportunity to appear before your committee today. The State Board of Higher Education hopes that my testimony will help the committee understand the efforts undertaken by the board and others to secure tribal approval for UND's continued use of the Fighting Sioux nickname and logo.

In the end, our constitutional obligation is to act in the best interest of the University of North Dakota. In deliberating this legislation, we ask that you do the same, even if that action differs from your personal feelings on this very emotional issue.

Thank you.

STATEMENT OF ATTORNEY GENERAL WAYNE STENEHJEM
ON THE SETTLEMENT OF THE LAWSUIT AGAINST THE NCAA
October 26, 2007

On August 5, 2005 the National Collegiate Athletic Association ("NCAA") announced that it had adopted a policy that prohibited the display of Native American names or imagery deemed hostile or abusive on team uniforms and associated paraphernalia at NCAA Championship events and additionally prohibited schools that continue to use Native American names and imagery from hosting or bidding to host Championship events. The Policy further announced a set of "best practices" for member institutions to consider adopting which would encourage member institutions to refrain from scheduling regular season competition with schools that continue to use Native American names and imagery. The University of North Dakota ("UND") was identified and placed on the list of schools subject to these restrictions.

The NCAA subsequently announced the procedures that an identified school had for challenging its inclusion on the list of offending schools. The NCAA also announced that as part of that review, one primary factor that would be considered would be whether a sovereign tribe had provided formal approval for the use of the name and associated imagery. Through the appeals process provided by the NCAA, only those schools with namesake tribal approval were granted exemptions from the Policy.

UND appealed its inclusion on the list of offending school through each step of the internal process afforded by the NCAA. On April 27, 2006, the NCAA issued a final decision rejecting UND's appeal, determining that UND would remain on the list of offending schools deemed to be using hostile or abusive names and imagery.

At the conclusion of the appeals process, it was determined that the only remaining recourse available to UND was through the initiation of litigation. The internal appeals process was complete and UND did not have any further ability to challenge the NCAA's determination and its inclusion of UND on the list of schools deemed to be

using hostile or abusive names and imagery. The North Dakota State Board of Higher Education subsequently authorized, and on October 6, 2006, UND initiated a lawsuit against the NCAA for breach of contract, breach of the implied covenant of good faith and fair dealing, and for violations of North Dakota antitrust law. On November 11, 2006, the District Court issued a preliminary injunction prohibiting the application of the Policy to UND until the issues were resolved at trial.

After extensive negotiation, the State Board of Higher Education on October 26, 2007, formally agreed to settle the lawsuit against the NCAA. Under the settlement terms, UND will be provided a three-year period from November 30, 2007 in which to engage in a dialogue with North Dakota Sioux Tribes for purposes of securing namesake approval for the continued use of the "Sioux" name and logo. If namesake approval is provided by both Spirit Lake and Standing Rock during this time period, the NCAA will agree to exempt UND from application of the Championship restrictions.

At the end of the three-year period, should UND not have namesake approval from both Spirit Lake and Standing Rock, UND agrees to transition to a new name and logo. The NCAA agrees to provide UND additional time until August 15, 2011 to accomplish the transition. In addition, certain imagery is allowed to transition at later dates, and some imagery would be allowed to remain indefinitely without implicating championship restrictions.

The NCAA also expressly agreed to make a public statement on the campus environment at UND. The NCAA statement is:

> The NCAA recognizes the University of North Dakota's many programs and outreach services to the Native American community and surrounding areas. The University of North Dakota is a national leader in offering educational programs to Native Americans.
>
> The University has indicated that it intends to use the current name and logo with the utmost respect and dignity, and only for so long as it may do so with the support of the Native

> American community. The NCAA does not dispute UND's sincerity in this regard.
>
> The NCAA believes, as a general proposition, that the use of Native American names and imagery can create a hostile or abusive environment in collegiate athletics. However, the NCAA did not make any other findings about the environment on UND's campus. The NCAA also acknowledges that reasonable people can disagree about the propriety of Native American imagery in athletics. The NCAA believes that the time has come to retire Native American imagery in college sports.

This public acknowledgement was an important component of the settlement.

The settlement was agreed to by the Board by unanimous vote and approved by the Attorney General. As part of the settlement, it is stipulated that the lawsuit against the NCAA will be dismissed with prejudice.

# # #

STATE OF NORTH DAKOTA IN DISTRICT COURT

COUNTY OF GRAND FORKS NORTHEAST CENTRAL JUDICIAL DISTRICT

State of North Dakota, by and through the North Dakota State Board of Higher Education, and the University of North Dakota,

Plaintiff,

v.

National Collegiate Athletic Association,

Defendant.

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

FILED IN THE OFFICE OF CLERK OF DISTRICT COURT GRAND FORKS COUNTY, N. DAK. ON

Civil No. 06-C-01333

OCT 26 20[illegible]

REBECCA ABSEY, CLERK

BY

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("Agreement") is entered into between the State of North Dakota, acting by and through the North Dakota State Board of Higher Education and the University of North Dakota ("UND"), and the National Collegiate Athletic Association ("NCAA").

WHEREAS, on or about August 5, 2005, the NCAA Executive Committee announced a Policy regarding the display of Native American nicknames, mascots and imagery at NCAA Championship events (the "Policy"); and

WHEREAS, pursuant to the Policy, uniforms or other paraphernalia with Native American references or images cannot be worn or displayed at NCAA Championship competitions, and institutions which continue to display or promote Native American references are prohibited from hosting Championship events; and

WHEREAS, disputes and differences have arisen between UND and the NCAA regarding promulgation of the Policy and application of the Policy to UND; and

WHEREAS, UND filed a civil action advancing certain claims against the NCAA, which action is styled *State of North Dakota, et al. v. National Collegiate Athletic Association*, Civil No. 18-06-C-1333, in the District Court, Northeast Central Judicial District, Grand Forks County, North Dakota; and

WHEREAS, UND asserted claims against the NCAA for breach of contract, breach of the implied covenant of good faith and fair dealing, and unlawful restraint of trade in violation of the North Dakota state antitrust laws; and

WHEREAS, UND recognizes that North Dakota Sioux Tribes, as the descendants of the indigenous people of the Northern Great Plains who UND strives to honor with its nickname, have important contributions in determining whether, to what extent and in what manner the "Sioux" name and the "Fighting Sioux" nickname or logo should continue to be used in conjunction with the athletic tradition at UND; and

WHEREAS, Plaintiff and Defendant each deny that they have any liability to the other, whether arising out of the foregoing lawsuit or on any other basis; and

WHEREAS, Plaintiff and Defendant desire to settle and extinguish all claims, rights of action, causes of action, and demands between themselves that they have or could have,

NOW, THEREFORE, in consideration of the agreements, releases and dismissal hereinafter described, the parties agree as follows:

1. Plaintiff hereby voluntarily settles, resolves and releases all claims asserted, or which could have been asserted, against any party or individual in the above-captioned matter, and in doing so will stipulate to dismissal of the above-captioned lawsuit with prejudice. Such dismissal shall be filed with the appropriate Court within three (3) days of the date this Agreement is fully executed. By such dismissal and by this Agreement, UND, with the intention of binding itself and its

administrators, employees and legal representatives, forever releases and discharges the NCAA and all insurers, officers, directors, employees, legal representatives, and all other persons from all claims, causes of action, and demands of every kind, including attorneys fees, arising out of, resulting from or in any manner pertaining to the Policy, except as expressly reserved in Section 3 below, which have been, or could have been, asserted by plaintiff as of the date of this Agreement.

2. In consideration for UND's release of its claims, the NCAA shall agree as follows:

a. **Effect of Namesake Approval.** UND will be provided a period of time until November 30, 2010 (the "Approval Period"), to seek and obtain namesake approval for its nickname and related imagery, during which time the Policy will not apply to UND and UND will not be restricted from hosting and bidding to host championship events for which it otherwise would be eligible to host. To secure approval qualifying UND for a namesake exemption from the Policy, UND must have clear and affirmative support for the "Fighting Sioux" nickname and logo, in the form set forth in Subsection 2(c) below, from both the Spirit Lake Tribe ("Spirit Lake") and the Standing Rock Sioux Tribe ("Standing Rock"). If UND obtains such support within the Approval Period, then the Policy will not apply to UND until such time as either (i) the NCAA abolishes the namesake exemption for all schools and makes the Policy apply, with all of its restrictions, to all exempted schools, or (ii) either of the tribes named in this Subsection withdraws or otherwise reverses its support for UND's use of the "Fighting Sioux" nickname and related imagery. The form of withdrawal or reversal, if any, is described in Subsection 2(c) below. The "Best Practices" portion of the Policy will apply to UND uniformly as it applies to all schools. No change or modification in the current namesake exemption will have any affect whatsoever on UND's rights under this Section, unless the namesake exemption is completely repealed so no member institutions are exempted from the Policy by that exemption. If the namesake exemption is completely repealed

before UND secures namesake approval as set forth in this Agreement, then UND shall not be able to gain a namesake approval under this Subsection. If the namesake exemption is completely repealed after UND secures approval as set forth in this Agreement, then no school, including UND, will be entitled to the exemption.

b. **Efforts to Influence Tribes.** The NCAA agrees that during the Approval Period it will not initiate contact with any Sioux Tribe for the purpose of attempting to persuade any tribal governmental entity to provide or not provide namesake approval to UND. Such contact, initiated by any representative duly authorized to speak on behalf of the NCAA acting in his or her official capacity for the purpose of attempting to persuade any Sioux Tribal entity to provide or not provide namesake approval, shall be a material breach of this Agreement. Nothing in this Subsection, however, shall be interpreted as precluding any NCAA official from responding to questions or seeking clarification regarding the position of one or more tribes.

c. **Form of Namesake Approval.** The NCAA recognizes that the Spirit Lake Tribal Council previously provided a resolution dated December 13, 2000. For purposes of this Agreement, the December 13, 2000 resolution shall constitute namesake approval on behalf of Spirit Lake upon written confirmation, by an individual duly authorized to bind or speak on behalf of Spirit Lake, that the Tribe approves of and affirmatively supports UND's use of the current nickname and related imagery. In the alternative, approval by Spirit Lake unrelated to the December 13, 2000 resolution shall be communicated in writing by an individual duly authorized to bind or speak on behalf of the Tribe. For purposes of this Agreement, namesake approval from Standing Rock shall be adopted by any means allowed in the Tribe's Constitution and shall be in writing. For purposes of this Agreement, withdrawal of approval by either Tribe shall be memorialized in the same form as the approval.

d. **Absence of Namesake Approval.** Within thirty (30) days from the date of this Agreement, UND will announce that its Athletic Department will transition to a new nickname and logo which do not violate the Policy or render UND subject to the Policy, if (i) it is unable to secure namesake approval as set forth in this Agreement prior to the expiration of the Approval Period, or (ii) namesake approval, once provided, is withdrawn. In the event UND announces a transition to a new nickname and logo which do not violate the Policy, the transition will be completed on or before August 15, 2011, subject to Subsection 2(f), below. If UND does not adopt a new nickname and logo, or if the transition to a new nickname and logo is not completed prior to August 15, 2011, then UND will be returned to the list of institutions subject to the Policy. In the event UND secures namesake approval but such approval is withdrawn after November 30, 2010, UND shall have one (1) year to complete transition to a new nickname and logo, unless the parties mutually agree to a period of time longer than one (1) year.

e. **Appropriate use discussions between UND and Namesake Tribes.** It is understood that UND will continue to solicit on an ongoing basis, both before and after Namesake approval is obtained, the views of North Dakota Sioux Tribes on the appropriate use of the Sioux name and related imagery in athletics at UND. No tribal resolution intended to communicate its views, concerns, or suggestions as part of this ongoing dialogue shall be construed as nullifying prior Namesake approval, unless the tribal resolution clearly expresses an intent to withdraw support as outlined in Subsection 2(a) of this Agreement.

f. **Permitted Imagery at the REA and other venues.** In the event there is a nickname change pursuant to Subsection 2(d), UND will not use a facility to host NCAA championship contests, whether or not owned by UND, which contains images commonly associated with Native American culture, except as expressly set forth herein:

1. Imagery of historical significance. Retaining imagery of independent historical significance will not disqualify the Ralph Engelstad Arena ("REA"), or other venues, from hosting NCAA championship contests. A complete list of those images which the parties agree have independent historical significance is attached hereto as Schedule A, Category 1, and incorporated herein.

2. Items Embedded in Architecture. Retaining imagery which is embedded in architecture will not disqualify the REA, or other venues, from hosting NCAA championship contests. A complete list of those images which the parties agree are embedded in architecture is attached hereto as Schedule A, Category 2, and incorporated herein.

3. Removal in the Ordinary Course. Retaining certain specifically identified imagery which will ultimately be replaced because of ordinary wear and tear will not disqualify the REA, or other venues, from hosting NCAA championship contests. A complete list of those images which the parties agree will be replaced in the ordinary course, but in no event later than the dates identified, is attached hereto as Schedule A, Category 3, and incorporated herein. Nothing in this Agreement precludes UND from bidding to host future predetermined events, including at venues which are continuing to make transitions consistent with this Agreement. The NCAA may, at its discretion, accept or reject a bid proposal from UND which provides that transitions in Schedule A which are not then, but are required to be, complete will be completed prior to the date of the championship event for which the bid is submitted.

g. **"Best Practices" Portion of the Policy.** During the Approval Period, or until such time as UND secures namesake approval during that Approval Period, the "Best Practices" portion of the Policy will also be suspended in its application to and not apply to UND. Within 5 (five) days

of the date of this Agreement, the NCAA shall issue a statement to its members which includes the following language: "Application of the Policy to UND has been suspended, subject to terms outlined in this Agreement, by mutual agreement between UND and the NCAA. No member institution should use the Policy as a factor in scheduling regular season competition with UND. Regular season competition should be scheduled in accordance with each individual institution's own internal policies and practices." If UND announces a transition to a new nickname and logo at the end of the Approval Period, or at any time during the Approval Period, then the NCAA shall issue a statement to its members which includes the following language: "UND has been removed from the list of schools subject to the Policy and no member institution should use the Policy and its prior application to UND as a factor in scheduling regular season competition. Regular season competition should be scheduled in accordance with each individual institution's own internal policies and practices."

h. **Control of Venue.** The NCAA recognizes that UND does not own or control all venues in which its athletic teams ordinarily compete. If UND is removed from the list of institutions subject to the Policy because it transitions to a new nickname and logo, UND may host NCAA championship events at facilities which do not contain or display imagery inconsistent with the Policy or this Agreement, including, but not limited to, any facilities owned and controlled by UND. It may also host regular season contests in any venue of its choosing, provided the venue is otherwise fit for use. However, absent namesake approval as set forth herein, UND expressly waives any opportunity to host NCAA championship events at outside venues (*i.e.*, venues UND does not own) containing or displaying imagery which is inconsistent with the Policy and/or this Agreement.

i. **NCAA Statement on Campus Environment.** The NCAA shall make a public announcement which includes the following language, including posting the text on the NCAA web site:

> The NCAA recognizes the University of North Dakota's many programs and outreach services to the Native American community and surrounding areas. The University of North Dakota is a national leader in offering educational programs to Native Americans.
>
> The University has indicated that it intends to use the current name and logo with the utmost respect and dignity, and only for so long as it may do so with the support of the Native American community. The NCAA does not dispute UND's sincerity in this regard.
>
> The NCAA believes, as a general proposition, that the use of Native American names and imagery can create a hostile or abusive environment in collegiate athletics. However, the NCAA did not make any other findings about the environment on UND's campus. The NCAA also acknowledges that reasonable people can disagree about the propriety of Native American imagery in athletics. The NCAA believes that the time has come to retire Native American imagery in college sports.

j. **Intellectual Property.** If UND announces a transition to a new nickname and logo at the end of the Approval Period, or at any time during the Approval Period, then any intellectual property and/or licensing rights to the "Fighting Sioux" nickname and mark shall remain, except as provided herein, the sole property of UND and shall not be further assigned, released, abandoned, exercised, or otherwise used, except as expressly permitted herein, in connection with UND's Athletic Department. UND reserves and shall have the right, at any time, to assign or transfer intellectual property or licensing rights of the "Fighting Sioux" nickname and mark to any Sioux nation or tribe. Retention of images bearing the nickname and logo as displayed on or before the date of this Agreement shall not be deemed a violation of this Subparagraph. Residual trademark rights and good will in connection with the continuing and continuous commercial use through retention of images bearing the nickname and/or logo demonstrates continuing trademark use and retention of trademark rights.

3. Reservation of Legal Rights. To the extent the NCAA modifies, adds to, expands or otherwise changes the Policy, its interpretation, or its application in any regard following the execution of this Agreement, UND shall retain the right to challenge the changed Policy in any manner and on any grounds it chooses, including without limitation through court action challenging the power of the NCAA to enact the Policy or any portion thereof.

4. Public Accountability. It is understood that this Agreement in no way restricts any officer, employee, or agent of the State of North Dakota or the NCAA from discussing the events leading up to and including this Settlement Agreement nor does the Agreement restrict any officer, employee, or agent of the State of North Dakota from releasing any public documents under Open Records Laws, except as otherwise provided by court order.

5. Modifications in Writing. Any modifications to this Agreement must be in writing and executed by UND and the NCAA.

6. Entire Agreement. UND and the NCAA agree that this Agreement constitutes all the agreements between them, and they have no other written or oral agreements or understandings.

7. Governing Law. This Agreement shall be construed and enforced in connection with the laws of the State of North Dakota.

8. Warranties. The parties warrant that before executing this Agreement, they have had the advice of their attorneys; that they have read the same and fully understand its contents and meaning; and that they have authority and competency to execute this document on behalf of the respective parties hereto.

Dated this 25th day of October, 2007.

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

By: _____

Subscribed and sworn to before me
this 25th day of October, 2007.

_____
Notary Public

PATRICIA A. SCHAEFER
Hendricks County
My Commission Expires
May 22, 2009

Dated this 26 day of October, 2007

Attest:

By: _____
Secretary

NORTH DAKOTA STATE BOARD OF HIGHER EDUCATION

By: _____
President

State of North Dakota
Office of Attorney General

_____
Wayne K. Stenehjem
Attorney General

SCHEDULE A.

Category 1: Items of Historical Significance.

a. All championship banners, photographs, trophies, and dedication memorials and mirrors displayed at UND and associated sites including the Ralph Engelstad Arena.[1]

b. Native American sculpture (busts) and player statue currently located at Ralph Engelstad Arena.[2]

c. Sitting Bull Memorial statue on grounds of Ralph Engelstad Arena.[3]

d. Betty Engelstad Sioux Center arena entrance plaque.[4]

Category 2: Cost Prohibitive Changes.

a. In floor granite logos located at the Ralph Engelstad Arena.[5]

Category 3: Transition in the Ordinary Course of Wear and Replacement.

a. All carpet, artificial turf, tile, laminate or wood flooring, with the exception of imagery affixed through decals, provided the items are replaced no later than December 31, 2012.[6]

b. Aisle Seating standards at the Ralph Engelstad Arena, provided the items are removed no later than December 31, 2012.[7]

c. Brass etched logos located within the Ralph Engelstad Arena, provided the items are removed no later than December 31, 2011.[8]

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[1] See Exhibit A, Pictures 1-25. Such championship items earned during the Approval Period, which obviously cannot be photographed at this time, shall also be considered "Items of Historical Significance" for purposes of this Agreement.

[2] See Exhibit A, Pictures 26-27.

[3] See Exhibit A, Picture 28.

[4] See Exhibit A, Pictures 29-30.

[5] See Exhibit A, Pictures 31-32.

[6] See Exhibit A, Pictures 33-36.

[7] See Exhibit A, Picture 37.

[8] See Exhibit A, Picture 38.

d. Lighted exterior logos at the Ralph Engelstad Arena, provided the items are removed or replaced no later than December 31, 2011.[9]

e. All official imagery located within administrative and other areas of the Ralph Engelstad arena and UND campus not ordinarily open to the public during athletic competition, provided the items are replaced no later than December 31, 2013.[10]

f. Etched glass doors leading to the club areas of the Ralph Engelstad Arena, provided the items are replaced no later than December 31, 2012.[11]

g. Etched glass doors leading to the administrative areas of the Ralph Engelstad Arena provided the items are replaced no later than December 31, 2015.[12]

[9] See Exhibit A, Picture 39.

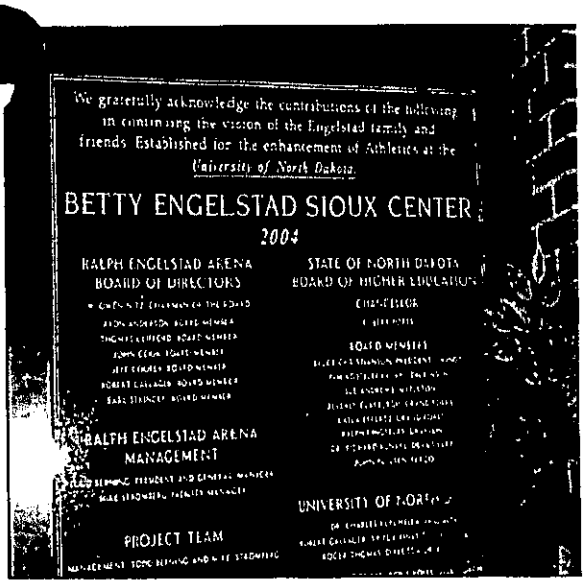
[10] See Exhibit A, Picture 40.

[11] See Exhibit A, Picture 41.

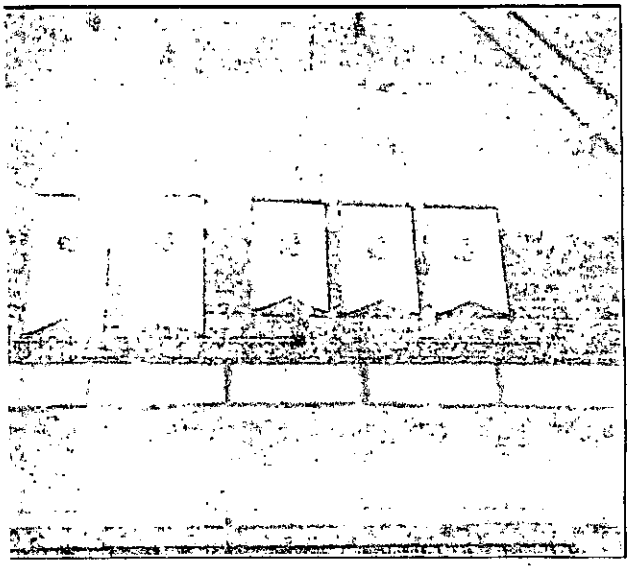
[12] See Exhibit A, Picture 42.

Color version available upon request

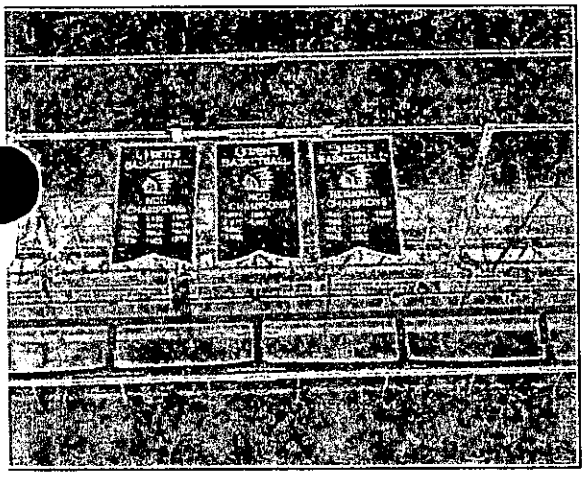
EXHIBIT A



Picture 1



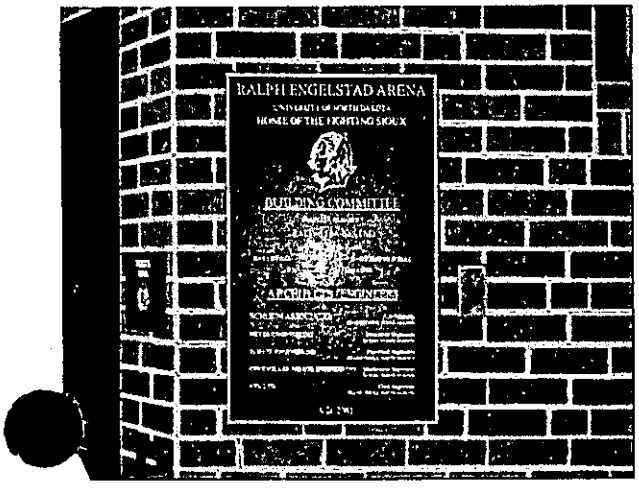
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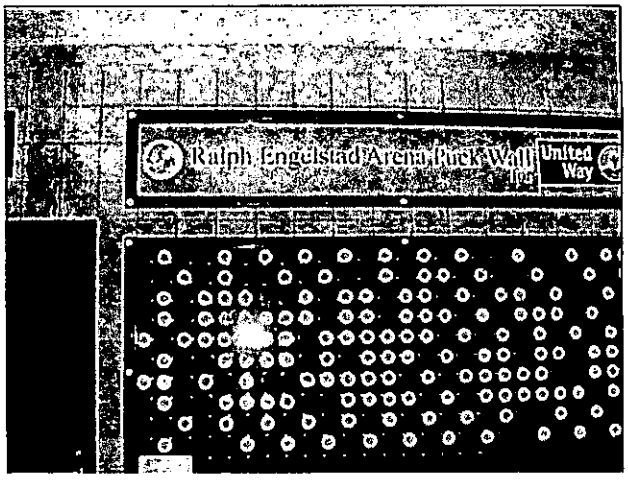
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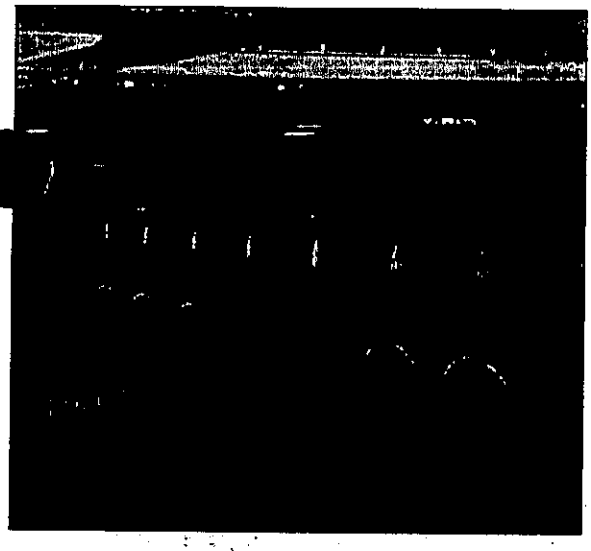
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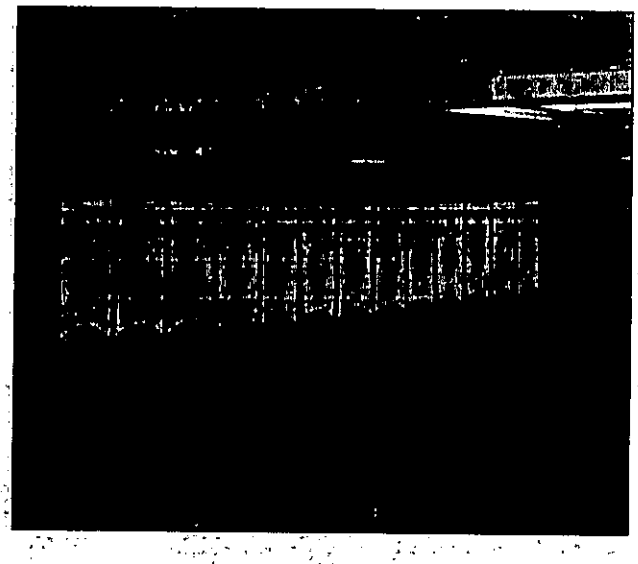
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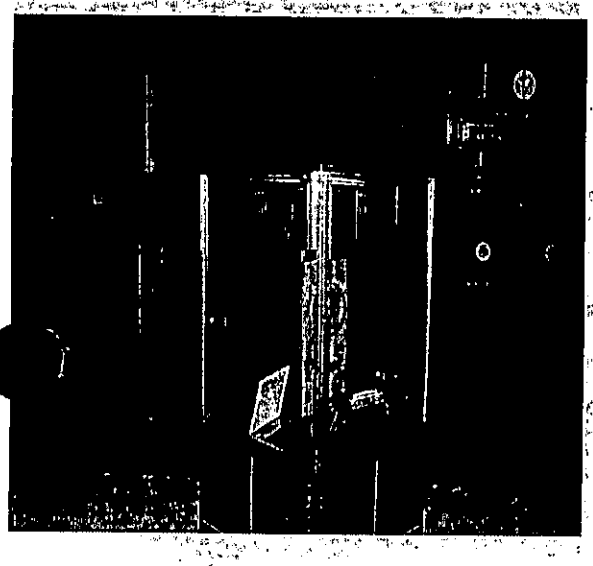
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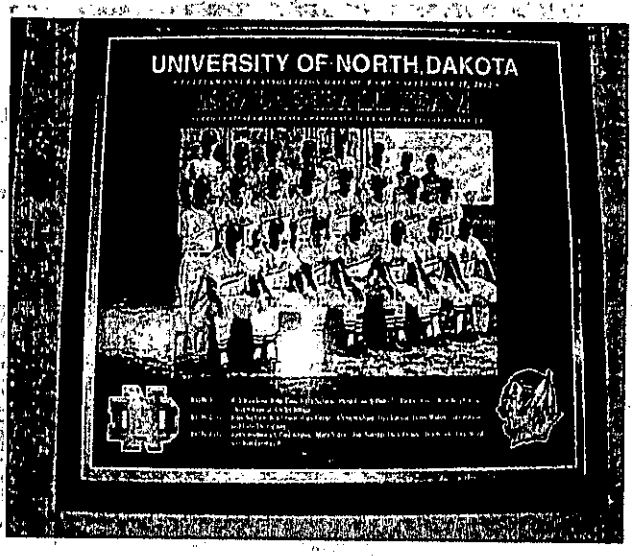
Picture 7



Picture 8



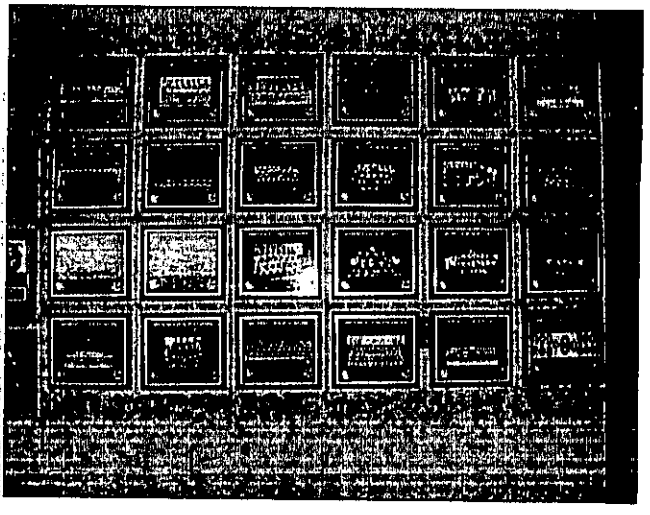
Picture 9



Picture 10



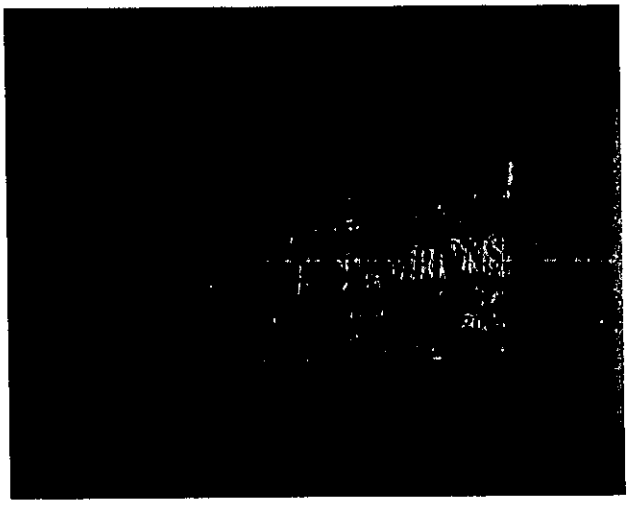
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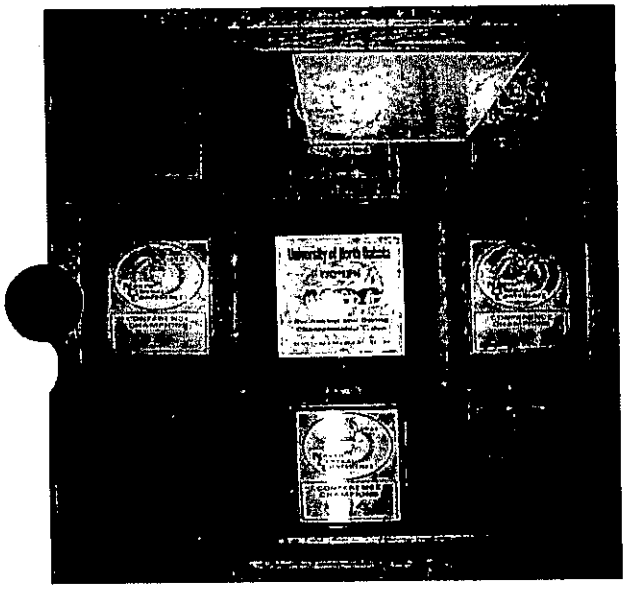
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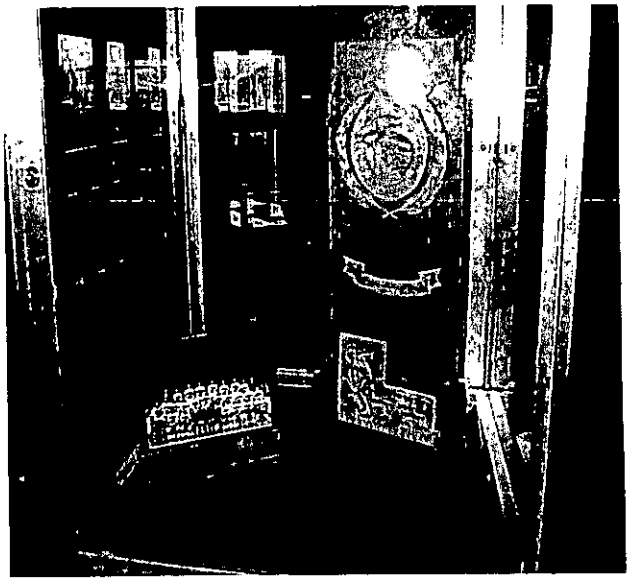
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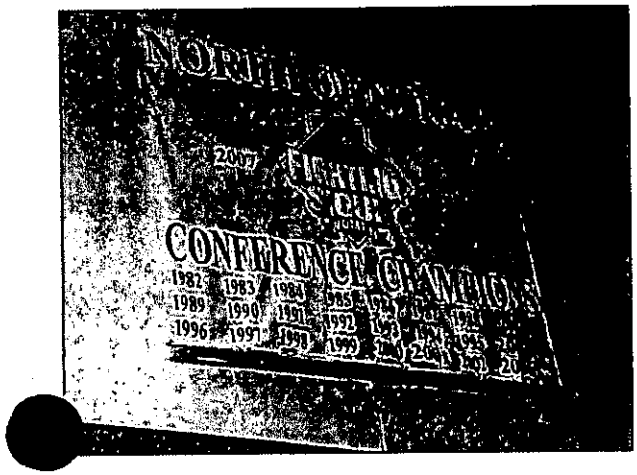
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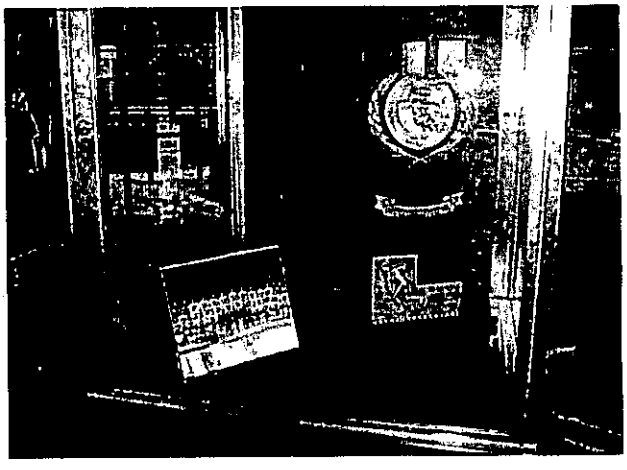
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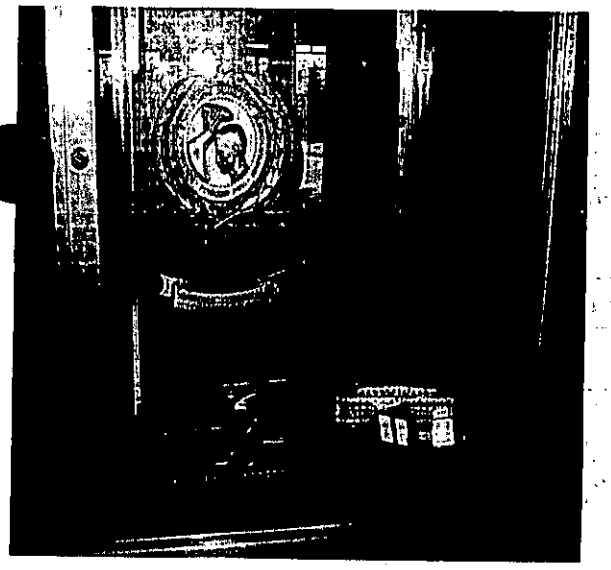
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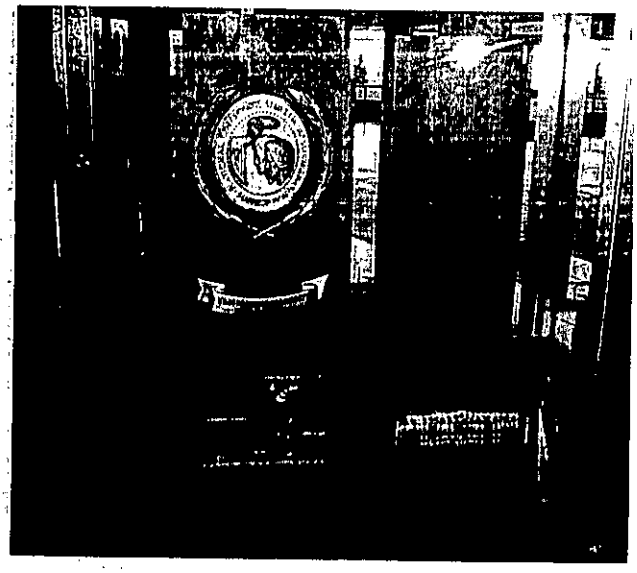
Picture 17



Picture 18



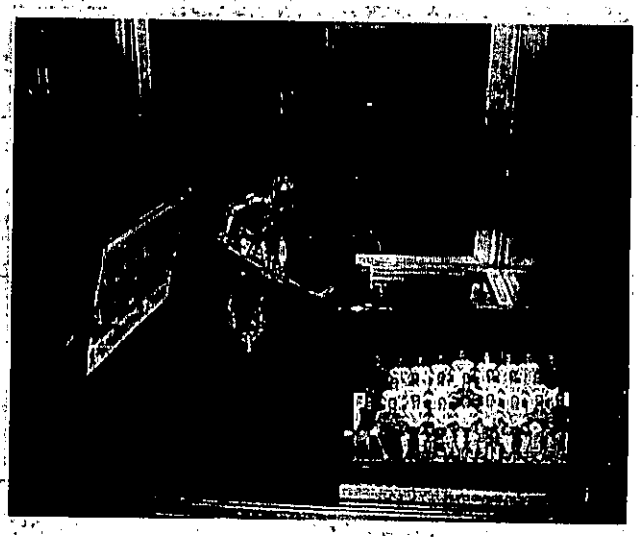
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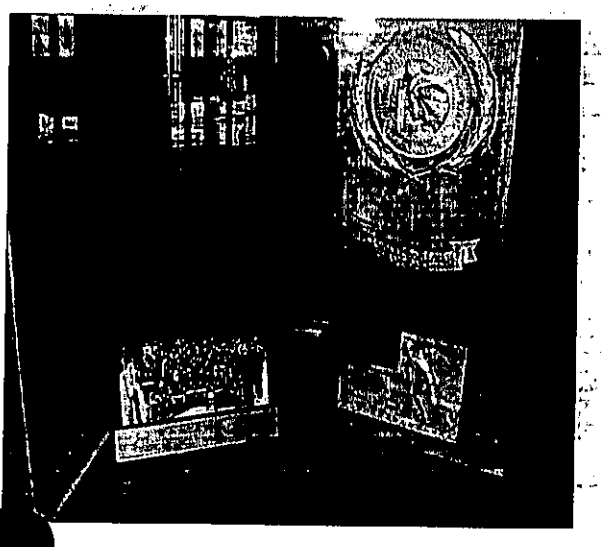
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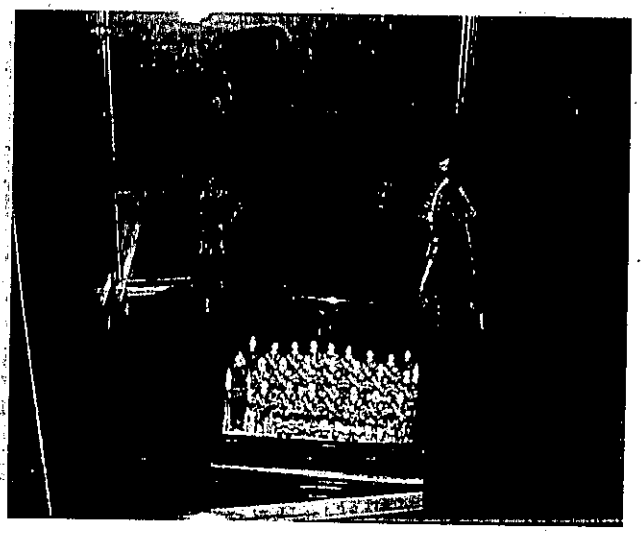
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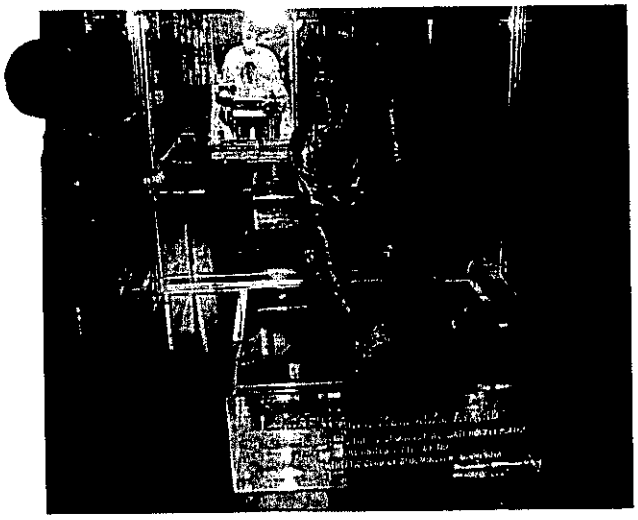
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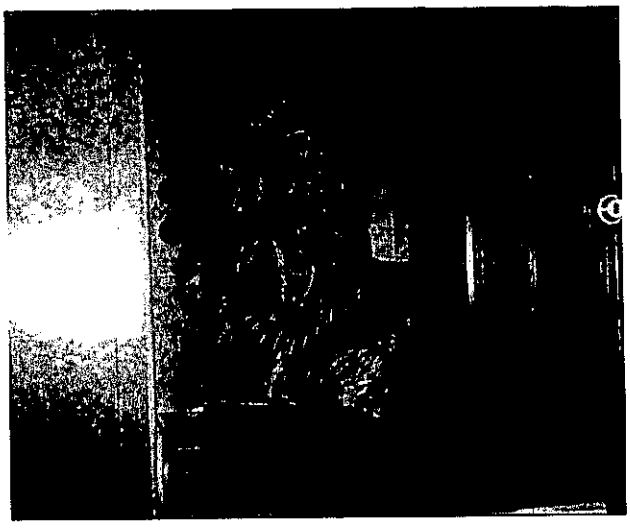
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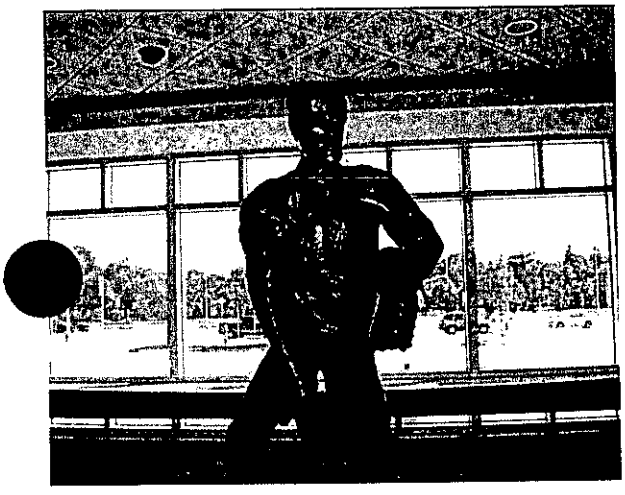
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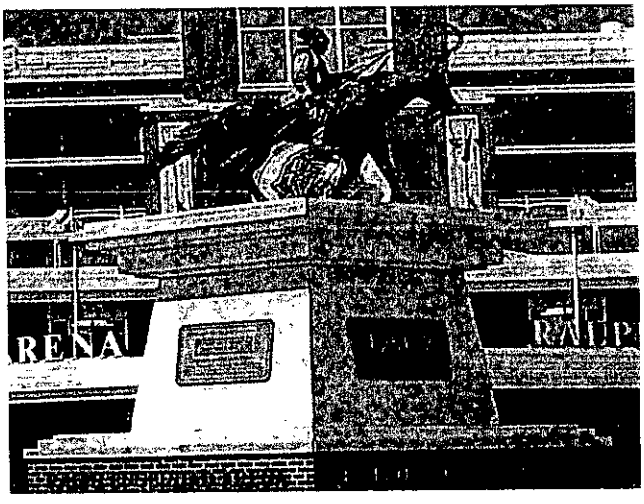
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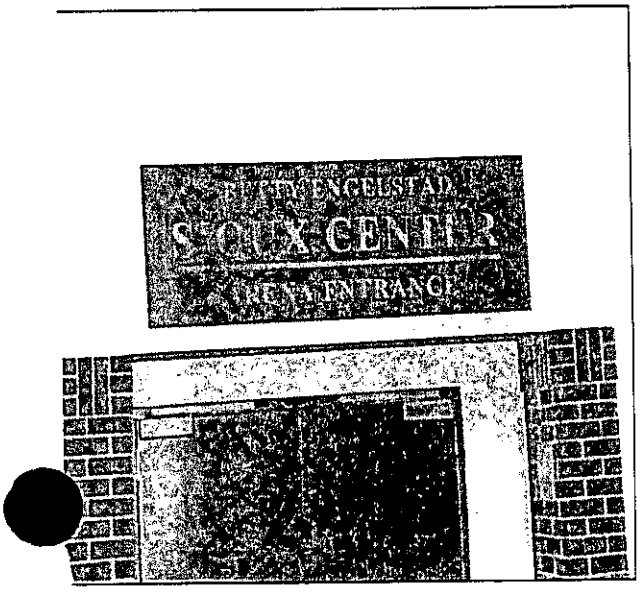
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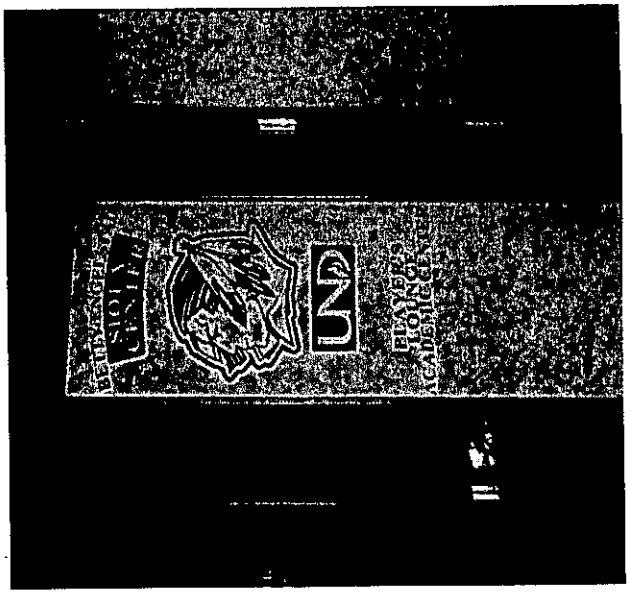
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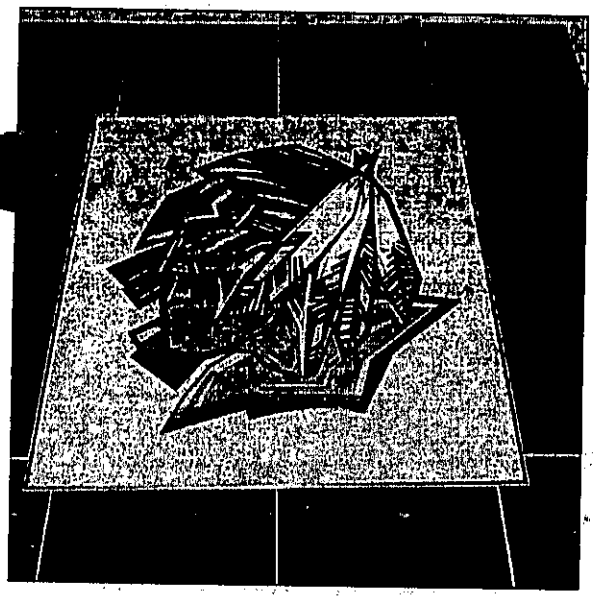
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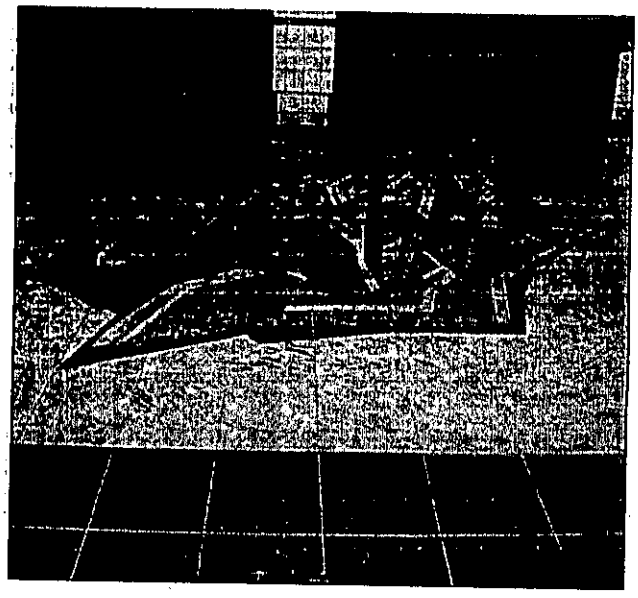
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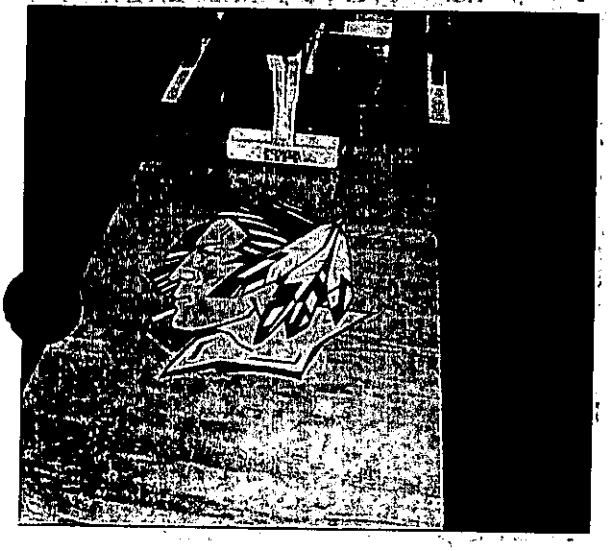
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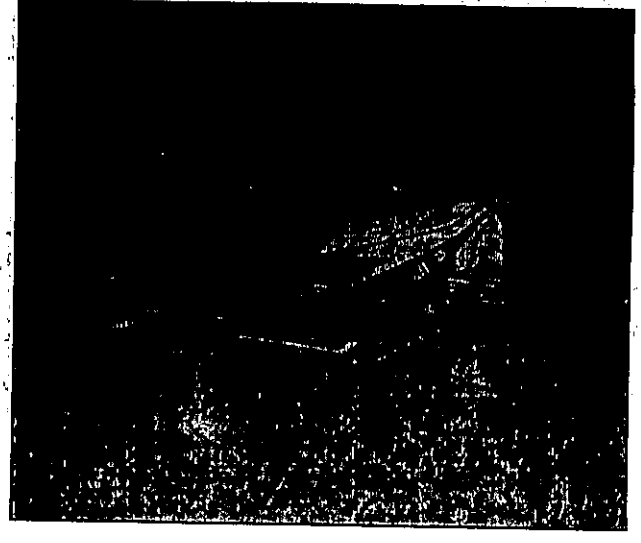
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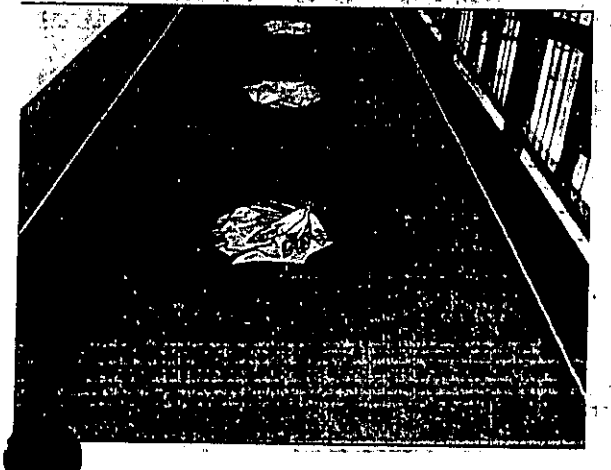
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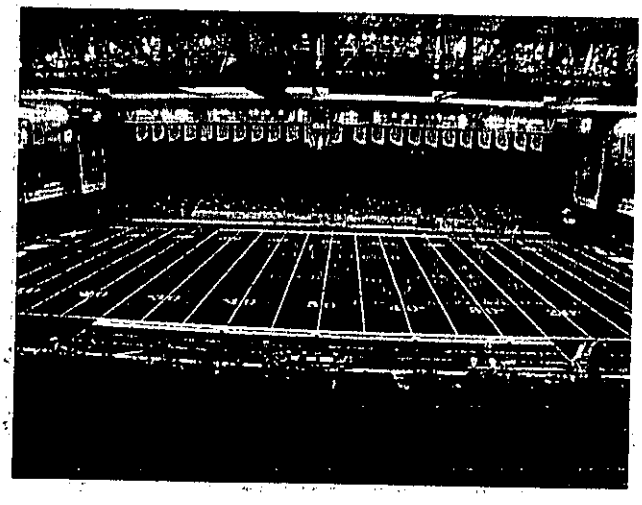
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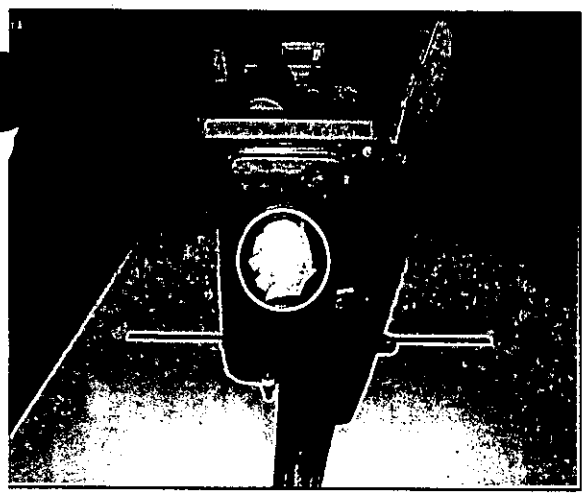
Picture 34



Picture 35



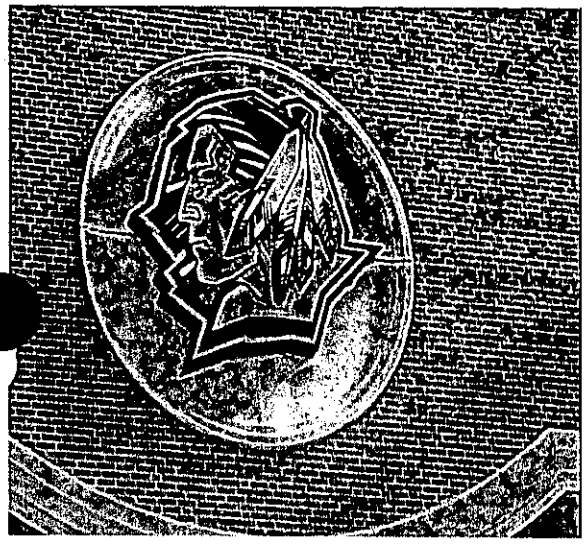
Picture 36



Picture 37



Picture 38



Picture 39



Picture 40



Picture 41



Picture 42

TESTIMONY ATTACHMENT 9

HB 1263, HB 1257, and HB 1208

Testimony by Rep. Lonny Winrich, District 18, Grand Forks

Good morning, Chairman Kelsch and members of the House Education Committee. For the record, I am Rep. Lonny Winrich from District 18 in Grand Forks. I am pleased to appear before you this morning to testify in opposition to HB 1263, HB1257, and HB1208. These three bills differ slightly in their details but all attempt to accomplish the same thing and in consideration of the committee's time I will testify once but in opposition to all three bills. This will also leave additional time for you to hear from citizens.

I joined the faculty at UND in 1985. I know from personal experience that the Fighting Sioux nickname and the customs and symbols that accompany it have been controversial for more than 25 years. The divisiveness and rancor generated by this controversy have negatively affected academics, athletics, and student life on campus. I know there are several people here from UND to testify this morning. They are students, faculty, and staff who are on campus every day and have firsthand experience with the problems caused by the nickname. I urge you pay careful attention to what they have to say.

But even if your interest in this issue is motivated by your love of UND athletics and your time on campus is pretty much limited to attendance at hockey or football games, you should still resist a return of the nickname. The nickname has already adversely affected the athletic programs at UND and a return could have a devastating effect. I want to close with a letter from a friend of mine in Grand Forks. Her name is Becky Ronkowski and her daughter is a student athlete at UND.

House Majority Leader Al Carlson of Fargo, recently introduced a bill to prevent the retiring of the Fighting Sioux Nickname.

I find the timing of this bill by House Leader Carlson to be terribly inappropriate! The matter was to be resolved by the State Board of Higher Education and they made their decision following many months of deliberation. They directed University of North Dakota President Robert Kelley to prepare for retirement of the nickname. That process is now underway. I do not believe that the State Legislature should get involved at this point. Please let the matter rest! I know that state legislators have more important issues to spend time on.

As the parent of a University of North Dakota athlete, I am thrilled that my daughter's Division I tennis team now has a "home" in the Big Sky Conference. With affiliation in this conference, her team can compete against some of the better in the nation and they can also move on to post-season play. This was something that was discussed when she was recruited by the University of North Dakota. It helped solidify her decision to obtain her education and compete athletically at UND.

Please consider this issue settled and kill the bill!

Thank you for your consideration.

Becky Ronkowski

ATTACHMENT 10

The UND "Fighting Sioux"

Presented by UND graduates from Standing Rock

ATTACHMENT 10

The University of North Dakota Flickertails

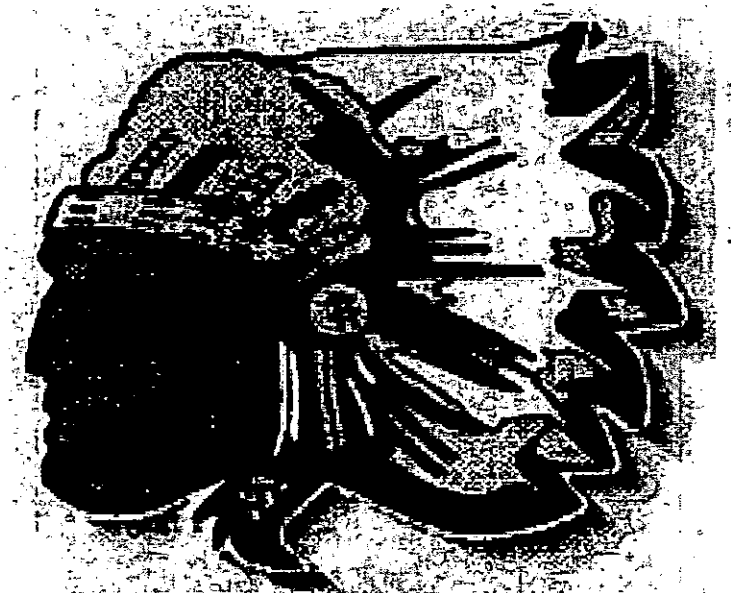
- In 1930 the University of North Dakota changed its athletic name from the "Flickertails" to the "Fighting Sioux" with no input nor blessing from Dakota/Lakota people.



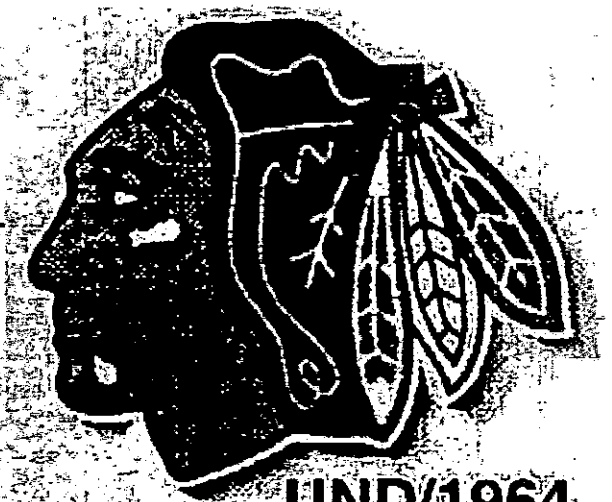
A Rivalry Is Born



- It was thought that the Sioux was a better name than Flickertails to exterminate the Bison of North Dakota State University.



UND/1950s



UND/1964



UND/1960s



UND/2000

University of North Dakota Indian Association is formed



UND/1960/70s

- In 1969 the Indian Association is formed.
- Sammy Sioux is a well-known cartoon that portrays the Sioux.
- The Indian Association asks that UND stop using it.
- In 1971 Sammy Sioux is retired. UND starts an Indian Studies Department.

1972 King Kold Winter Festival

- During homecoming week several fraternities create ice sculptures. One Greek house exhibits a sculpture of a topless Native woman pointing to her bare breasts, saying, "Lick 'Em Sioux." A Native student takes an ax and demolishes the sculpture. A near riot breaks out with Native students and the Greek houses as they physically fight each other. The Native student is arrested. UND President posts his bond and at the request of AIM, the charges are dropped.

1992 UND Homecoming Parade

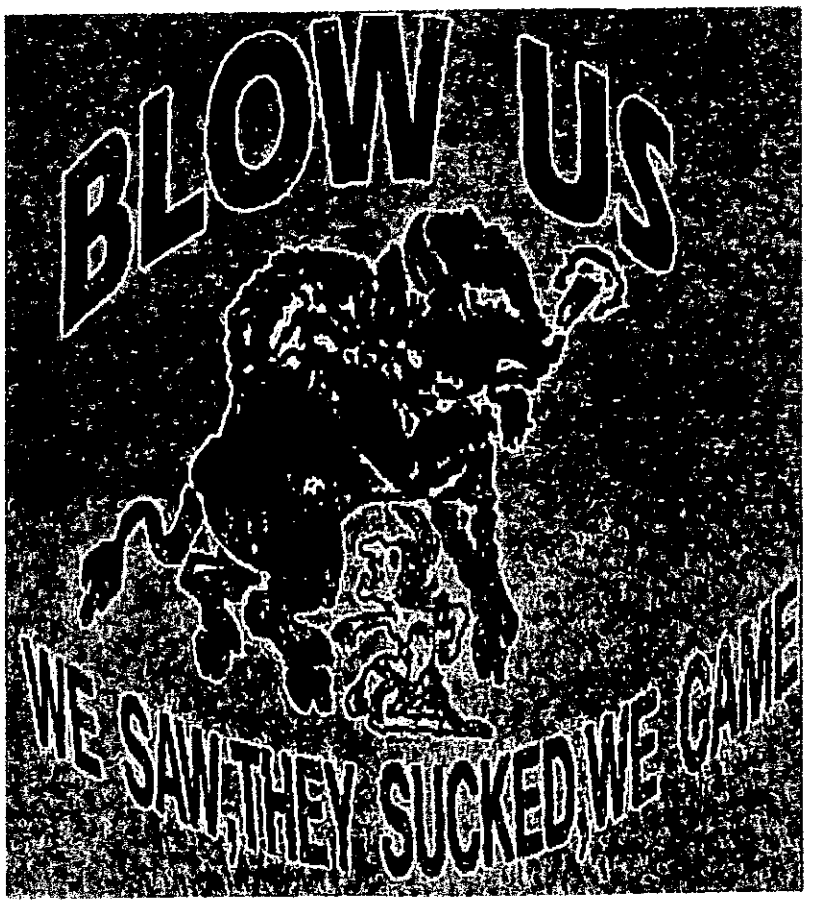
- A float of grade-school native children and women dressed in their regalia are mocked by UND fraternities. They are told, "Squaws go back to the reservation where you belong" as well as telling the children they "look funny." A nearby float with a band plays the "tomahawk chop" theme.
- It becomes widely publicized. Standing Rock Sioux Tribe calls for the end of the UND nickname.
- SOAR (Students Organized Against Racism formed)
- UND criticizes the fraternity and apologize.

1996



- In 1996 Native Student from Standing Rock receives hate mail.
- UNDIA continually asks to stop the use of nickname.
- SOAR becomes Building Roads Into Diverse Groups Empowering Students (BRIDGES).

Grand Forks Herald 1997

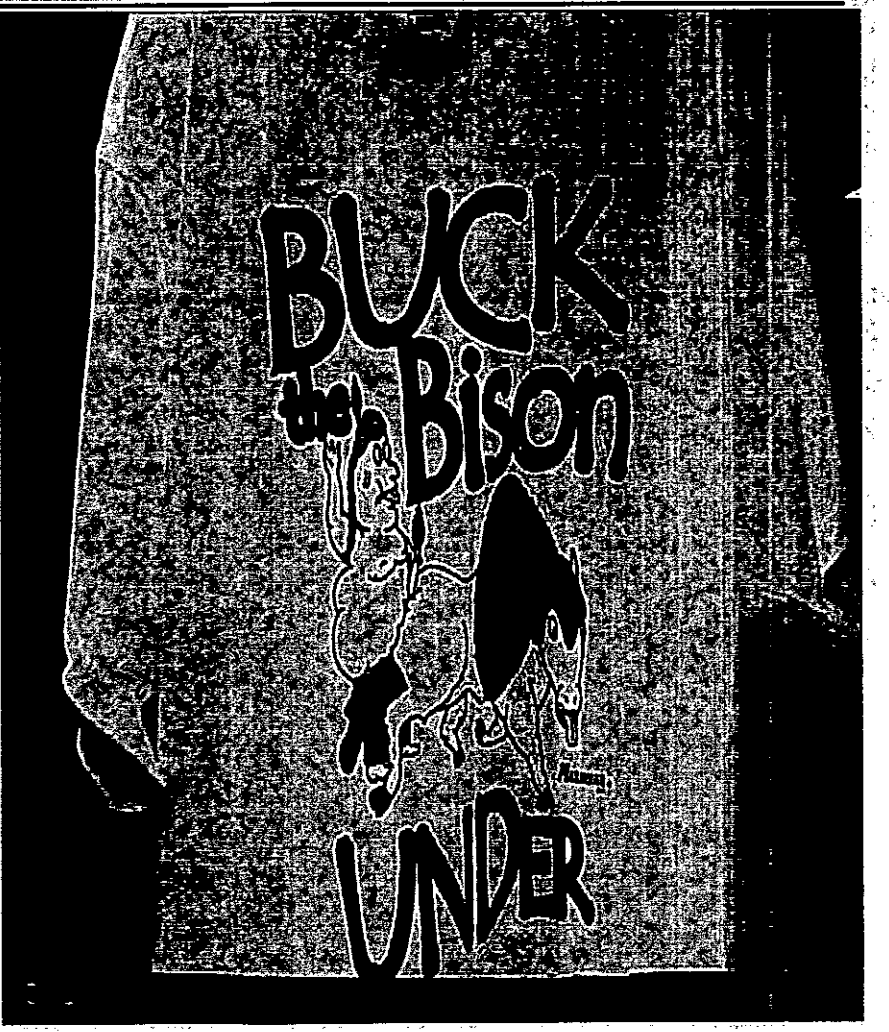


- "One banner read "Eat s _ _ _ Sioux!" Easton said he must of heard the chants of "F_ _ _ _ the Sioux! And "Sioux s_ _ _!" When the game was won, a new cheer was born in the NDSU section: "F_ _ _ their women!"

- Source: Grand Forks Herald

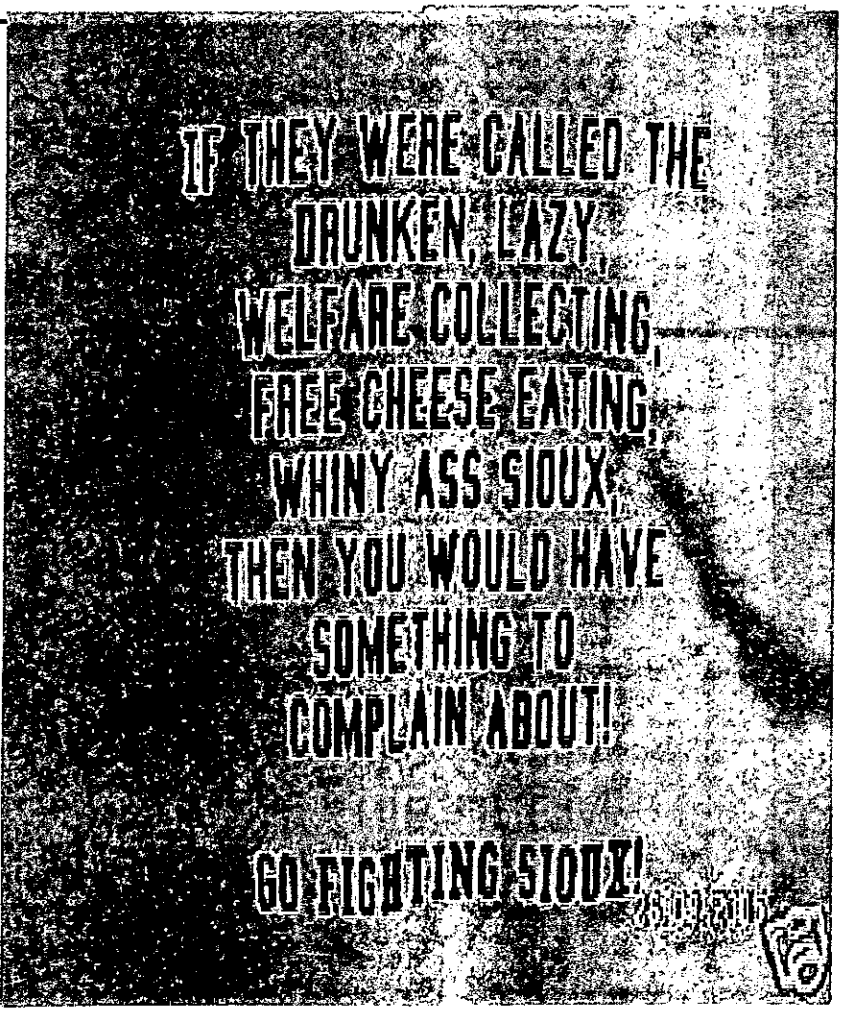
1997

- Cheyenne River Sioux Tribe calls for end of name use
- National Affairs Commission calls for end of name use
- Civil Rights Committee calls for end of name use



1998

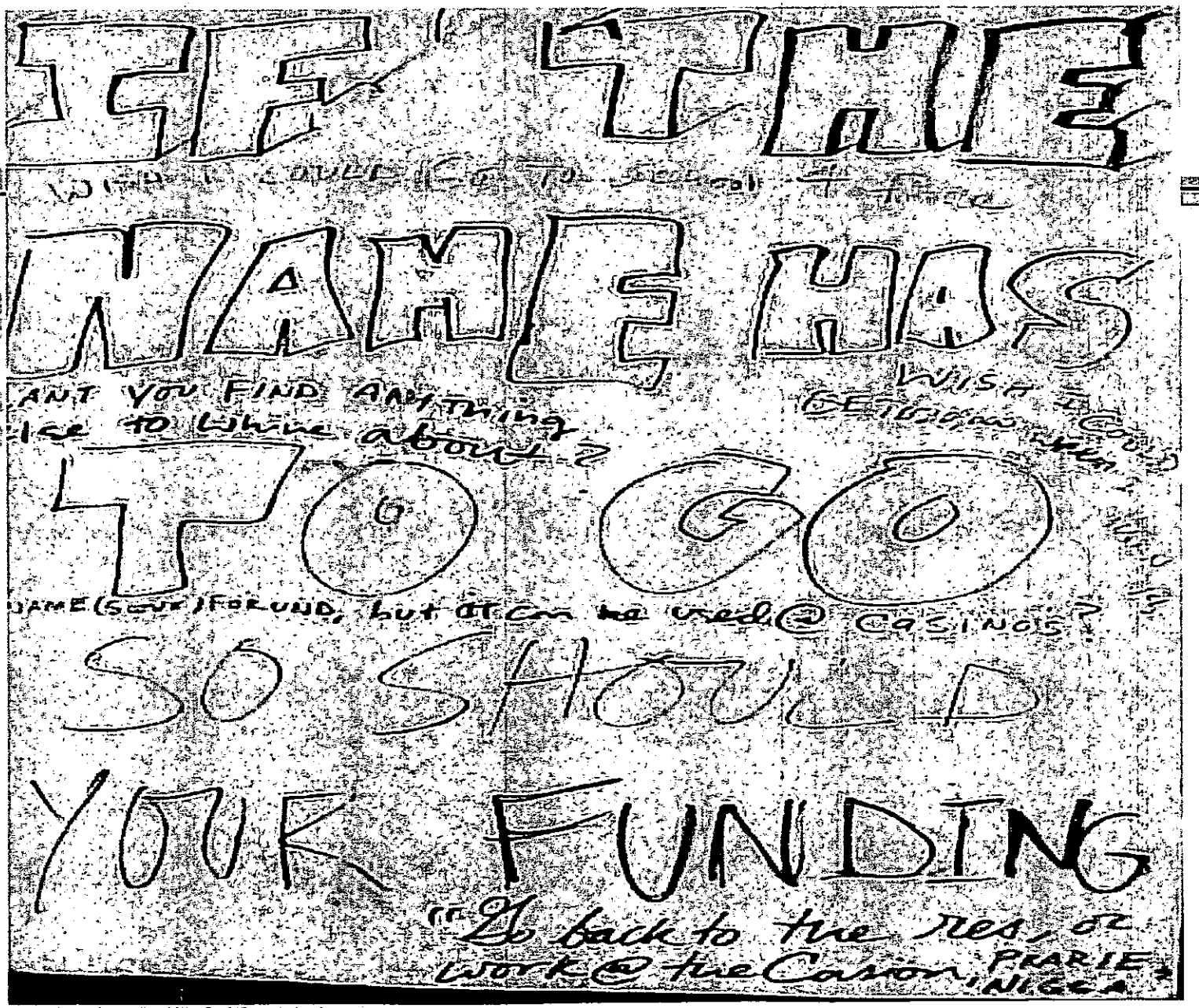
- National Congress of American Indians calls for end of name use
- Governor's Interstate Indian Council calls for end of name use
- National Association for the Advancement of Colored People (NAACP) calls for end of name use

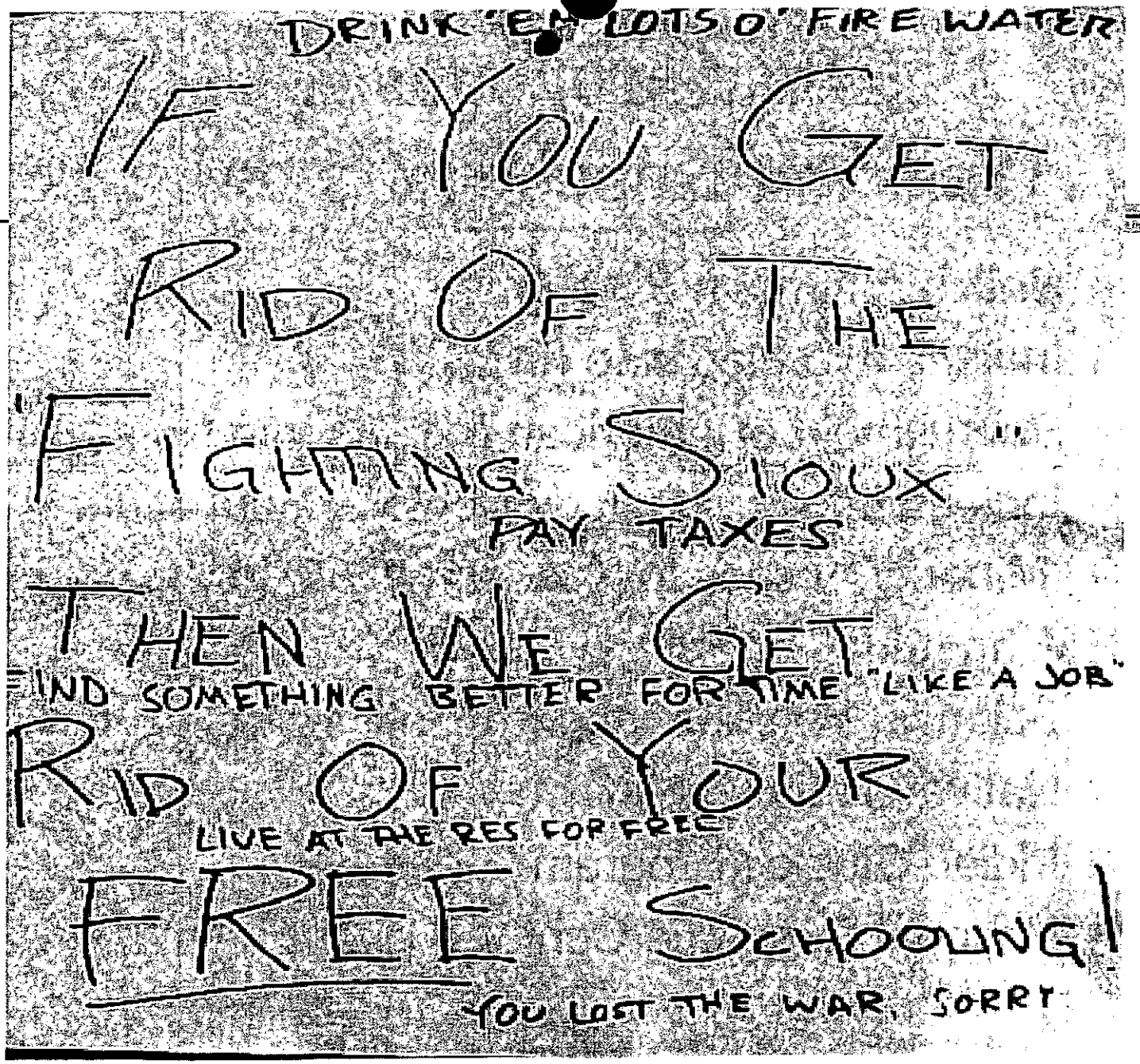


Turning the Tide in 1999

- UND Student Senate passes resolution to discontinue use of "Fighting Sioux." Student body president vetoes resolution.
- Similar resolution brought before N.D. House of Representatives, receives a "do not pass" vote.
- UND ROTC Battalion drops use of "Fighting Sioux."
- UND Multicultural Awareness Committee (MAC) calls for end of name use
- Eight tribes call for end of name use: Spirit Lake Nation, Crow Creek Sioux Tribe, Rosebud Sioux Tribe, Sisseton/Wahpeton Sioux Tribe, Turtle Mountain Band of Chippewa, Yankton Sioux Tribe, Oglala Sioux Tribe and Three Affiliated Tribes

During this time the following posters appear on the doors to the Indian Studies Department at UND


THE TRUTH
ABOUT
WANT YOU FIND ANYTHING
ICE TO KNOW about
TO GO
SO STUPID
YOUR FUNDING
"Go back to the res, or
work @ the Casino"


DRINK 'EM LOTS O' FIRE WATER
IF YOU GET
RID OF THE
"FIGHTING SIOUX"
PAY TAXES
THEN WE GET
FIND SOMETHING BETTER FOR TIME "LIKE A JOB"
RID OF YOUR
LIVE AT THE RES FOR FREE
FREE SCHOOLING!
YOU LOST THE WAR, SORRY

21 Indian Programs at UND ask President Kupchella to retire name

- Native American Programs
- Indians Into Medicine (INMED)
- Recruitment of American Indians Into Nursing (RAIN)
- Indians Into Psychology Doctoral Education
- Minority Access to Research Careers
- A'ho gun
- Science, Engineering and Math Technical Center
- Native Media Center
- Indian Studies Program
- National Resource Center on Native American Aging

- Upward Bound
- Multicultural Scholars Into Dietetics Program
- Fort Berthold Community College and Turtle Mountain Community College Teacher Training Project
- Family and Domestic Violence Training Project
- Prairielands Addiction Technology Transition Center and Center of Excellence in Native American Substance Abuse Native American Law Project
- Northern Plains Tribal Judicial Training Institute
- The Tribal Environmental Law Project
- Northern Plains Indian Law Center

UND President retires name…almost

- Under pressure, UND President Kupchella decides to suspend use of new logo for sports teams indefinitely. He states, "I see no choice but to respect the request of Sioux tribes that we quit using their name, because to do otherwise would be to put the university and its president in an untenable position."

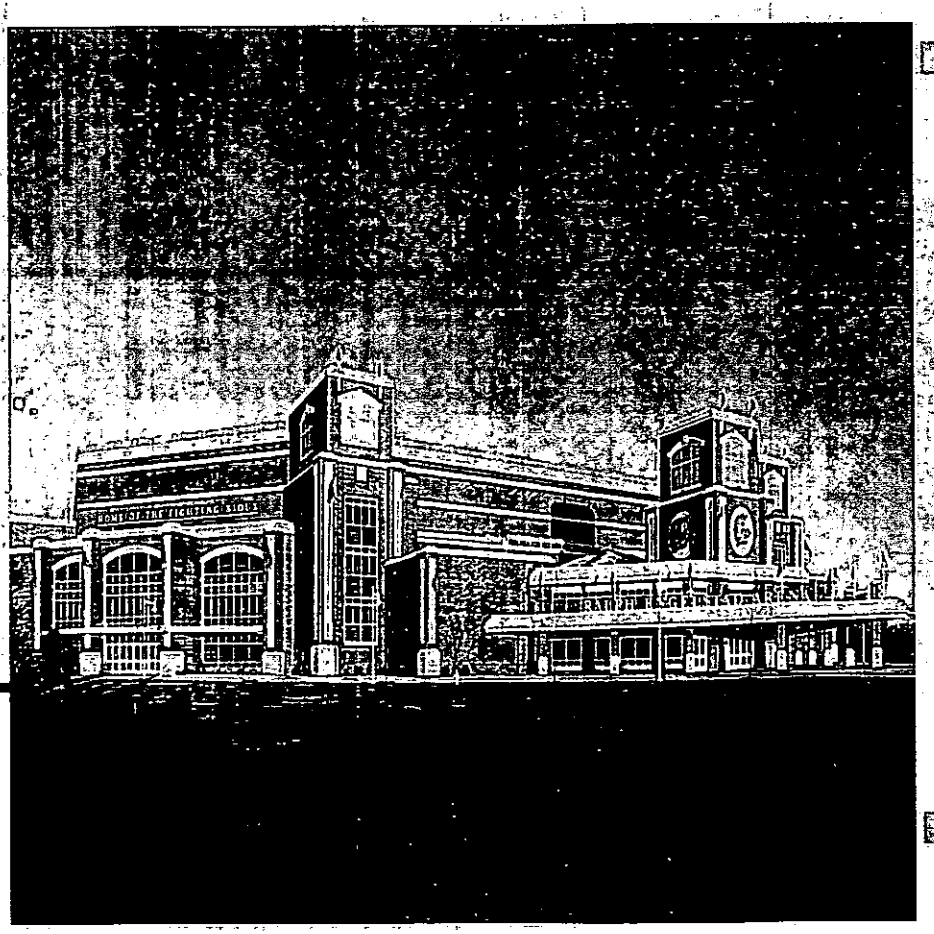
- President Kupchella in an e-mail message to William Isaacson, the state board chairman, December 16, 2000

North Dakota State Board of Higher Education



- The N.D. State Board of Higher Education preempts President Kupchella and unilaterally declares that UND will keep the "Fighting Sioux" nickname.

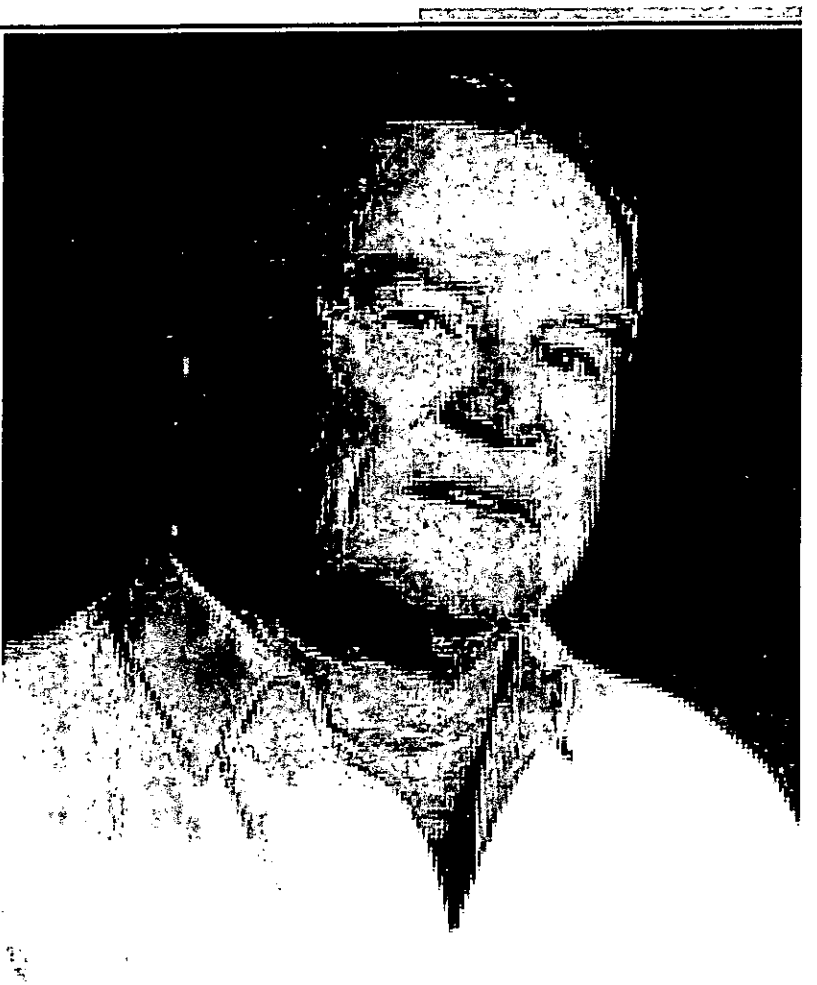
Ralph Engelstad—UND Alumnus donates $100 million to UND



- A letter from late 2000 surfaces in which Ralph Engelstad threatened to pull his $100 million "donation" should the nickname be changed, most likely prompting the State Board's rash mandate in December 2000
- A new Engelstad Arena nears completion

Ralph Engelstad

- UND Alumnus who played hockey for UND
- Became the owner of Imperial Palace Casinos in Las Vegas and Biloxi
- Donated millions to UND and their hockey arenas built in his name



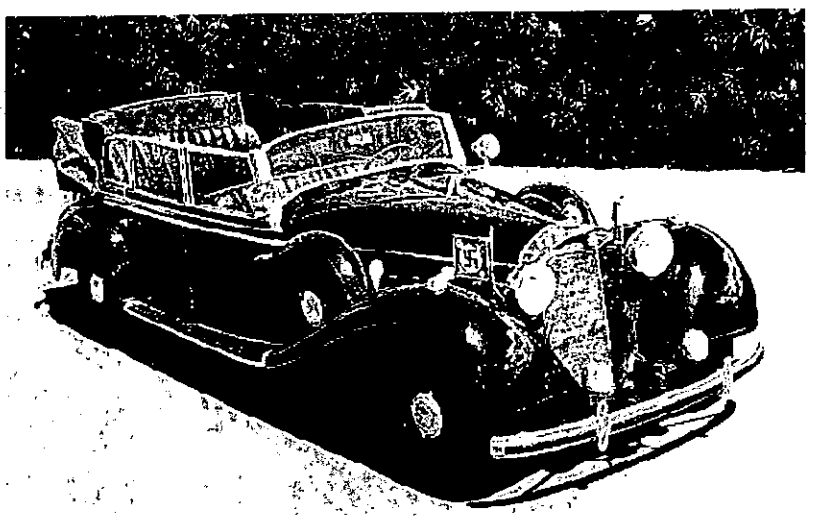
"To Adolf from Ralphie"

- Avid collector of nazi memorabilia including a collection of cars by German nazi leaders that were stored in a private room at one of his casinos.
- He had two paintings: one of himself dressed in a nazi uniform that read, "To Adolf from Ralphie, 1939" and one of Hitler that read, "To Ralphie from Adolf."
- In 1986 and 1988 Ralph Englestad held Nazi-themed parties celebrating Hitler's birthday. There was a swastika cake and the bartenders wore shirts that read, "European Tour 1939-1945"

source: New York Times, April 3, 1989

$1.5 Million Dollar Fine

- Ralph Engelstad paid a $1.5 million dollar fine to the Nevada Gaming Commission in 1989, the second highest fine ever-- "for actions that damaged the reputation and image of Nevada's gaming industry."



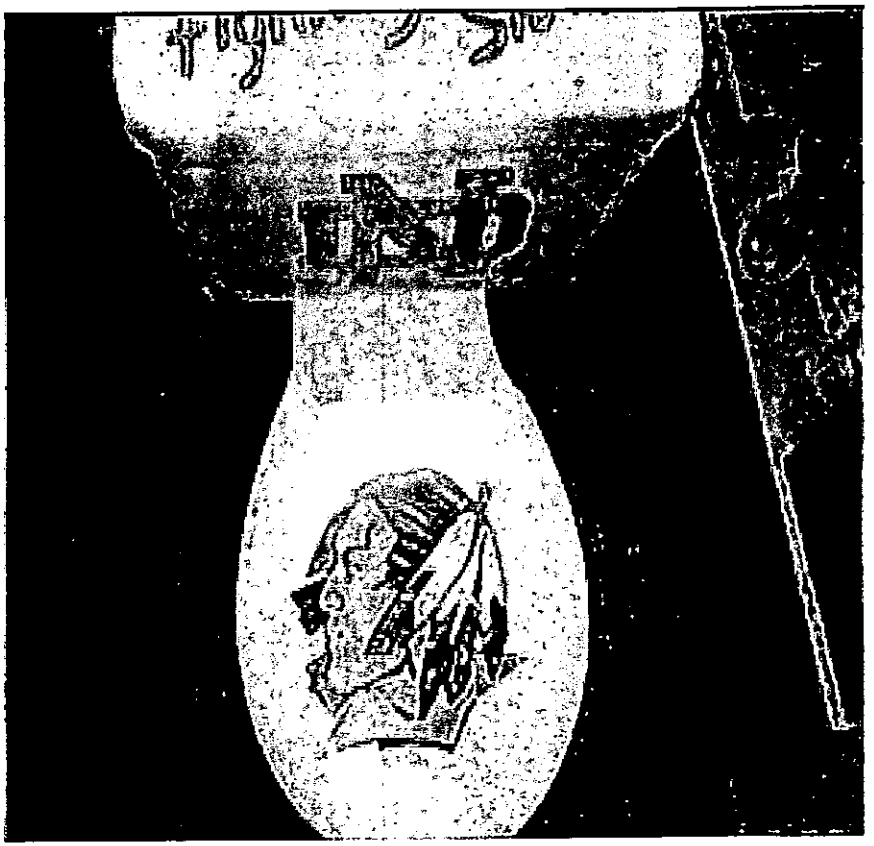
Meanwhile…

- In 2006 the NDSBHE gives three years to the Sioux Tribes of North Dakota: Spirit Lake and Standing Rock to think about it.
- At the end of three years UND will begin a process to retire the name





Tribal Member vs. Tribal Member



- Within this time frame the Ralph Engelstad Arena has hired tribal members to act as ambassadors to try and win your support.
- They say that everything is fine at UND.
- Meanwhile, it's business as usual…

UND Gamma Phi Party November 2007

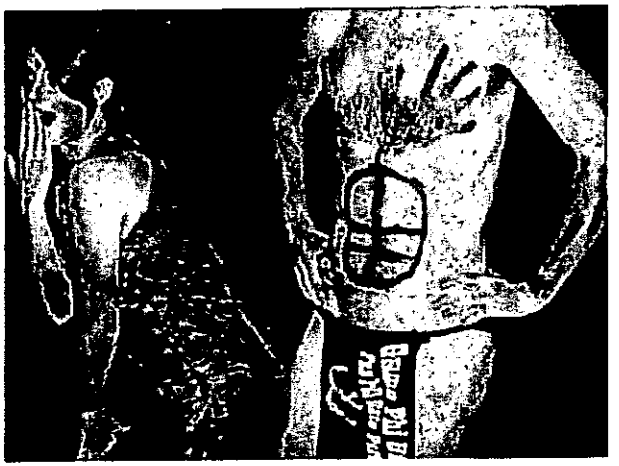






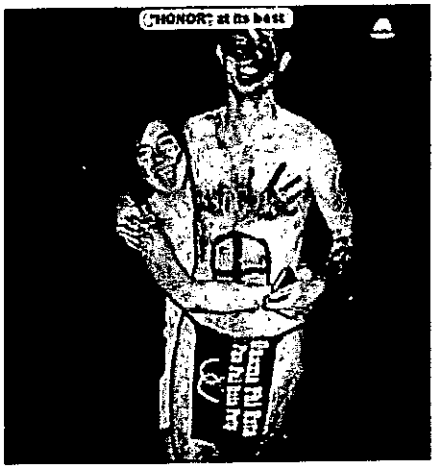


Sorority Version of Cultural Awareness





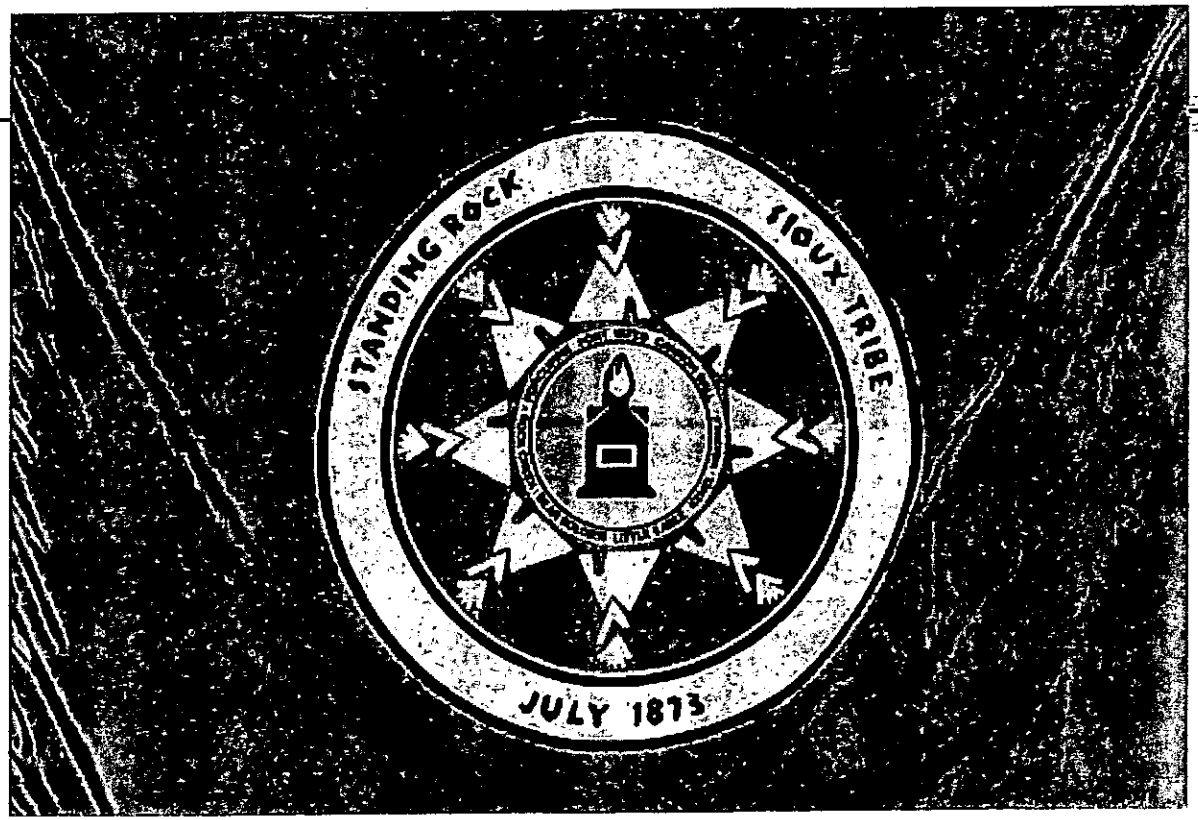




Education Not Money

- UND is a premier higher learning institute with a commitment to Indian education
- Despite these obstacles we received our degrees and strive to make our Nation stronger
- This is our experience during our tenure at UND and we want to share with you

Standing Rock UND Alumni Support



Waste'Win Young, Chase Iron Eyes, Petra Reyna, LaDonna Brave Bull, Miles Allard (TMC), Dr. David Gipp, Janet Alkire-Thomas, Valerian Three Irons, Ira Taken Alive, Dr. Gerald Gipp, Gail Condon, Sacheen White Tail-Cross, Sheri Bearking-Baker, Cliff Walking Elk, Dr. Biron Baker (MHA), Forrest Cross (MHA), Keith Fredericks (MHA)

RESOLUTION NO. 408-10

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, §§ 1[a], 1[c], and 1[h], is empowered to negotiate with Federal, State and local government and others on behalf of the Tribe, and to authorize or direct subordinate boards, committee and Tribal Officials, to administer the affairs of the Tribe and to carry out the directives of the Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, in a duly and regularly called, noticed and convened meeting hon the 17th day of June, 2010, to determine a course of action in the ongoing Fighting Sioux controversy, acted to reaffirm all the governing body's earlier actions to end the use of the Fighting Sioux Nickname and Logo; and

WHEREAS, the Standing Rock Sioux Tribe recognizes the duly enacted positions of its six [6] Governing Districts that have acted to support an end to the use of the Fighting Sioux name by the University of North Dakota; and

WHEREAS, the Standing Rock Sioux Tribe recognizes that off reservation influences, including the Ralph Englestad Arena, have proven to be disruptive and divisive to our people, are not necessary and will not be tolerated within our homelands; and

WHEREAS, the Standing Rock Sioux Tribe hereby supports the position and action of the North Dakota State Board of Higher Education to retire the Fighting Sioux Nickname and Logo; and

WHEREAS, the Standing Rock Sioux Tribe recognizes the importance of ensuring the safe and effective transition from the Fighting Sioux Nickname and Logo at the University of North Dakota and the State at large and hereby supports any such related efforts; and

WHEREAS, the Standing Rock Sioux Tribe has not adopted policies and procedures to govern the certification of the petitions of enrolled members, both petitions submitted to the Chairman of the Standing Rock Sioux Tribe are not applicable;

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribe hereby reiterates that this decision is the Final Decision of the governing body of the Standing Rock Sioux Tribe, that officially authorized copies of the foregoing Resolution will be forwarded to the North Dakota State Board of Higher Education, the Chancellor of the North Dakota University System, the University of North Dakota, North Dakota Governor's Office, National Collegiate Athletic Association, and the Honorable Lawrence Janke of the Federal District Court in Grand Forks, North Dakota presiding over the related settlement forthwith; and

BE IT FURTHER RESOLVED, that the Standing Rock Sioux Tribal Council hereby approves that it shall be final decision of the Standing Rock Sioux Tribe, that the Fighting Sioux Nickname and Logo is retired and further discussion is not necessary and will not be conducted, as there are many issues of priority that need timely attention; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of **[17]** member, of whom **15**, constituting a quorum, were present at a meeting duly and regularly, called, noticed, convened and held on the **17th** day of **JUNE, 2010**, and that the foregoing resolution was duly adopted by the affirmative vote of **10** members, with **4** and with **1** not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.**

DATED THIS 17th DAY OF JUNE, 2010.

ATTEST:

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

Adele M. White, Secretary
Standing Rock Sioux Tribe

[OFFICIAL TRIBAL SEAL]

Meeting Date: 06-17-2010
Motion No.: 02

SPECIAL TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: June 17, 2010

#1. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY MILTON BROWN OTTER, TO APPROVE OF THE AGENDA FOR JUNE 17, 2010.

ROLL CALL VOTE: MURPHY, C. – NOT VOTING

BROWN OTTER, M.	NO	ARCHAMBAULT, JR., D.	E.
CLAYMORE, D.	YES	FAITH, JR., M.	YES
CROW GHOST, E.	YES	GATES, M.	NO
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	NO
JAMERSON, F.	YES	MCNEIL, J.	NO
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	YES	WHITE, A.	YES

VOTE: YES – 10 NO – 4 NOT VOTING – 1
MOTION CARRIED. 2 – EXCUSED

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOE MCNEIL, TO APPROVE THAT IT SHALL BE THE FINAL DECISION OF THE STANDING ROCK SIOUX TRIBE THAT THE UND LOGO AND NICKNAME IS RETIRED AND FURTHER DISCUSSION IS NOT NECESSARY AND WILL NOT BE CONDUCTED AS THERE ARE MANY ISSUES OF PRIORITY THAT NEED TIMELY ATTENTION.

AMENDED: "BY RESOLUTION".

ROLL CALL VOTE: MURPHY, C. – NOT VOTING

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	E.
CLAYMORE, D.	YES	FAITH, JR., M.	NO
CROW GHOST, E.	YES	GATES, M.	YES
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	NO
JAMERSON, F.	NO	MCNEIL, J.	YES
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	NO	WHITE, A.	YES

VOTE: YES – 10 NO – 4 NOT VOTING – 1
MOTION CARRIED. 2 – EXCUSED

TESTIMONY ATTACHMENT 11

Madam Chair and members of the committee

My name is Evan Andrist, State Governmental Affairs Commissioner and registered lobbyist for the University of North Dakota Student Government. I represent UND Student Government in matters regarding the state of North Dakota. On behalf of the students of UND, we oppose the passage of House Bills 1208, 1257 and 1263 as expressed in UND Student Senate Resolution SR1011-06, which are attached to the written transcript.

The Fighting Sioux nickname and logo has historically—and presently—caused much division between our students. This division is evident even in the UND Student Senate vote on resolution SR1011-06 which had a vote of ten for the resolution, eight against, and four abstentions. Although we are unable to speak personally with all of UND's fourteen thousand students, UND Student Senate are the elected representatives for our student population. This is not an easy issue, but it is an issue that we are nonetheless prepared to confront.

The majority of UND's students, nickname supporters and opponents alike, are ready for this issue end. Proponents of each side of the issue feel passionately about their reasons for their respective stances, and discussions of the logo certainly reflect that passion. That being said, we at the University of North Dakota are weary. Our campus has the potential to move on, heal, and unite to become a better and stronger place. These bills stand in opposition to that growth. They furthermore restrict the authority of the State Board of Higher Education and the University of North Dakota. They are not only detrimental to the wholeness of our campus, but also to our movement to Division I athletics as a member of the Big Sky

Conference; these bills, if passed, would also impede our ability to schedule games with a number of athletic teams and host NCAA tournaments.

During discussion of this resolution, it became apparent that the Fighting Sioux nickname has served our university well, but instead of reflecting the pride it used to, it reflects personal biases and division. Although it will be a painful process—not only for students, faculty, and staff at the university, but also for Fighting Sioux fans around the world—we must move away from this division and towards unity.

Sincerely,

Evan Andrist

State Governmental Affairs Commissioner

University of North Dakota Student Government

UND Student Senate

SR 1011-06

Senate Resolution

To: The Student Senate of the University of North Dakota

Author: Student Body Vice-President, Grant Hauschild; Student Body President, Matt Bakke; Governmental Affairs Commissioner, Evan Andrist; Education and Human Development Senator, Fred Burke; Greek Life Senator, John Kappel; Off-Campus Senator, Kevin Peters

CC:

Date: 1/19/2011

Re: Resolution opposing North Dakota House Bills 1208, 1257, and 1263

Whereas, the University of North Dakota has already begun the transition to retire the current "Fighting Sioux" nickname and logo and,

Whereas, North Dakota House Bills 1208, 1257, and 1263, restrict the authority of the State Board of Higher Education in matters of the North Dakota University System stated in the century code 15-10-11, and

Whereas, the University of North Dakota is transitioning to Division I athletics, was recently accepted to the Big Sky Conference ,and any further use of the "Fighting Sioux" nickname and logo could be a detriment to this process and allow teams to reject scheduling our athletic teams, and

Whereas, North Dakota House Bills 1208, 1257, and 1263 only re-ignite the division over the "Fighting Sioux" nickname and logo and further divides our University, the City of Grand Forks, and the State of North Dakota, and

Whereas, the costs associated with a prolonged legal battle with the NCAA and other related costs, explicit or implicit, are unknown and unaccounted for

Therefore, be it moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1208 and,

Therefore, be it further moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1257 and,

Therefore, be it furthest moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1263

TESTIMONY ATTACHMENT 12

Good morning/afternoon! Chairperson Kelsch, members of the committee. My name is Franklin Sage, a current Sociology Graduate Student at the University of North Dakota (UND). I'm originally from Counselor, NM and grew up on the Navajo Nation Reservation. I have lived in Grand Forks, ND for 11 years and completed my Bachelor of Arts Degree from UND in December 2008.

I appreciate having a chance to address you this morning/afternoon concerning House Bill (HB) 1208, HB 1257, and HB 1263. I oppose these bills because the school nickname/ logo has become divisive in the communities like Spirit Lake and Standing Rock Reservations, UND campus climate, and among Native American students. It will continue to be divisive if these bills are passed. I have worked on the nickname/logo issues as an undergraduate student and participated in the student organization called BRIDGES. In this organization, we have experienced backlash from our fellow students, community members, and alumni. The objective of this organization was to educate the public about why this nickname/logo is offensive, derogatory, demeaning, and singles out Native American students in the classroom about their opinion on the Fighting Sioux.

I oppose these bills because I'm offended by nicknames and logos which use the Sioux Nation for profit and ridicules American Indian culture in the name of sports. I have felt singled out in my classes when the topic of the logo and nickname has been raised. Classmates tell me that I should feel honored, that I am not a member of the Sioux tribe, and that if I do not like the name, I should leave UND. I have heard students in class make comments about Indians that reveal not only negative stereotypes but also false assumptions. For example, students have suggested to me that Indians get free educations, live tax-free, and hunt for free. Once when I was walking out of the public library, an individual was wearing a Washington Redskins jacket approached me and said, "I thought you Indians like to be honored."

Since I became active in BRIDGES, people have shouted at me from moving vehicles making remarks such as: "Go home prairie nigger," "Get off the road you nigger." and "What are you running from boy?"

Members of BRIDGES have organized some educational rallies on campus before hockey games. Once, during a thirty-minute rally at the corner of University and Sixth Avenue, I witnessed people who supported the nickname and logo shout the following remarks as they passed in their vehicles: "Go home you F***ing Indians," "You get free education," "F*** NCAA," "Get a job," and "Find something else to whine about."

Once, while I was studying outside at a picnic table, a couple of children from the Sioux Hockey Camp walked by and trailing them were two young boys (one white and the other African American). I looked up and I noticed the boys were reading a sign that read "Native American Programs." They then quickly ran up the sidewalk, turned around, and started war whooping. They then ran across the lawn to rejoin their group.

On the other hand, sports played a significant role when I attended boarding school. It socialized me into becoming a productive citizen, challenged me to achieve my dreams, complete my education, and contributed to me being a better soldier in the military. A sport nickname/ logo did not contribute to my success as a human being. I appose these bills because it will deny opportunities for our student athletes to compete in post tournaments and gain national exposure. With a new nickname and logo the teams could participate in the BIG Sky Conference. We all got a chance to see our school rival North Dakota State University (NDSU) Men's Basketball team compete against University of Kansas Jayhawks on a National Television on their first year of eligibility to play in the March Madness 2009. Thank You!

TESTIMONY ATTACHMENT 13

TESTIMONY OF AUNTIE CAREL TWO-EAGLE
IN OPPOSITION TO 3 BILLS REGARDING THE
MASCOTING OF D/L/NAKOTA PEOPLE

Hanh Chairman & members of the Committee. My name is Carel Two-Eagle, & I speak here in opposition to all 3 bills you are holding hearings on today, as they are currently written, regarding the mascoting of D/L/Nakota People & our culture.

The Oxford Standard Dictionary of the English Language is the ultimate reference for your language. It defines 'mascot' as 'a pet, a caricature'. Humans make lousy pets, and it is most disrespectful for one culture to make a caricature of another – particularly when they are both living cultures. Whoever makes the caricature gives the impression that they are somehow superior to the one(s) caricatured. Our D/L/Nakota culture is frayed, but it is still vibrant, & its Traditional Ways are still very much alive. I am living evidence of that, as is every other Traditional person.

Mascoting is a form of slavery. Slavery was outlawed by the federal government in 1862. The 'United' States broke apart over this matter, & the War Between the States ensued. In the end, Union won – at least on paper. Yet we continue to argue this matter today, in 2011, roughly 145 years later.

Slaves have few, if any, rights, yet we here are supposedly all free people. The US Supreme Court has ruled that individuals - & groups – may not give their Rights away, nor can those Rights be taken from them. Yet that is exactly what these bills would do. They would take away our Rights to freedom from ridicule, from unbalanced caricatures of our 'reality', and to be treated with the respect & dignity the Constitution says is inherently the Right of each of us.

In the Lakota Way, when someone behaves badly, we elders – such as me – shame &/or reprimand someone by asking, "*Where* is your respect? *Where is* your respect?!" Regardless of claims to the contrary, respect is not expressed in any of these bills.

We all understand why some of our D/L/Nakota People may have asked for these bills. The logo was done by a member of the Spirit Lake Nation, so it is a point of pride. And we D/L/Nakota – *not* 'sioux' – are fierce warriors. There is the possibility that there is some financial payment made to the creator of the logo as well, and they would want to retain that.

But our warrior aspect is hardly our most valuable aspect. Even less is it our only aspect. This view of us is most un-balanced; and in the Traditional Way, balance in ourselves & our lives is both a journey and an objective. It certainly does nothing for our women & girls, who are the ones who put us all on the earth in the first place. The earth Herself is our Holy Mother, after all, since she provides every physical thing we need to survive during our sojourns walking on Her. I've heard the term "lady warriors", and it always makes me wonder, since I am a warrior woman, & have

been all of my life. I'm a Traditional healer, in both the physical-medicine way, & the spiritual Way, since I Sun Dance the prayer of The Four Winds – a prayer to heal the Sacred Hoop of the world. Healing is not for 'ladies' or 'gentlemen', Committee members. It is warrior work; it is combating evil spirits that cause dis-ease of every kind, from spiritual to physical.

Due to cross-generational trauma and Post Traumatic Stress Disorder (PTSD), *which is inherent in 98% of us Indns, according to recent data,* we see how true this is, daily in some part of Indn Country. Passage of any of these bills would only add to that; it would not decrease either the effects or the rate of incidence. As a Traditional healer, I know this from personal experience and observation.

We IndigenUs get no benefit past the above 2 from being used by the UND as mascots, however. Our tribes get no payment – even Spirit Lake, Standing Rock, and Lake Traverse, all of which are D/L/Nakota.
The UND sells or promotes the sale & use of alcohol at its events. Alcohol is a poison which has decimated cultures across the globe, but especially our IndigenUs Turtle Island cultures. Read the 'comments' to Indn-oriented articles in the Bismarck Tribune, & you will see plenty of evidence of the bigotry regarding us & alcohol that is endemic in North Dakota. Drinking alcohol is referred to as "in-toxic-ation" - the intake of a poison into our bodies. There is something inherently wrong in the concept that a person 'must' consume a poison 'in order to have fun', isn't there..
When any of us Indn citizens of ND take classes at the UND, we get no reduction in fees. We certainly don't get any free classes! And UND's "Native Studies" curriculum is taught mainly by *non*-Indns! Imagine – people who only know 'about' us from what they've read in books, written mainly by other people who haven't lived our cultures, teaching 'about' us! How paternalistic & caricaturist is that! Duwahleh! It is amazing.

And while we think of honoring our D/L/Nakota People – what about the fact that this state is named for us? That's an ongoing honor – however unintended it has been! In addition, you could amend this bill to make the logo – minus any reference to us as 'sioux', which means ' a treacherous, untrustworthy person', not something any of us should want to be known as - a permanent part of the State of North Dakota's official face. On its letterheads, on its Internet site, and so on. And / Or, how about worked into the "Pride of Dakota labels for all those good North Dakota products?! Those would be honoring us & our culture in a much more balanced way. Those would *show* respect to us..

So I urge you to vote Do Not Pass on all three of these bills *unless you amend them as I have outlined in the preceding paragraph.* I would be happy to work with you to make these things happen, just as I would be happy to answer any questions you may have now.

Thank you for hearing me in a good way now. Mitakuye oiasin – All {are} my relatives.

TESTIMONY ATTACHMENT 14

Good morning. Chairperson Kelsch, members of the committee, I appreciate having a chance to address you this morning concerning HB 1208, HB 1257, and HB 1263. My name is Margaret Scott, I am a senior at the University of North Dakota and resident of Grand Forks. I am opposed to all three of these bills because I believe that UND as an educational institution; its purpose is to provide the best education as possible to its students but the Fighting Sioux nickname and logo are detrimental to achieving this purpose. As a UND student, I have worked closely with this issue since 2005. I cannot begin to explain how this controversy has worn on me over the years psychologically, emotionally, and even spiritually. Seeing many of my friends hurt and leave UND as a result of the atmosphere on campus has been the hardest thing for me. However, my goal today is not to list all of the incidents that American Indian students including myself have experienced as a result of the nickname and logo. I have respectfully held discussions with people of a different perspective on the logo on multiple occasions; I know now that most times, we just have to agree to disagree.

So, I am not asking you to change your personal perspective on the logo. Instead, I'm asking you to oppose this legislation on behalf of the university and the welfare of all students. In economics, we learn that a rational decision-maker changes the status quo if the expected benefit from the change exceeds the expected cost. Is the expected benefit of forcing UND to maintain the logo worth the cost of UND not being able to host NCAA tournaments, the continued disruption to the educational atmosphere and the tainted reputations that UND and North Dakota may suffer? The big difference in this economic equation is that you are not the ones that will personally bear the burden of your decision; it will be the UND student body especially the student athletes that will be left to pay the price. Our elected representatives the UND Student Government passed a bill opposing legislature interference. Our UND representatives are telling you the North Dakota representatives that this is clearly not in the student interest which has been the rationale used to justify these bills.

The fact is that the legislation seeks to force two sovereign entities — the State Board of Higher Education and the Standing Rock Sioux tribe — to do as the Legislature sees fit. Not to mention that one bill also calls for suing the NCAA for a second time under a federal antitrust claim. As a student of political science, I would like to point out that claims that the Standing Rock tribal council is being undemocratic by not allowing a referendum are ludicrous. If that refusal makes the tribal council undemocratic, then the North Dakota Legislature and the U.S. Congress are undemocratic as well. People forget that the U.S. is not a true democracy. It is a representative democracy, and that is what the tribal constitutions were modeled on. The Standing Rock Tribe's constitution actually bans tribal-wide referendums because they are too costly. Recent votes by the tribal council to repeal this ban have failed by huge majorities. Ultimately, the legislation questions the Standing Rock Sioux Tribe's sovereign authority, a question that is disrespectful at the very least and degrading at the worst. I find this ironic given that proponents of the Fighting Sioux nickname maintain that they support the name out of genuine honor and respect for the Sioux people.

On that note, during this month in which we celebrate Martin Luther King Jr. Day, I close with this quote from King: "Law and order exist for the purpose of establishing justice, and when they fail in this purpose, they become the dangerously structured dams that block the flow of social progress."

TESTIMONY ATTACHMENT 15

January 24, 2011

To: ND House Education Committee:

Rep. RaeAnn Kelsch (Chair)
Rep. Lisa Meier (Vice Chair)
Rep. Lyle Hanson
Rep. Joe Heilman
Rep. Brenda Heller
Rep. Bob Hunskor
Rep. Dennis Johnson
Rep. Karen Karls
Rep. Corey Mock
Rep. Phillip Mueller
Rep. Karen M. Rohr
Rep. David S. Rust
Rep. Mark Sanford
Rep. Mike Schatz
Rep. John D. Wall

Thank you for the opportunity to present the educational and ethical concerns with HB 1208, HB 1257, and HB 1263 to you. As the chair of the Indian Studies Department at the University of North Dakota I urge you to vote *against* all three bills.

The use of the "Fighting Sioux" name and logo makes it impossible for the faculty and staff at UND to fulfill our academic mission, as a recent University Senate resolution in 2009 points out, and as other statements by academic organizations (included in packet) also emphasize. Some of the specific educational problems caused by use of the name and logo include:

- Creates a potentially hostile environment in the classroom as well as on campus for American Indian students and community members
- Raises concerns as to the potential long-term effects on American Indian students as shown by research cited by the American Psychological Association in their statement (included in packet)
- Causes unequal access to educational opportunities and, thereby, violates federal guidelines of educational and racial equity
- Perpetuates stereotypes of American Indian peoples among the non-Native student population instead of respectful and accurate portrayals of American Indian cultures and peoples
- Affects the experiences of American Indian students and their children in the larger community and the community schools
- Damages UND's reputation and, consequently, that of the state both nationally and internationally
- Is contrary to UND's Mission, Community Value Statement, and Strategic Plan Goals and Action Goals.

These concerns are serious, and as educators, faculty at UND have long advocated for the retirement of the "Fighting Sioux" name and logo. This is not an issue where the principle of "majority rules" applies.

The well-being of *all* of our students and the integrity of UND's educational mission must be our first concern.

Thank you again for listening! I would be delighted to answer any questions that you may have.

Sincerely,

Dr. Birgit Hans, Chair
Chester Fritz Distinguished Professor
Indian Studies Department
University of North Dakota
701-777-4649
Birgit.hans@und.edu

TESTIMONY ATTACHMENT 16

Dr. Leigh D. Jeanotte, Director, UND American Indian Student Services
Presentation to ND Legislators
January 26, 2011

Madam Chairman RaeAnn Kelsch and members of the Education Committee, my name is Dr. Leigh Jeanotte from UND American Indian Student Services. I oppose HB's # 1208, 1257 and 1263 based on the following rationale.

1.) I understand that there are many – maybe even a majority of individuals throughout the state and region – who support keeping the Fighting Sioux nickname for UND's athletic teams. Reasons I commonly hear for this support include:
   - We've had it for a long time, it's a tradition.
   - We think it honors American Indians.
   - The logo is attractive and UND strives to use the name honorably.
   - And most recently, as with the basis of the proposed 3 bills – we believe that the tribal people of ND haven't had an opportunity for their voices to be heard via a referendum vote.

   But from my point of view, I really see this as a human rights issue, and I'd like to take a few minutes to explain as briefly as possible why I feel this way.

- Let's think back to from the time we were children to now, it is **ingrained** in us and throughout our society to **poke fun** of opposing athletic teams. Now tell me this: with a race-based nickname, how can anyone poke fun at a living race of human beings and not open the door to accusations of racism?
- And as far as not hearing the voices of tribal people in the state, I'd like to point out that the **settlement which UND and the NCAA agreed upon doesn't call for a referendum vote,** it simply states that official permission from the 2 Sioux tribes of the state be granted. One has gone on record as granting this permission and the other has gone on record loud, clear, repeatedly, and officially - that they oppose keeping the nickname.

  Now in reality, the Standing Rock Tribal Council serves and was elected to represent the people of the tribe, and that's what they have done. **Similarly to you ND legislators, how would you feel if every time you made a decision it was challenged by outsiders who demanded a referendum vote of the people to render your decision valid?** That is exactly what is happening here.

  Not long ago, the NCAA, in an effort to create policy reflective of all their constituents, polled **over 500 American Indian tribes** on the subject of utilizing American Indian names and images for athletic teams. The results of this poll revealed that 90% said they believed such use is demeaning and harmful to American Indian students and youth – hence the foundation for the NCAA policy.

  It's important to note, as well, the growing wealth of scientific, academic, published research that has been conducted on the subject. The Frieberg Study, which was instrumental in the NCAA

approving regulations to not allow the use of American Indian names and imagery in their athletic events, revealed that such uses negatively impact American Indian people. Furthermore, additional research has been conducted on the UND campus. For example, Dr. Angela LaRocque's doctoral dissertation also revealed the harms of the Fighting Sioux name, as did other research conducted by Dr. Justin McDonald, Director of the Indians into Psychology Doctoral Education Program at UND.

Where is the research conducted that supports continuing to use American Indian names and images for sports? There is none.

2.) **So in reality, what we have here is one tribe that has gone on record as supporting keeping the nickname, and approximately 500 who strongly oppose it. We also have a growing body of research that reveals the actual harm caused by utilizing American Indian names and images for sports, and absolutely none that supports it or says it's not harmful.**

3.) Now let's examine the national American Indian organizations who have publicly submitted formal resolutions calling for an end to this practice of using American Indian names and images for athletic teams.
- The National Indian Education Association
- The National Congress of American Indians
- The American Indian Higher Education Consortium and
- The American Indians for Opportunities, to name some of the major organizations.

Now tell me, where are the national Indian organizations that have come out and said that it's okay to use American Indian nicknames and logos? There are none.

4.) Now let's look at more regional American Indian tribes and educational organizations:
- The Minnesota Indian Education Association
- The North Dakota Indian Education Association – and by the way, I have with me today a **renewed formal resolution from the NDIEA** strongly opposing the continued use of the Fighting Sioux nickname AND this proposed ND legislation.
- We have virtually all of the other American Indian tribes from ND, MN, SD, and MT who have all put out resolutions opposing the use of the Fighting Sioux nickname by UND.

Now tell me, where are all the American Indian tribes and regional tribal education organizations that say it's okay? There are none.

5.) Now, let's take a look at prestigious national organizations who have come out with strong statements opposing the use of American Indian names and images for athletics, particularly by non-Native schools and educational institutions:
- The American Psychological Association (APA)
- The American Sociological Association (ASA)
- The American Anthropological Association (AAA)
- The U.S. Commission on Civil Rights
- The NAACP, **and the list truly goes on and on...**

Now tell me, where are the prestigious national organizations that say it's okay to continue this outdated practice, a practice that, by the way, dates back to before our nation's passing of Civil Rights legislation? There are none.

6.) Now, let's take a close look at the UND campus, the very place where this issue's impacts are felt most directly. After all, most would concede that this issue of deciding a UND nickname for its athletic teams really is a UND issue, rather than a STATE issue. And at UND:

- The **University Senate has passed resolutions** several times asking that the Fighting Sioux nickname be respectfully retired due to the **harm it causes** American Indian students and programs, the **divisive impact** of the controversy on our campus and alumni community, and due to the fact that continued use of the nickname is **completely contrary to the academic mission** of our University.
- Be further reminded that the University Senate represents UND faculty, administration, and staff, and that just last weekend, the **Student Senate passed a resolution opposing this very ND legislation** and supporting the continued transition process to retiring the Fighting Sioux nickname. And the UND Indian Association (UNDIA), the primary Indian student organization on campus, also passed a resolution a few years back that calls for the retirement of the nickname. We also have UND programs (including at the time their resolution was passed– 29 American Indian related programs) and numerous academic departments that have gone on record as calling for the retirement of the nickname. We have the ND State Board of Higher Education that was given the right to govern our institutions, and this Board has decided it's time to retire the problematic nickname and move forward.

Now tell me, where are the UND governing bodies that say they support keeping the Fighting Sioux nickname? As far as I know, there are no governing bodies at our institution that support retaining the long controversial, clearly problematic nickname. And I believe I can say this factually, because while the REA is obviously a strong supporter of the nickname for obvious reasons, we are told over and over again when issues arise about what takes place at the arena or what needs to take place, that the REA does not represent UND, and in fact, the REA does not even belong to UND.

7.) I've been on campus for 38 years now, and this issue and controversy have gone on and on and on. Yes, we do have an impressive array of Indian related programs at UND, but it's important to note that just a few years back, they numbered 29 and now these programs that bring much needed federal funding to our institution now number only 20. This controversy **has** negatively impacted our American Indian students and programs, **and it continues** to negatively impact our recruitment efforts, particularly throughout the regional reservation communities that provide most of the American Indian students who attend UND. **Our recruiter is constantly asked about this issue** when she's out on the road! Parents and students alike are frightened for the safety of American Indian students on the UND campus, and when Campus Security is called to have an officer at the Indian Center every time the controversy heats up – can you blame them for being concerned about a hostile campus climate? **Would you choose to send your American Indian child/student to an institution where they are continually placed at the center of a local, regional, and national controversy? I think probably not.**

And isn't it ironic that throughout the more than 3 decades that I have been directing Indian programs at UND, and through all the years that the SBHE had the power to decide this contentious issue, only one member of the NDSBHE ever came to the American Indian Center on campus to learn directly about if and how this issue impacts American Indian students who attend UND. Only one, Mr. Michael Haugen, and we are genuinely thankful to him for coming and for listening.

And to my knowledge, only one individual involved with the ND State Legislature has ever come to visit with our Indian related programs and Indian students: Mr. Lonnie Winrich. Again, we are immensely grateful for his time, support, and thorough understanding of the issue. Let me ask this: how many of you who have proposed the 3 nickname bills or supported them have come to the American Indian Center on the UND campus to learn about how this issue and controversy directly affects the educational experience of our American Indian students? I'm guessing none, but I do extend a cordial invitation to do so.

8.) And finally, I'd just like to mention the **Scales of Justice** and ask all present to visualize the two sides of this national icon for which our legislature is bound to uphold.

- **On one side of the scale,** we have those who support the nickname and their reasons for supporting it, we have the one Sioux Tribe, the REA, and some within the athletic fan base that say "We like it, we've had it for a long time, it's attractive, and we think it honors American Indian people."
- **On the other side,** we have numerous regional tribes that have gone on record as strongly opposing the Fighting Sioux nickname.
- **We also have on this side** over 500 American Indian tribes from all across the U.S. who believe that American Indian nicknames and images are offensive and demeaning
- **Also on this side,** we have <u>every</u> American Indian and educational organization and entity of the region who have clearly asked that the Fighting Sioux nickname be retired.
- **On this other side as well,** we also have virtually every national prestigious organization and entity having gone on record publically as strongly opposing the use of American Indian nicknames and images for sports due to the harm they cause American Indian students and youth.
- **And on this other side of the Scales of Justice,** we have strong past and current resolutions from academic departments at UND, the University Senate and the UND Student Senate, the Indian related programs at UND, and the UND Indian Association on campus. Together, these groups represent the UND administration, faculty, staff, and students, just as each legislator here is to act and serve in a way that represents their constituents.
- **We should also consider that UND is well into its official transition process,** and any action to move the proposed legislation forward may be viewed as a mockery of UND's current administration and processes.
- **And naturally, we need to consider the potential devastating impact these proposed bills would have on our athletic teams and every single individual athlete** – be they involved in hockey, basketball, tennis, or other UND team sports - that aspires to realize the results of

years of hard work and training by demonstrating their long-honed skills at the national conference level of competition.

- **It is also imperative to mention here that we have an NCAA court agreement outlining processes that our ND Attorney General agreed to uphold**; and yet now – because these processes didn't turn out the way some powerful constituents thought they would, we are trying to disregard this formal court agreement by going around it via the proposed bills. This recent activity certainly does not reflect very honorably on our Attorney General, or our respect for such legally binding court agreements.
- **And please, let's not overlook the unique needs of our students, the number one constituents our state higher education institutions are charged with serving.** We have 11 state institutions of higher education, each with unique needs and strained budgets, all with academic missions that include serving and providing outreach to the American Indian tribes of the state. The fact is that the proposed bills, if passed, will bring continued harm to our American Indian programs and students – the evidence is in and it's absolutely overwhelmingly in favor of immediately retiring these American Indian nicknames and logos. And beyond the serious negative impacts to our American Indian students, which I'd like to remind legislators: this is a historically underrepresented group in higher education based on decades of critically low recruitment and retention rates – retaining the Fighting Sioux nickname will, in turn, harm **all** students who attend UND because if these bills are passed and the nickname is retained as a result – we will be teaching our entire student body that money and power really do win out over human rights in ND.
- **Further, UND will long suffer a deeply concerning national reputation** regarding the blind eye it is turning to the human rights of the diversity located in our state's own "back yard," American Indian students, should this proposed legislation move forward.
- **It is also vitally important to consider the legal challenge that may occur as a result of moving the proposed bills forward,** which will predictably take a great deal of time, human resources, and be extremely costly to ND tax payers.

Now when we look to sort through and weigh out the various testimonies being shared here today, I think it might be helpful to visual the Scales of Justice. On one side: the fans who like it and think it honors American Indian people, **and on the other side, a virtual mountain** comprised of **individuals,** American Indian **tribes of the region and nation**, programs, offices, **national, regional, educational, and tribal** organizations and entities, **and a growing body of published, scientific research** that details the **actual harm** being done to American Indian people through the continued use of such demeaning and offensive practices. And finally, we have the **athletes** to consider, and the **predictable additional costs** that will likely result from legal challenges.

And when we apply this controversial issue to the Scales of Justice that are supposed to govern our decisions – there's only one decision to be made today.

One side clearly outweighs the other.

Please do not consider moving these three proposed bills forward. I guarantee you that if indeed that were to take place, it would only give credence to those who say this is all about

power and money. As I said in the beginning, I see this as a human rights issue, and if these bills are passed, this controversy will - without a doubt - go on and on and on...continuing on the UND campus for perhaps another 50 or more years.

The time has come and indeed is before you right now - to weigh out the pros and cons, look at the two sides of the scale, and vote in the only way that makes sense in your minds and hearts.

Vote no on proposed HB's 1208, 1257, and 1263.

Thank you.

NORTH DAKOTA INDIAN EDUCATION ASSOCIATION

Resolution regarding the use of the "Fighting Sioux" Name and Logo at the University of North Dakota

WHEREAS, it is the mission of the North Dakota Indian Education Association to represent and promote a quality education as it pertains to the academic, social, physical, cultural, and spiritual well-being of Indian children and adults; and

WHEREAS, the North Dakota Indian Education Association represents all K-12 schools and students in the state of North Dakota, and significant numbers of American Indian students go on to pursue higher education opportunities at mainstream, public institutions of higher education including the University of North Dakota; and

WHEREAS, that any use of American Indian names and logos in athletics is demeaning whether intended or not; and

WHEREAS, these names and symbols promote and encourage practices that promote hurtful, historical stereotypes, and trivialize American Indian culture, traditions, and spirituality; and

WHEREAS, the United States Commission on Civil Rights (2001) called for an immediate end to using Native American names and symbols by non-Native schools and public institutions as these names and logos teach all students that stereotyping of minority groups is acceptable; and

WHEREAS, the American Psychological Association (APA) and numerous other national education, American Indian, and other organizations and entities, along with a wealth of published, academic research have revealed the harm caused by the use of American Indian names and images for athletic teams; and

WHEREAS, the University of North Dakota University Senate (2009) passed a resolution stating the immediate need to respectfully retire the Fighting Sioux nickname and logo(s) due to its harmful impact on students, its divisive impact on the community, and its direct conflict with the University mission, and the University Student Senate passed a resolution (January 23, 2011) strongly opposing recent ND legislators' proposed bills to retain the Fighting Sioux nickname; and

WHEREAS, the use of the name and symbol at the University of North Dakota hinders the full participation of American Indian students in all aspects of campus life; and

WHEREAS as citizens, American Indian people have a right to be heard, represented, and involved in all aspects of education at the local, state, and national levels.

NOW THEREFORE BE IT RESOLVED, that the North Dakota Indian Education Association strongly opposes North Dakota Legislature proposed HB's # 1208, 1257 and 1263.

BE IT FURTHER RESOLVED, that the North Dakota Indian Education Association strongly encourages the President of the University of North Dakota, the Chancellor of the North Dakota University System and the North Dakota State Board of Higher Education to continue the transition process to retire the fighting Sioux nickname and logo(s).

THE FOREGOING RESOLUTION WAS DULY PASSED AT THE NORTH DAKOTA INDIAN EDUCATION ASSOCIATION ANNUAL CONFERENCE BY THE MEMBERSHIP ON THE 22nd DAY OF JANUARY, IN MINOT, N.D.

[redacted]atricia Walking Eagle, NDIEA President

[redacted]en Hartman, NDIEA Secretary

TESTIMONY ATTACHMENT 17

To House Education Committee,
Representative Rae Ann Kelsch, Chair

And to whom it may concern,

My name is William Crawford, and my Dakota name is Sunka Ska. I am a member of the Sisitunwan Wahpetunwan Oyate and currently in my fourth year at the University of North Dakota. I am writing this in concerns of House Bills 1208, 1257, and 1263. As a Native American student on the campus of UND, I have personally dealt with how this logo/nickname controversy affects my educational and social experiences at this institution. All these negative experiences began during my very first year at UND. Just a simple thing as meeting people became an issue as others would find out that I'm native and go straight to the question of my view on the logo. Of course, if I was not with them I became no friend of theirs. I can't even go to any sporting events without feeling demeaned and seeing my culture mocked. I never attended any basketball, volleyball, or football games because of this. I have gone to one hockey game and that is a whole different story. I will just say that I will never go again. Besides all the name-calling, class arguments, and overheard racial slurs, I would also like to point out that students who are demeaned and demoralized by this nickname/logo cannot even show their pride for this school and buy clothing and other memorabilia. This may seem like a short summary, but I hope it is clear that myself, and other students who have shared the same experiences as I have, are not having the same college experiences as a normal, average, typical student.

I would like to finish with one my latest experiences. Let me start off by saying that in Dakota culture, we highly respect and honor our veterans. Even if any of you have gone to a Wacipi (Powwow) it should be clearly evident. But several weeks ago, I was in a rush and wanted something fast and healthy to eat. So I went to Pita Pit, mainly because I had coupons. So I'm standing in line and I look down in front of me and there is a mat in front of the cashier with a huge FS logo on it. It was worn and was full of mud and snow. The customer in front me stood on it, kicking the snow off his shoes right across the "warriors" face. I instantly became disgusted and walked out the door. So my question is this, "Is this how you respect and honor us?" By even demeaning a symbol of a Dakota/Lakota/Nakota warrior into a dirty wet floor mat? I don't mean to boast in any way, but I come from a family of veterans and I will never come to a day where I even think about laying a picture of one of them down on the ground and walking over it every day. I hope this is a clear example of how this nickname/logo affects not only the campus, but people's experiences across Grand Forks.

And now, out of nowhere, it is proposed to force UND to retain the FS logo and nickname. Is this the type of traditions that should be kept alive? The tradition of degrading a human's culture and background? The tradition of negatively affecting student's college experiences? And the tradition of having a controversial and divisive atmosphere at a public university?

Thank you for your time,
William Crawford

TESTIMONY ATTACHMENT 11

Madam Chair and members of the committee

My name is Evan Andrist, State Governmental Affairs Commissioner and registered lobbyist for the University of North Dakota Student Government. I represent UND Student Government in matters regarding the state of North Dakota. On behalf of the students of UND, we oppose the passage of House Bills 1208, 1257 and 1263 as expressed in UND Student Senate Resolution SR1011-06, which are attached to the written transcript.

The Fighting Sioux nickname and logo has historically—and presently—caused much division between our students. This division is evident even in the UND Student Senate vote on resolution SR1011-06 which had a vote of ten for the resolution, eight against, and four abstentions. Although we are unable to speak personally with all of UND's fourteen thousand students, UND Student Senate are the elected representatives for our student population. This is not an easy issue, but it is an issue that we are nonetheless prepared to confront.

The majority of UND's students, nickname supporters and opponents alike, are ready for this issue end. Proponents of each side of the issue feel passionately about their reasons for their respective stances, and discussions of the logo certainly reflect that passion. That being said, we at the University of North Dakota are weary. Our campus has the potential to move on, heal, and unite to become a better and stronger place. These bills stand in opposition to that growth. They furthermore restrict the authority of the State Board of Higher Education and the University of North Dakota. They are not only detrimental to the wholeness of our campus, but also to our movement to Division I athletics as a member of the Big Sky

Conference; these bills, if passed, would also impede our ability to schedule games with a number of athletic teams and host NCAA tournaments.

During discussion of this resolution, it became apparent that the Fighting Sioux nickname has served our university well, but instead of reflecting the pride it used to, it reflects personal biases and division. Although it will be a painful process—not only for students, faculty, and staff at the university, but also for Fighting Sioux fans around the world—we must move away from this division and towards unity.

Sincerely,

Evan Andrist

State Governmental Affairs Commissioner

University of North Dakota Student Government

ND Student Senate

SR 1011-06

Senate Resolution

To: The Student Senate of the University of North Dakota

Author: Student Body Vice-President, Grant Hauschild; Student Body President, Matt Bakke; Governmental Affairs Commissioner, Evan Andrist; Education and Human Development Senator, Fred Burke; Greek Life Senator, John Kappel; Off-Campus Senator, Kevin Peters

CC:

Date: 1/19/2011

Re: Resolution opposing North Dakota House Bills 1208, 1257, and 1263

Whereas, the University of North Dakota has already begun the transition to retire the current "Fighting Sioux" nickname and logo and,

Whereas, North Dakota House Bills 1208, 1257, and 1263, restrict the authority of the State Board of Higher Education in matters of the North Dakota University System stated in the century code 15-10-11, and

Whereas, the University of North Dakota is transitioning to Division I athletics, was recently accepted to the Big Sky Conference ,and any further use of the "Fighting Sioux" nickname and logo could be a detriment to this process and allow teams to reject scheduling our athletic teams, and

Whereas, North Dakota House Bills 1208, 1257, and 1263 only re-ignite the division over the "Fighting Sioux" nickname and logo and further divides our University, the City of Grand Forks, and the State of North Dakota, and

Whereas, the costs associated with a prolonged legal battle with the NCAA and other related costs, explicit or implicit, are unknown and unaccounted for

Therefore, be it moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1208 and,

Therefore, be it further moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1257 and,

Therefore, be it furthest moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1263

TESTIMONY ATTACHMENT 12

Good morning/afternoon! Chairperson Kelsch, members of the committee. My name is Franklin Sage, a current Sociology Graduate Student at the University of North Dakota (UND). I'm originally from Counselor, NM and grew up on the Navajo Nation Reservation. I have lived in Grand Forks, ND for 11 years and completed my Bachelor of Arts Degree from UND in December 2008.

I appreciate having a chance to address you this morning/afternoon concerning House Bill (HB) 1208, HB 1257, and HB 1263. I oppose these bills because the school nickname/ logo has become divisive in the communities like Spirit Lake and Standing Rock Reservations, UND campus climate, and among Native American students. It will continue to be divisive if these bills are passed. I have worked on the nickname/logo issues as an undergraduate student and participated in the student organization called BRIDGES. In this organization, we have experienced backlash from our fellow students, community members, and alumni. The objective of this organization was to educate the public about why this nickname/logo is offensive, derogatory, demeaning, and singles out Native American students in the classroom about their opinion on the Fighting Sioux.

I oppose these bills because I'm offended by nicknames and logos which use the Sioux Nation for profit and ridicules American Indian culture in the name of sports. I have felt singled out in my classes when the topic of the logo and nickname has been raised. Classmates tell me that I should feel honored, that I am not a member of the Sioux tribe, and that if I do not like the name, I should leave UND. I have heard students in class make comments about Indians that reveal not only negative stereotypes but also false assumptions. For example, students have suggested to me that Indians get free educations, live tax-free, and hunt for free. Once when I was walking out of the public library, an individual was wearing a Washington Redskins jacket approached me and said, "I thought you Indians like to be honored."

Since I became active in BRIDGES, people have shouted at me from moving vehicles making remarks such as: "Go home prairie nigger," "Get off the road you nigger." and "What are you running from boy?"

Members of BRIDGES have organized some educational rallies on campus before hockey games. Once, during a thirty-minute rally at the corner of University and Sixth Avenue, I witnessed people who supported the nickname and logo shout the following remarks as they passed in their vehicles: "Go home you F***ing Indians," "You get free education," "F*** NCAA," "Get a job," and "Find something else to whine about."

Once, while I was studying outside at a picnic table, a couple of children from the Sioux Hockey Camp walked by and trailing them were two young boys (one white and the other African American). I looked up and I noticed the boys were reading a sign that read "Native American Programs." They then quickly ran up the sidewalk, turned around, and started war whooping. They then ran across the lawn to rejoin their group.

On the other hand, sports played a significant role when I attended boarding school. It socialized me into becoming a productive citizen, challenged me to achieve my dreams, complete my education, and contributed to me being a better soldier in the military. A sport nickname/ logo did not contribute to my success as a human being. I appose these bills because it will deny opportunities for our student athletes to compete in post tournaments and gain national exposure. With a new nickname and logo the teams could participate in the BIG Sky Conference. We all got a chance to see our school rival North Dakota State University (NDSU) Men's Basketball team compete against University of Kansas Jayhawks on a National Television on their first year of eligibility to play in the March Madness 2009. Thank You!

TESTIMONY ATTACHMENT 13

TESTIMONY OF AUNTIE CAREL TWO-EAGLE
IN OPPOSITION TO 3 BILLS REGARDING THE
MASCOTING OF D/L/NAKOTA PEOPLE

Hanh Chairman & members of the Committee. My name is Carel Two-Eagle, & I speak here in opposition to all 3 bills you are holding hearings on today, as they are currently written, regarding the mascoting of D/L/Nakota People & our culture.

The Oxford Standard Dictionary of the English Language is the ultimate reference for your language. It defines 'mascot' as 'a pet, a caricature'. Humans make lousy pets, and it is most disrespectful for one culture to make a caricature of another – particularly when they are both living cultures. Whoever makes the caricature gives the impression that they are somehow superior to the one(s) caricatured. Our D/L/Nakota culture is frayed, but it is still vibrant, & its Traditional Ways are still very much alive. I am living evidence of that, as is every other Traditional person.

Mascoting is a form of slavery. Slavery was outlawed by the federal government in 1862. The 'United' States broke apart over this matter, & the War Between the States ensued. In the end, union won – at least on paper. Yet we continue to argue this matter today, in 2011, roughly 145 years later.

Slaves have few, if any, rights, yet we here are supposedly all free people. The US Supreme Court has ruled that individuals - & groups – may not give their Rights away, nor can those Rights be taken from them. Yet that is exactly what these bills would do. They would take away our Rights to freedom from ridicule, from unbalanced caricatures of our 'reality', and to be treated with the respect & dignity the Constitution says is inherently the Right of each of us.

In the Lakota Way, when someone behaves badly, we elders – such as me – shame &/or reprimand someone by asking, "*Where* is your respect? *Where is* your respect?!" Regardless of claims to the contrary, respect is not expressed in any of these bills.

We all understand why some of our D/L/Nakota People may have asked for these bills. The logo was done by a member of the Spirit Lake Nation, so it is a point of pride. And we D/L/Nakota – ***not*** 'sioux' – are fierce warriors. There is the possibility that there is some financial payment made to the creator of the logo as well, and they would want to retain that.

But our warrior aspect is hardly our most valuable aspect. Even less is it our only aspect. This view of us is most un-balanced; and in the Traditional Way, balance in ourselves & our lives is both a journey and an objective. It certainly does nothing for our women & girls, who are the ones who put us all on the earth in the first place. The earth Herself is our Holy Mother, after all, since she provides every physical thing we need to survive during our sojourns walking on Her. I've heard the term "lady warriors", and it always makes me wonder, since I am a warrior woman, & have

been all of my life. I'm a Traditional healer, in both the physical-medicine way, & the spiritual Way, since I Sun Dance the prayer of The Four Winds – a prayer to heal the Sacred Hoop of the world. Healing is not for 'ladies' or 'gentlemen', Committee members. It is warrior work; it is combating evil spirits that cause dis-ease of every kind, from spiritual to physical.

Due to cross-generational trauma and Post Traumatic Stress Disorder (PTSD), *which is inherent in 98% of us Indns, according to recent data,* we see how true this is, daily in some part of Indn Country. Passage of any of these bills would only add to that; it would not decrease either the effects or the rate of incidence. As a Traditional healer, I know this from personal experience and observation.

We IndigenUs get no benefit past the above 2 from being used by the UND as mascots, however. Our tribes get no payment – even Spirit Lake, Standing Rock, and Lake Traverse, all of which are D/L/Nakota.
The UND sells or promotes the sale & use of alcohol at its events. Alcohol is a poison which has decimated cultures across the globe, but especially our IndigenUs Turtle Island cultures. Read the 'comments' to Indn-oriented articles in the Bismarck Tribune, & you will see plenty of evidence of the bigotry regarding us & alcohol that is endemic in North Dakota. Drinking alcohol is referred to as "in-toxic-ation" - the intake of a poison into our bodies. There is something inherently wrong in the concept that a person 'must' consume a poison 'in order to have fun', isn't there..
When any of us Indn citizens of ND take classes at the UND, we get no reduction in fees. We certainly don't get any free classes! And UND's "Native Studies" curriculum is taught mainly by *non*-Indns! Imagine – people who only know 'about' us from what they've read in books, written mainly by other people who haven't lived our cultures, teaching 'about' us! How paternalistic & caricaturist is that! Duwahleh! It is amazing.

And while we think of honoring our D/L/Nakota People – what about the fact that this state is named for us? That's an ongoing honor – however unintended it has been! In addition, you could amend this bill to make the logo – minus any reference to us as 'sioux', which means ' a treacherous, untrustworthy person', not something any of us should want to be known as - a permanent part of the State of North Dakota's official face. On its letterheads, on its Internet site, and so on. And / Or, how about worked into the "Pride of Dakota labels for all those good North Dakota products?! Those would be honoring us & our culture in a much more balanced way. Those would *show* respect to us..

So I urge you to vote Do Not Pass on all three of these bills *unless you amend them as I have outlined in the preceding paragraph.* I would be happy to work with you to make these things happen, just as I would be happy to answer any questions you may have now.

Thank you for hearing me in a good way now. Mitakuye oiasin – All {are} my relatives.

TESTIMONY ATTACHMENT 14

Good morning. Chairperson Kelsch, members of the committee, I appreciate having a chance to address you this morning concerning HB 1208, HB 1257, and HB 1263. My name is Margaret Scott, I am a senior at the University of North Dakota and resident of Grand Forks. I am opposed to all three of these bills because I believe that UND as an educational institution; its purpose is to provide the best education as possible to its students but the Fighting Sioux nickname and logo are detrimental to achieving this purpose. As a UND student, I have worked closely with this issue since 2005. I cannot begin to explain how this controversy has worn on me over the years psychologically, emotionally, and even spiritually. Seeing many of my friends hurt and leave UND as a result of the atmosphere on campus has been the hardest thing for me. However, my goal today is not to list all of the incidents that American Indian students including myself have experienced as a result of the nickname and logo. I have respectfully held discussions with people of a different perspective on the logo on multiple occasions; I know now that most times, we just have to agree to disagree.

So, I am not asking you to change your personal perspective on the logo. Instead, I'm asking you to oppose this legislation on behalf of the university and the welfare of all students. In economics, we learn that a rational decision-maker changes the status quo if the expected benefit from the change exceeds the expected cost. Is the expected benefit of forcing UND to maintain the logo worth the cost of UND not being able to host NCAA tournaments, the continued disruption to the educational atmosphere and the tainted reputations that UND and North Dakota may suffer? The big difference in this economic equation is that you are not the ones that will personally bear the burden of your decision; it will be the UND student body especially the student athletes that will be left to pay the price. Our elected representatives the UND Student Government passed a bill opposing legislature interference. Our UND representatives are telling you the North Dakota representatives that this is clearly not in the student interest which has been the rationale used to justify these bills.

The fact is that the legislation seeks to force two sovereign entities — the State Board of Higher Education and the Standing Rock Sioux tribe — to do as the Legislature sees fit. Not to mention that one bill also calls for suing the NCAA for a second time under a federal antitrust claim. As a student of political science, I would like to point out that claims that the Standing Rock tribal council is being undemocratic by not allowing a referendum are ludicrous. If that refusal makes the tribal council undemocratic, then the North Dakota Legislature and the U.S. Congress are undemocratic as well. People forget that the U.S. is not a true democracy. It is a representative democracy, and that is what the tribal constitutions were modeled on. The Standing Rock Tribe's constitution actually bans tribal-wide referendums because they are too costly. Recent votes by the tribal council to repeal this ban have failed by huge majorities. Ultimately, the legislation questions the Standing Rock Sioux Tribe's sovereign authority, a question that is disrespectful at the very least and degrading at the worst. I find this ironic given that proponents of the Fighting Sioux nickname maintain that they support the name out of genuine honor and respect for the Sioux people.

On that note, during this month in which we celebrate Martin Luther King Jr. Day, I close with this quote from King: "Law and order exist for the purpose of establishing justice, and when they fail in this purpose, they become the dangerously structured dams that block the flow of social progress."

TESTIMONY ATTACHMENT 15

January 24, 2011

To: ND House Education Committee:

Rep. RaeAnn Kelsch (Chair)
Rep. Lisa Meier (Vice Chair)
Rep. Lyle Hanson
Rep. Joe Heilman
Rep. Brenda Heller
Rep. Bob Hunskor
Rep. Dennis Johnson
Rep. Karen Karls
Rep. Corey Mock
Rep. Phillip Mueller
Rep. Karen M. Rohr
Rep. David S. Rust
Rep. Mark Sanford
Rep. Mike Schatz
Rep. John D. Wall

Thank you for the opportunity to present the educational and ethical concerns with HB 1208, HB 1257, and HB 1263 to you. As the chair of the Indian Studies Department at the University of North Dakota I urge you to vote *against* all three bills.

The use of the "Fighting Sioux" name and logo makes it impossible for the faculty and staff at UND to fulfill our academic mission, as a recent University Senate resolution in 2009 points out, and as other statements by academic organizations (included in packet) also emphasize. Some of the specific educational problems caused by use of the name and logo include:

- Creates a potentially hostile environment in the classroom as well as on campus for American Indian students and community members
- Raises concerns as to the potential long-term effects on American Indian students as shown by research cited by the American Psychological Association in their statement (included in packet)
- Causes unequal access to educational opportunities and, thereby, violates federal guidelines of educational and racial equity
- Perpetuates stereotypes of American Indian peoples among the non-Native student population instead of respectful and accurate portrayals of American Indian cultures and peoples
- Affects the experiences of American Indian students and their children in the larger community and the community schools
- Damages UND's reputation and, consequently, that of the state both nationally and internationally
- Is contrary to UND's Mission, Community Value Statement, and Strategic Plan Goals and Action Goals.

These concerns are serious, and as educators, faculty at UND have long advocated for the retirement of the "Fighting Sioux" name and logo. This is not an issue where the principle of "majority rules" applies.

The well-being of *all* of our students and the integrity of UND's educational mission must be our first concern.

Thank you again for listening! I would be delighted to answer any questions that you may have.

Sincerely,

Dr. Birgit Hans, Chair
Chester Fritz Distinguished Professor
Indian Studies Department
University of North Dakota
701-777-4649
Birgit.hans@und.edu

TESTIMONY ATTACHMENT 16

Dr. Leigh D. Jeanotte, Director, UND American Indian Student Services
Presentation to ND Legislators
January 26, 2011

Madam Chairman RaeAnn Kelsch and members of the Education Committee, my name is Dr. Leigh Jeanotte from UND American Indian Student Services. I oppose HB's # 1208, 1257 and 1263 based on the following rationale.

1.) I understand that there are many – maybe even a majority of individuals throughout the state and region – who support keeping the Fighting Sioux nickname for UND's athletic teams. Reasons I commonly hear for this support include:
   - We've had it for a long time, it's a tradition.
   - We think it honors American Indians.
   - The logo is attractive and UND strives to use the name honorably.
   - And most recently, as with the basis of the proposed 3 bills – we believe that the tribal people of ND haven't had an opportunity for their voices to be heard via a referendum vote.

But from my point of view, I really see this as a human rights issue, and I'd like to take a few minutes to explain as briefly as possible why I feel this way.

- Let's think back to from the time we were children to now, it is **ingrained** in us and throughout our society to **poke fun** of opposing athletic teams. Now tell me this: with a race-based nickname, how can anyone poke fun at a living race of human beings and not open the door to accusations of racism?
- And as far as not hearing the voices of tribal people in the state, I'd like to point out that the **settlement which UND and the NCAA agreed upon doesn't call for a referendum vote,** it simply states that official permission from the 2 Sioux tribes of the state be granted. One has gone on record as granting this permission and the other has gone on record loud, clear, repeatedly, and <u>officially</u> - that they oppose keeping the nickname.

Now in reality, the Standing Rock Tribal Council serves and was elected to represent the people of the tribe, and that's what they have done. **Similarly to you ND legislators, how would you feel if every time you made a decision it was challenged by outsiders who demanded a referendum vote of the people to render your decision valid?** That is exactly what is happening here.

Not long ago, the NCAA, in an effort to create policy reflective of all their constituents, polled **over 500 American Indian tribes** on the subject of utilizing American Indian names and images for athletic teams. The results of this poll revealed that 90% said they believed such use is demeaning and harmful to American Indian students and youth – hence the foundation for the NCAA policy.

It's important to note, as well, the growing wealth of scientific, academic, published research that has been conducted on the subject. The Frieberg Study, which was instrumental in the NCAA

approving regulations to not allow the use of American Indian names and imagery in their athletic events, revealed that such uses negatively impact American Indian people. Furthermore, additional research has been conducted on the UND campus. For example, Dr. Angela LaRocque's doctoral dissertation also revealed the harms of the Fighting Sioux name, as did other research conducted by Dr. Justin McDonald, Director of the Indians into Psychology Doctoral Education Program at UND.

Where is the research conducted that supports continuing to use American Indian names and images for sports? There is none.

2.) **So in reality, what we have here is one tribe that has gone on record as supporting keeping the nickname, and approximately 500 who strongly oppose it. We also have a growing body of research that reveals the actual harm caused by utilizing American Indian names and images for sports, and absolutely none that supports it or says it's not harmful.**

3.) Now let's examine the national American Indian organizations who have publicly submitted formal resolutions calling for an end to this practice of using American Indian names and images for athletic teams.
- The National Indian Education Association
- The National Congress of American Indians
- The American Indian Higher Education Consortium and
- The American Indians for Opportunities, to name some of the major organizations.

Now tell me, where are the national Indian organizations that have come out and said that it's okay to use American Indian nicknames and logos? There are none.

4.) Now let's look at more regional American Indian tribes and educational organizations:
- The Minnesota Indian Education Association
- The North Dakota Indian Education Association – and by the way, I have with me today a **renewed formal resolution from the NDIEA** strongly opposing the continued use of the Fighting Sioux nickname AND this proposed ND legislation.
- We have virtually all of the other American Indian tribes from ND, MN, SD, and MT who have all put out resolutions opposing the use of the Fighting Sioux nickname by UND.

Now tell me, where are all the American Indian tribes and regional tribal education organizations that say it's okay? There are none.

5.) Now, let's take a look at prestigious national organizations who have come out with strong statements opposing the use of American Indian names and images for athletics, particularly by non-Native schools and educational institutions:
- The American Psychological Association (APA)
- The American Sociological Association (ASA)
- The American Anthropological Association (AAA)
- The U.S. Commission on Civil Rights
- The NAACP, **and the list truly goes on and on...**

Now tell me, where are the prestigious national organizations that say it's okay to continue this outdated practice, a practice that, by the way, dates back to before our nation's passing of Civil Rights legislation? There are none.

6.) Now, let's take a close look at the UND campus, the very place where this issue's impacts are felt most directly. After all, most would concede that this issue of deciding a UND nickname for its athletic teams really is a UND issue, rather than a STATE issue. And at UND:

- The **University Senate has passed resolutions** several times asking that the Fighting Sioux nickname be respectfully retired due to the **harm it causes** American Indian students and programs, the **divisive impact** of the controversy on our campus and alumni community, and due to the fact that continued use of the nickname is **completely contrary to the academic mission** of our University.
- Be further reminded that the University Senate represents UND faculty, administration, and staff, and that just last weekend, the **Student Senate passed a resolution opposing this very ND legislation** and supporting the continued transition process to retiring the Fighting Sioux nickname. And the UND Indian Association (UNDIA), the primary Indian student organization on campus, also passed a resolution a few years back that calls for the retirement of the nickname. We also have UND programs (including at the time their resolution was passed– 29 American Indian related programs) and numerous academic departments that have gone on record as calling for the retirement of the nickname. We have the ND State Board of Higher Education that was given the right to govern our institutions, and this Board has decided it's time to retire the problematic nickname and move forward.

Now tell me, where are the UND governing bodies that say they support keeping the Fighting Sioux nickname? As far as I know, there are no governing bodies at our institution that support retaining the long controversial, clearly problematic nickname. And I believe I can say this factually, because while the REA is obviously a strong supporter of the nickname for obvious reasons, we are told over and over again when issues arise about what takes place at the arena or what needs to take place, that the REA does not represent UND, and in fact, the REA does not even belong to UND.

7.) I've been on campus for 38 years now, and this issue and controversy have gone on and on and on. Yes, we do have an impressive array of Indian related programs at UND, but it's important to note that just a few years back, they numbered 29 and now these programs that bring much needed federal funding to our institution now number only 20. This controversy **has** negatively impacted our American Indian students and programs, **and it continues** to negatively impact our recruitment efforts, particularly throughout the regional reservation communities that provide most of the American Indian students who attend UND. **Our recruiter is constantly asked about this issue** when she's out on the road! Parents and students alike are frightened for the safety of American Indian students on the UND campus, and when Campus Security is called to have an officer at the Indian Center every time the controversy heats up – can you blame them for being concerned about a hostile campus climate? **Would you choose to send your American Indian child/student to an institution where they are continually placed at the center of a local, regional, and national controversy? I think probably not.**

And isn't it ironic that throughout the more than 3 decades that I have been directing Indian programs at UND, and through all the years that the SBHE had the power to decide this contentious issue, only one member of the NDSBHE ever came to the American Indian Center on campus to learn directly about if and how this issue impacts American Indian students who attend UND. Only one, Mr. Michael Haugen, and we are genuinely thankful to him for coming and for listening.

And to my knowledge, only one individual involved with the ND State Legislature has ever come to visit with our Indian related programs and Indian students: Mr. Lonnie Winrich. Again, we are immensely grateful for his time, support, and thorough understanding of the issue. Let me ask this: how many of you who have proposed the 3 nickname bills or supported them have come to the American Indian Center on the UND campus to learn about how this issue and controversy directly affects the educational experience of our American Indian students? I'm guessing none, but I do extend a cordial invitation to do so.

8.) And finally, I'd just like to mention the **Scales of Justice** and ask all present to visualize the two sides of this national icon for which our legislature is bound to uphold.

- **On one side of the scale**, we have those who support the nickname and their reasons for supporting it, we have the one Sioux Tribe, the REA, and some within the athletic fan base that say "We like it, we've had it for a long time, it's attractive, and we think it honors American Indian people."
- **On the other side**, we have numerous regional tribes that have gone on record as strongly opposing the Fighting Sioux nickname.
- **We also have on this side** over 500 American Indian tribes from all across the U.S. who believe that American Indian nicknames and images are offensive and demeaning
- **Also on this side,** we have <u>every</u> American Indian and educational organization and entity of the region who have clearly asked that the Fighting Sioux nickname be retired.
- **On this other side as well**, we also have virtually every national prestigious organization and entity having gone on record publically as strongly opposing the use of American Indian nicknames and images for sports due to the harm they cause American Indian students and youth.
- **And on this other side of the Scales of Justice,** we have strong past and current resolutions from academic departments at UND, the University Senate and the UND Student Senate, the Indian related programs at UND, and the UND Indian Association on campus. Together, these groups represent the UND administration, faculty, staff, and students, just as each legislator here is to act and serve in a way that represents their constituents.
- **We should also consider that UND is well into its official transition process,** and any action to move the proposed legislation forward may be viewed as a mockery of UND's current administration and processes.
- **And naturally, we need to consider the potential devastating impact these proposed bills would have on our athletic teams and every single individual athlete** – be they involved in hockey, basketball, tennis, or other UND team sports - that aspires to realize the results of

years of hard work and training by demonstrating their long-honed skills at the national conference level of competition.

- **It is also imperative to mention here that we have an NCAA court agreement outlining processes that our ND Attorney General agreed to uphold**; and yet now – because these processes didn't turn out the way some powerful constituents thought they would, we are trying to disregard this formal court agreement by going around it via the proposed bills. This recent activity certainly does not reflect very honorably on our Attorney General, or our respect for such legally binding court agreements.
- **And please, let's not overlook the unique needs of our students, the number one constituents our state higher education institutions are charged with serving.** We have 11 state institutions of higher education, each with unique needs and strained budgets, all with academic missions that include serving and providing outreach to the American Indian tribes of the state. The fact is that the proposed bills, if passed, will bring continued harm to our American Indian programs and students – the evidence is in and it's absolutely overwhelmingly in favor of immediately retiring these American Indian nicknames and logos. And beyond the serious negative impacts to our American Indian students, which I'd like to remind legislators: this is a historically underrepresented group in higher education based on decades of critically low recruitment and retention rates – retaining the Fighting Sioux nickname will, in turn, harm **all** students who attend UND because if these bills are passed and the nickname is retained as a result – we will be teaching our entire student body that money and power really do win out over human rights in ND.
- **Further, UND will long suffer a deeply concerning national reputation** regarding the blind eye it is turning to the human rights of the diversity located in our state's own "back yard," American Indian students, should this proposed legislation move forward.
- **It is also vitally important to consider the legal challenge that may occur as a result of moving the proposed bills forward,** which will predictably take a great deal of time, human resources, and be extremely costly to ND tax payers.

Now when we look to sort through and weigh out the various testimonies being shared here today, I think it might be helpful to visual the Scales of Justice. On one side: the fans who like it and think it honors American Indian people, **and on the other side, a virtual mountain** comprised of **individuals,** American Indian **tribes of the region and nation**, programs, offices, **national, regional, educational, and tribal** organizations and entities, **and a growing body of published, scientific research** that details the **actual harm** being done to American Indian people through the continued use of such demeaning and offensive practices. And finally, we have the **athletes** to consider, and the **predictable additional costs** that will likely result from legal challenges.

And when we apply this controversial issue to the Scales of Justice that are supposed to govern our decisions – there's only one decision to be made today.

One side clearly outweighs the other.

Please do not consider moving these three proposed bills forward. I guarantee you that if indeed that were to take place, it would only give credence to those who say this is all about

power and money. As I said in the beginning, I see this as a human rights issue, and if these bills are passed, this controversy will - without a doubt - go on and on and on...continuing on the UND campus for perhaps another 50 or more years.

The time has come and indeed is before you right now - to weigh out the pros and cons, look at the two sides of the scale, and vote in the only way that makes sense in your minds and hearts.

Vote no on proposed HB's 1208, 1257, and 1263.

Thank you.

NORTH DAKOTA INDIAN EDUCATION ASSOCIATION

Resolution regarding the use of the "Fighting Sioux" Name and Logo at the University of North Dakota

WHEREAS, it is the mission of the North Dakota Indian Education Association to represent and promote a quality education as it pertains to the academic, social, physical, cultural, and spiritual well-being of Indian children and adults; and

WHEREAS, the North Dakota Indian Education Association represents all K-12 schools and students in the state of North Dakota, and significant numbers of American Indian students go on to pursue higher education opportunities at mainstream, public institutions of higher education including the University of North Dakota; and

WHEREAS, that any use of American Indian names and logos in athletics is demeaning whether intended or not; and

WHEREAS, these names and symbols promote and encourage practices that promote hurtful, historical stereotypes, and trivialize American Indian culture, traditions, and spirituality; and

WHEREAS, the United States Commission on Civil Rights (2001) called for an immediate end to using Native American names and symbols by non-Native schools and public institutions as these names and logos teach all students that stereotyping of minority groups is acceptable; and

WHEREAS, the American Psychological Association (APA) and numerous other national education, American Indian, and other [redacted]izations and entities, along with a wealth of published, academic research have revealed the harm caused by the use of American [redacted]n names and images for athletic teams; and

WHEREAS, the University of North Dakota University Senate (2009) passed a resolution stating the immediate need to respectfully retire the Fighting Sioux nickname and logo(s) due to its harmful impact on students, its divisive impact on the community, and its direct conflict with the University mission, and the University Student Senate passed a resolution (January 23, 2011) strongly opposing recent ND legislators' proposed bills to retain the Fighting Sioux nickname; and

WHEREAS, the use of the name and symbol at the University of North Dakota hinders the full participation of American Indian students in all aspects of campus life; and

WHEREAS as citizens, American Indian people have a right to be heard, represented, and involved in all aspects of education at the local, state, and national levels.

NOW THEREFORE BE IT RESOLVED, that the North Dakota Indian Education Association strongly opposes North Dakota Legislature proposed HB's # 1208, 1257 and 1263.

BE IT FURTHER RESOLVED, that the North Dakota Indian Education Association strongly encourages the President of the University of North Dakota, the Chancellor of the North Dakota University System and the North Dakota State Board of Higher Education to continue the transition process to retire the fighting Sioux nickname and logo(s).

THE FOREGOING RESOLUTION WAS DULY PASSED AT THE NORTH DAKOTA INDIAN EDUCATION ASSOCIATION ANNUAL CONFERENCE BY THE MEMBERSHIP ON THE 22nd DAY OF JANUARY, IN MINOT, N.D.

Patricia Walking Eagle, NDIEA President

[redacted]en Hartman, NDIEA Secretary

TESTIMONY ATTACHMENT 17

To House Education Committee,
Representative Rae Ann Kelsch, Chair

And to whom it may concern,

My name is William Crawford, and my Dakota name is Sunka Ska. I am a member of the Sisitunwan Wahpetunwan Oyate and currently in my fourth year at the University of North Dakota. I am writing this in concerns of House Bills 1208, 1257, and 1263. As a Native American student on the campus of UND, I have personally dealt with how this logo/nickname controversy affects my educational and social experiences at this institution. All these negative experiences began during my very first year at UND. Just a simple thing as meeting people became an issue as others would find out that I'm native and go straight to the question of my view on the logo. Of course, if I was not with them I became no friend of theirs. I can't even go to any sporting events without feeling demeaned and seeing my culture mocked. I never attended any basketball, volleyball, or football games because of this. I have gone to one hockey game and that is a whole different story. I will just say that I will never go again. Besides all the name-calling, class arguments, and overheard racial slurs, I would also like to point out that students who are demeaned and demoralized by this nickname/logo cannot even show their pride for this school and buy clothing and other memorabilia. This may seem like a short summary, but I hope it is clear that myself, and other students who have shared the same experiences as I have, are not having the same college experiences as a normal, average, typical student.

I would like to finish with one my latest experiences. Let me start off by saying that in Dakota culture, we highly respect and honor our veterans. Even if any of you have gone to a Wacipi (Powwow) it should be clearly evident. But several weeks ago, I was in a rush and wanted something fast and healthy to eat. So I went to Pita Pit, mainly because I had coupons. So I'm standing in line and I look down in front of me and there is a mat in front of the cashier with a huge FS logo on it. It was worn and was full of mud and snow. The customer in front me stood on it, kicking the snow off his shoes right across the "warriors" face. I instantly became disgusted and walked out the door. So my question is this, "Is this how you respect and honor us?" By even demeaning a symbol of a Dakota/Lakota/Nakota warrior into a dirty wet floor mat? I don't mean to boast in any way, but I come from a family of veterans and I will never come to a day where I even think about laying a picture of one of them down on the ground and walking over it every day. I hope this is a clear example of how this nickname/logo affects not only the campus, but people's experiences across Grand Forks.

And now, out of nowhere, it is proposed to force UND to retain the FS logo and nickname. Is this the type of traditions that should be kept alive? The tradition of degrading a human's culture and background? The tradition of negatively affecting student's college experiences? And the tradition of having a controversial and divisive atmosphere at a public university?

Thank you for your time,
William Crawford

TESTIMONY ATTACHMENT 18

January 26, 2011

To: ND House Education Committee:

Rep. RaeAnn Kelsch (Chair)
Rep. Lisa Meier (Vice Chair)
Rep. Lyle Hanson
Rep. Joe Heilman
Rep. Brenda Heller
Rep. Bob Hunskor
Rep. Dennis Johnson
Rep. Karen Karls
Rep. Corey Mock
Rep. Phillip Mueller
Rep. Karen M. Rohr
Rep. David Rust
Rep. Mark Sanford
Rep. Mike Schatz
Rep. John D. Wall

This packet of materials was assembled by the UND Campus Committee for Human Rights, for distribution to members of the House Education Committee during public hearings related to HB 1208; HB 1257; HB 1263. We strongly urge you to vote against all three bills.

Enclosed you will find the following documents, which we offer as selected documentation from just the last several years of efforts by national and tribal educational organizations, and faculty and staff within the NDUS, to address significant educational problems and concerns related to UND's use of the "Fighting Sioux" name and logo in its athletics program.

1. Summary of Academic organizations, tribal governments, tribal organizations and UND American Indian Programs on record as raising concerns or objections to name/logo.
2. Grand Forks Herald Ad placed by UND faculty, staff and concerned community members concerned about the controversy and its toll on UND and the community.
3. "Teach Respect" handout by Barbara E. Munson, educator active in Wisconsin efforts to end use of American Indian cultural images in public schools.
4. American Psychological Association Resolution.
5. UND University Senate Resolution (2009).
6. 2005 Response to UND appeal against NCAA Policy on American Indian team names and logos/mascots: (response was sent to NCAA by UND American Indian Programs staff, and faculty and staff in Campus Committee for Human Rights).
7. 2006 UND Faculty Petition to Retire the Name/Logo, made to the North Dakota State Board of Higher Education.

The documents we are including here are not comprehensive, and they do not cover more recent events, but are meant to illustrate to you the seriousness of issues long raised by educators regionally and nationally. We remain concerned that public and media debate about the longstanding controversy continues to neglect the serious educational dimensions of this issue. Please do not hesitate to contact us if you would like more information or documentation.

Dr. Sharon Carson
UND Department of English
Merrifield Hall 110
276 Centennial Drive Stop 7209
Grand Forks, ND 58202-7209
701.777.2764

Professor Lucy Ganje
UND Department of Art and Graphic Design
Hughes Fine Arts Center
3350 Campus Road Stop 7099
Grand Forks, ND 58202-7099
701.777.2670

Following is a summary of academic organizations, tribal governments, tribal organizations and UND American Indian Programs that have asked the University of North Dakota to end the use of its "Fighting Sioux" nickname and logo. It includes:

I. The Commission of the North Central Association of Colleges and Schools' (NCA) 2004 Re-Accreditation Report on the University of North Dakota
II. Research conducted on the University of North Dakota campus regarding the nickname/logo
III. UND American Indian Programs opposing the nickname/logo
IV. A request to convene the UND University Council to discuss the nickname/logo
V. Resolutions/requests asking UND to discontinue use of the nickname/logo
VI. Other organizations calling for an end to the use of American Indians as sports team names, logos and mascots:

I. The Commission of the North Central Association of Colleges and Schools' (NCA) 2004 Re-Accreditation Report on the University of North Dakota. *2004*

Following are sections of the report that refer to the "Fighting Sioux" nickname and logo and its impact on UND:
ASSURANCE SECTION
Criterion Four, "The institution can continue to accomplish its purposes and strengthen its educational effectiveness."
Salient Evidence of Fulfillment of Criterion
2. Evidence that demonstrates the criterion needs institutional attention:
d. It is the considered judgment of the visiting team that continued use of the Indianhead logo and the "Fighting Sioux" nickname reduces the university's ability to accomplish its purposes and diminishes its educational effectiveness.

Before and during the visit, team members studied the long history of this issue and learned of the deep campus divisions on the subject and of the President's and the campus's deep commitment to assure that the use of logo and nickname were proper and respectful. At the outset, team members were prepared to conclude that the issue was not significant enough to be given attention in the team's report, did not wish to intrude into a campus matter, and were prepared to consider it closed by the decision of the State Board of Higher Education in December 2000. By the end of the visit, however, the team unanimously came to a different conclusion for compelling reasons. The issue was clearly not at rest. It continues to be raised by those who consider it a moral issue as well as by those who do not object to the symbols but who deplore what is happening to the campus. It is clear that it will simmer on, until it boils over again openly, while in the meantime diminishing collegiality and learning for many in the campus community. It will not go away.

The team has the following comments to offer the institution and its board:

i. This persistent controversy has a negative impact on the learning environment at the University of North Dakota. It adversely affects student participation in the classroom and the laboratory. It adversely affects student relationships in residence halls and in sports and other recreational activities. It encourages disrespectful treatment of some students by other students and by some faculty and staff. Team members also hear that it adversely affects student recruitment and retention. It is an issue which distracts students, faculty, staff, and administration from the very important business of higher education.

ii. Continued use of the logo is manifestly inconsistent with the university's goal of being the foremost university in the nation in the programs it offers for and about American Indians, a goal as important to the state and university as it is to those served by it.

iii. It is particularly awkward for an American university, which endeavors to teach and model respect for others and sensitivity to their perspectives, to widely and prominently employ a logo and nickname that a substantial number of American Indians and their organizations have said and continue to say is offensive and demeaning.

iv. Times change. Values and practices change. As the nation has moved over the last century to de-legitimize and reduce discrimination against minorities, it has become less tolerant of the use of stereotypes and language regarded as offensive by minorities and many others. There was a reason to change the nickname from Flickertails in 1930. There is reason to change the nickname from "Fighting Sioux" today. If UND continues on course, it will be increasingly out of step with the times.

v. In the short run, there is no win-win resolution to this controversy. In the long run, if use of the logo and nickname were discontinued, everyone would win. In the long run, if use of the logo and nickname is not discontinued, everyone loses.

vi. Ultimately, the University of North Dakota is too good an institution, and its leadership is too important to the State of North Dakota, to let this issue continue to weaken its performance and impede its full development. The state board should revisit its earlier decision and direct the campus to develop and implement an orderly plan for discontinuing use of the Indianhead logo and the "Fighting Sioux" nickname.

ADVANCEMENT SECTION
REPORT OF A COMPREHENSIVE EVALUATION VISIT
II. CONSULTATIONS OF THE TEAM
B. Athletic Teams' Logo and Nickname

The team strongly recommends appropriate action by the State Board of Higher Education to support the campus unequivocally in providing honorable retirement for the "Fighting Sioux" nickname and logo and appropriate replacements. The team also recommends that, with such support, UND strenuously seek to achieve resolution and reconciliation throughout campus and state constituencies regarding the logo and nickname. The team encountered such strong disagreement and negative feelings among students, faculty, staff, and regional community about the "Fighting Sioux" name and logo in its interactions throughout the visit that it strongly believes resolution of the matter is necessary to move the campus forward. The controversy clearly has a negative impact on the campus climate for majority and minority students, faculty, and staff. The negative consequences cast a shadow on the considerable institutional efforts and successes to advance excellence through diversity in the learning environment.

There is clear evidence that there are strong views on both sides of the issue, and neither point of view seems to be content with the current University system decision about the logo and nickname. While these are critical matters, it may be the case that these positions are also symptomatic of basic social issues in our society. The controversy did not begin with the name and the logo and it will not be resolved through administrative fiat.

A long time member of the University community stated the belief that there needs to be a reconciliation between the Indian and White communities in order to begin to build bridges of understanding among all in the majority and minority communities in the University and regional communities. A proposal to begin the reconciliation process might begin by requesting the State Board to invest trust in the institution to bring together people of good will on both sides of the issue to begin a dialog to address the historic basis for their feelings.

The basic premise would be that the citizens and the Board would agree to live with whatever outcome resulted from a thoughtful, considerate, and compassionate exploration of the issues in a spirit of reconciliation similar to the South African Reconciliation Process. All would have to agree that there may be no perfect solution and that the solution is a continual process of introspection, trust, and compromise to create an inclusive community that understands and appreciates the historic continuity of the symbols in the seal of the University of North Dakota and how they relate to the cultures that inhabited the territory at the founding of the institution. The process would be arduous but should not be interminable. Both sides would have to agree at the outset that in the final analysis all would have to reconcile.

II. Research conducted on the University of North Dakota campus:

Emotional reactions to the Fighting Sioux logo and nickname among Indian and non-Indian students

LaRocque, Angela, McDonald, Doug, & Ferarro, Ric

(ABSTRACT)

The purpose of the study was to investigate to what extent, the "Fighting Sioux" Nickname and Logo affects American Indian and Majority Culture college students emotionally. This study compared American Indian and Majority Culture students' differences of emotional reactions and distress to two different slide presentations using images of the "Fighting Sioux" Nickname and Logo found on the campus of the University of North Dakota (UND). One set of slides was deemed "Neutral", which included posters or items such as pens, or book-bags with the words or images. The second set of slides was labeled "Controversial" and included posters and t-shirts with derogatory depictions (i.e. "Sioux Suck"), and vandalized images and slogans that had occurred on the UND campus. Participants consisted of 36 Majority Culture and 33 American Indian College students in attendance at UND. Each participant filled out an informed consent form, a demographic questionnaire, and a Multiple Affect Adjective Checklist-Revised (MAACL-R) before seeing either the Neutral Images slide presentation or the Controversial slide presentation. After viewing the first presentation, the participants filled out another MAACL-R and then viewed the second presentation. They then filled out another MAACL-R and the Nickname and Logo Distress Scale (NLDS) to measure changes in affect from one condition to the next. Data analyses revealed that American Indian participants had significantly higher levels of negative affect than Majority Culture participants after viewing even the Neutral slide show and that their affect reached an even higher state after viewing the Controversial slide show. The Majority Culture participants' level of affect, on the other hand, did not significantly change after viewing the Neutral slide show, and did moderately after viewing the Controversial slide show. The findings suggest that American Indian students at UND experience higher levels of psychological distress by being exposed to images of the "Fighting Sioux" nickname and logo – be they Neutral or Controversial, whereas non-Indian students react with less emotional distress upon exposure to these images. These findings refute the common argument that American Indian students as a group find the logo and images, and the issue overall, to be "honoring" them. Indeed, these results suggest the images, words and associated issues contribute to adversely impacting Native students.

American Indian images in college/university athletic mascots and logos

McDonald, J.D., McDougall, C., Bercier, H., Storey, A.

(ABSTRACT)

It is no secret that cross-cultural, ethnic, and racial conflicts and misunderstandings regarding American Indians still abound in the United States (McDonald & Chaney, 2002). Nowhere are the lines in the cultural sand more decisively drawn than in the use of American Indian images, names and logos for athletic teams. More than 150 high schools, colleges, and universities retain athletic team names or mascots reflecting American Indian symbols, words, names, or images. Many American Indian leaders and groups suggest this practice represents a form of institutional racism and systematic oppression. The counter argument, typically espoused by majority culture member fans, alumni, athletic team boosters and other supporters, suggests these names, logos, and images "honor" American Indian

tribes, individuals or groups. An additional argument against changing American Indian names, logo, and mascot claims a broad rage of negative impacts that will potentially befall their institution. This study investigated the changes experienced by 22 institutions of higher education that had changed their athletic teams' American Indian-related nick-name, logo, and/or mascot. Pre- and post-name change status on a variety of institutional variables including enrollment, alumni contributions, team win/loss records, counseling center visits, campus arrests, and federal, state and local funding were obtained. A series of correlated-samples t-tests demonstrated no significant differences on any of these variables. Clearly, there is no empirical support for the argument against changing Indian-related mascots and logos because of potential adverse impact on these variables, at least among this sample of colleges and universities. The study is somewhat limited by small sample size (although it represents roughly 80% of colleges and universities in this category).

McDonald, J.D., & Chaney, J (2003). Resistance to multiculturalism: The "Indian problem", in Mio, J. S., & Iwamasa, G. Y. (Eds.). Multicultural mental health research and resistance: Continuing challenges of the new millennium. New York: Brunner-Routledge.

Sports Fan Identification and American Indian mascots

Jollie-Trottier, T., McDonald, J.D., Baker, Laiell, & Baker, Allison

(ABSTRACT)

The controversial use of American Indian mascots, nicknames and logos by athletic teams has resulted in a variety of reactions by fans and other supporters. Although these reactions are varied and complex, there are some underlying patterns and processes. This study measured sports spectator identification and sports fan motivation among University of North Dakota (UND) students. Participants consisted of 57 Northern Plains American Indian students and 90 Caucasian students. Participants completed the Sports Spectator Identification Scale (SSIS) and the Sports Fan Motivation Scale (SFMS). It was predicted that Caucasian students would report higher levels of spectator identification with UND "Fighting Sioux" athletic teams than American Indian students. It was further hypothesized Caucasian students would be more likely to contest changing the "Fighting Sioux" nickname, mascot, and logo. It was also predicted that motivation for attending UND sporting events would differ between Caucasian and American Indian students. It was also hypothesized Caucasian students would score higher on all SFMS subscales including: eustress, entertainment, family, self-esteem, group affiliation, economic, aesthetic, and escape. A series of independent t-tests revealed support for each hypothesis. More specifically, it was found that Caucasian students reported higher levels of spectator identification with UND athletic teams, were more likely to oppose changing the "Fighting Sioux" nickname, mascot, and logo, and were more motivated to attend UND sporting events than were American Indian students. Caucasian students indicated significantly higher levels of motivation than American Indian students on the following SFMS subscales: eustresss, entertainment, family, self-esteem, group affiliation, and escape. Discriminant function analysis suggested SSIS total score and two of the SFMS subscale scores (aesthetic and eustress) were strong predictors of ethnic group membership. Nearly sixty percent of the Caucasian students endorsed Hockey as their favorite UND sport. Interestingly, 25% of the American Indian students wrote in "None" even though "None" was not an actual choice.

Bicultural orientation and the UND "Fighting Sioux" Nickname controversy

LaRocque, A., McDonald, J.D., Poitra, B., McDougall, C.

(ABSTRACT)

The purpose of this study was to compare the effect of cultural affiliation on attitudes, beliefs, and reactions to the "Fighting Sioux" Nickname for 60 Northern Plains American Indian and 61 non-Indian students at the University of North Dakota. Participants completed a demographic questionnaire and the University of North Dakota Fighting Sioux Nickname Attitudes, Beliefs, and Reactions (UNDFSNABR) survey. In addition, American Indian participants completed the Northern Plains Biculturalism Inventory (NPBI) to identify cultural identification. Hypotheses were: 1.) American Indian responses on the UNDFSNABR survey would differ from non-Indians. 2.) Traditional Indians would oppose the use of the "Fighting Sioux" nickname, whereas more assimilated Indians would have attitudes, beliefs, and reactions more similar to non-Indians. Descriptive and correlation analyses were conducted. After analyzing the descriptive analysis of the means of the items on the UNDFSABR between American Indians and non-Indians, a series of selected t-tests were conducted. The first hypothesis was supported. Selected t-tests revealed that American Indian students had significantly different attitudes, beliefs, and reactions to the use of the "Fighting Sioux" nickname and its related issues than non-Indians. American Indians were negative toward the nickname while non-Indians were positive toward the nickname. The second hypothesis was partially supported. For the most part, Assimilated Indians did not react to the nickname the same way as non-Indians. Instead, they tended to view the issue similarly as Traditional American Indians. This study revealed that American Indian students and non-Indian students significantly differ on their attitudes, beliefs, and reactions to the "Fighting Sioux" nickname controversy, although this study did not reveal why these differences exist. Hopefully, this study will contribute to the issue, provide a basis for further research in this area, and help in finding a resolution to the issue.

Discriminatory Affects of Native American Mascot Endorsement or In-Group/Out-Group Dynamics

John Gonzalez, J.Doug McDonald

(ABSTRACT)

This study demonstrated that the multiple social categories created by manipulating the endorsement/opposition of Native mascots by Native and European American students at a university with a Native mascot allowed for the identification of discrimination based on the mascot issue. The manipulation of Native American Mascot Endorsement (NAME) in Native and European American confederates created a multiple in-group/out-group dynamic influenced discriminatory behavior.

RESULTS

In general, it was hypothesized that the Native American students would be subjected to more prejudice and receives more discrimination than White students (by White UND students) receive. Furthermore, it was hypothesized this prejudice and discrimination would vary because of the students' public opinion on the use of the Fighting Sioux name and logo. Specifically, SIT predicts the Native student who openly opposed the use of the Fighting Sioux name and logo would receive the most prejudice and discrimination, while the White confederate who openly supported the use of the Fighting Sioux name and logo would receive the least amount of prejudice and discrimination. Moreover, the additional natural (Ethnicity) and manipulated (NAME) in-group/out group.

For the prejudice ratings, the significant main effect of ethnicity suggests the Native confederates at UND do experience prejudice, regardless of the opinion about the Fighting Sioux name and logo. From the ratings, this translated into the participants being less likely to want to meet the Native confederate and having an overall less favorable reaction to him. This supports the hypothesis in which SIT predicted that Natives are an out-group and evaluated less favorably. The non-significant interaction between Ethnicity and NAME was also predicted by Social Identity Theory in that an additive combination of tendencies occurred, with double in-groups receiving the most positive rating, double out-groups the most negative, and partial groups somewhere in the middle. If the above statement is true, then the non-significant main effect of NAME does not support the hypothesis. A profile plot of the in-group/out-group ratings provides a visual description of this relationship (See Figure 5). Examination of the profile plot suggests the non-significant effect of NAME is a result of the Native confederate who is pro-

confederate who supports the Fighting Sioux name/logo is considered a "good Indian" and confederates are as likely to want to meet him as the White confederate who supports the Fighting Sioux name and logo. The White confederate who supports the name/logo is "expected" to do so, and therefore not rated more favorably. Finally, the profile plot does indicate the Native confederate who is anti-logo (double out-group) does receive lower ratings than the Native confederate who supports the name/logo, which is socially significant and appears to be a trend throughout the data.

The discrimination rating analysis resulted in a similar pattern of the Native confederate who is anti-logo receiving lower scores than the Native confederate who is pro-logo. In this case, it translates into being less likely to receive a scholarship or less likely to be hired for a job – discrimination. However, the significant interaction between Ethnicity and NAME is contrary to the hypothesis and suggest the discrimination received is a function of Ethnicity AND opinion of the name/logo. Figure 2 (page X) shows the Native confederate who is pro-logo receiving the least discrimination and more likely to receive a scholarship or job than all others are. Not predicted, is the White confederate who is pro-logo receiving the most discrimination and least likely to be given a scholarship or job. Again, one interpretation is the pro-logo Native confederate being evaluated as a "good Indian" and the pro-logo White confederate as being evaluated as "average Joe" or fitting the "expectation" and nobody special. Furthermore, the social significance in the data profile is that the Native confederate who is pro-logo receives better outcomes than the Native confederate who is anti-logo.

Really? You don't look like an American Indian: Social Representations and Social Group Identities

Fryberg, Stephanie Ann

(ABSTRACT)

Social representation refers to ideas and meanings that help individuals orient themselves and communicate with others in particular social contexts (Moscovici, 1988). Social representations provide the structure and language for understanding such questions as "Who am I?" and "Who are we?" Social group identities carry with them a set of meanings and ideas that inform the interpersonal context for both in-group and out-group members. The purpose of this dissertation is to examine the psychological costs and benefits of social representations of minority groups, in this case American Indians, when the widely shared representations are limited in scope. The present research answers the following questions: 1) What are the prevalent social representations of American Indians' and how frequently do they appear in mainstream American contexts? 2) What are the consequences of explicitly priming these social representations for American Indians' self-esteem, collectively self-efficacy, and achievement-related possible selves? 3) Does ethnic identification mediate this relationship? and 4) What are the consequences of explicitly priming representations of minority groups for European Americans' self-esteem? In Study 1, one year of articles from two major newspapers and a decade of Hollywood movies were coded for representations of American Indians. This content analysis revealed that representations of American Indians were relatively scarce and fairly limited in scope, so that all representations could be categorized into three major categories: the romanticized Indian, the broken Indian, and the Progressive Indian). In Studies 2 and 3, American Indian high school students were primed with prevalent social representation of their group (i.e., Pocahontas, Chief Wahoo, or Negative Stereotypes), and then completed state self-esteem or collective self-efficacy measures. In both studies, American Indian students primed with social representations reported depressed self-esteem and collective self-efficacy when compared to American Indian students in the control (no social representation) condition. In study 4, American Indian undergraduates, who were attending a predominantly American Indian university that has as its mascot an image of an American Indian chief, were shown and asked four questions about a particular social representation of American Indians (either Chief Wahoo, Chief Illiniwek, the Haskell Indian, or an American Indian College Fund advertisement). Then they completed a possible selves questionnaire. American Indian undergraduates exposed to these representations reported fewer achievement-related possible selves than did American Indians in a no-representation control condition. Study 4 therefore replicated and increased the generalizability of the findings in Studies 2 and 3. Finally, in Study 5, European Americans were explicitly primed with social representations of American Indians (i.e., Pocahontas, Chief Wahoo, or Negative Stereotypes). European Americans exposed to these social representations conditions reported more self-esteem than did European Americans enjoyed a self-esteem boost when primed with representations of American Indians. Thus, social representations are implicated in the psychological functioning of both American Indians and European Americans. Implications and potential mediators of these effects are discussed.

III. University of North Dakota American Indian Programs that have gone on record opposing the "Fighting Sioux" name and logo:

American Indian Student Services; Indians Into Medicine; Recruitment/Retention of American Indians Into Nursing (RAIN); Indians Into Psychology Doctoral Education; Minority Access to Research Careers; A h'jo gun; Science, Engineering, and Math Technical Assistance Center; Disability Research Encompassing Americans in Math and Science (DREAMS); Native Media Center; Indian Studies Department; National Resource Center on Native American Aging; Upward Bound; Multicultural Scholars Into Dietetics Program; Fort Berthold Community College and Turtle Mountain Community College Teacher Training Project; Family and Domestic Violence Training Project; Prairielands Addiction Technology Center and Center of Excellence in native American Substance Abuse; Native American Law Project; Northern Plains Tribal Judicial Training Institute; Tribal Environmental Law Project; Northern Plains Indian Law Center.

IV. Request to Convene the UND University Council

Thursday, December 2, 1999

"The past several days have demonstrated to all of us the depth of feeling associated with our athletic team nickname and various logos. None of this controversy is new. In 1972, all North Dakota universities were directed by the State Board of Higher Education to examine and make appropriate changes to Native American nicknames; the issue has been studied extensively in the intervening 28 years.

What is most striking about recent events is the anger being directed against Native American students, who--regardless of their stand on the nickname or logo--have been targeted as "the enemy" by other members of our university community. The result can be seen in the disrupted lives of our Native American students, who are struggling to finish the semester in an atmosphere that can best be described as hostile. It is clear to many of us that this kind of hostile atmosphere will continue to flare up at intervals, so long as we persist in using Native Peoples as team mascots. All of us--administrators, teachers, staff, and students--have a binding responsibility to provide a safe and respectful educational environment for every member of the UND community

With this in mind, President Kupchella, I ask you to convene a meeting of the University Council, with the clear objective of developing a process by which the University of North Dakota can respectfully and gracefully retire the Fighting Sioux nickname and Indian Head logo, replacing them with a logo and nickname that will bring honor and pride to all North Dakotans. President Kupchella, will you convene the Council? Scott Lowe, Gerald Bass"

V. Resolutions/requests to discontinue use of the nickname/logo:

UND Student Senate (Resolution SR 18)—*vetoed by Student Senate president* *January 25, 1999*

...Therefore, be it resolved that the UND Student Senate, in true honor of the word and request of the Dakota, Lakota, and Nakota peoples, stands for discontinuing the use of the "Sioux" name as the nickname and logo of our university...

North Dakota Indian Education Association (Resolution No. 10-19-2001) *October 19, 2001*

...NOW THEREFORE BE IT RESOLVED, that the North Dakota Indian Education Association strongly opposes and calls for an immediate end to the University of North Dakota's use of the "FIGHTING SIOUX" name and its accompanying Indian head logo...

National Indian Education Association (Resolution No. 01-02) *October 28-31, 2001*

...NOW THEREFORE BE IT RESOLVED, that the National Indian Education Association deplores, opposes and calls for an immediate end to the University of North Dakota's use of the "Fighting Sioux" name and its accompanying "Indian-head" symbol...

Minnesota Indian Education Association (Resolution No. 2103) *October 12, 2001*

...THEREFORE BE IT RESOLVED, the Minnesota Education Association deplores, opposes and calls for an immediate end to the University of North Dakota's use of the "Fighting Sioux" name and its accompanying "Indian-head" symbol.
BE IT FURTHER RESOLVED, the Minnesota Indian Education Association cautions American Indian students against attending the University of North Dakota until such time as the name and logo are changed and the University affirms its commitment to respect racial and cultural inclusion...

National Congress of American Indians (Resolution #SPO-01-046) *June 19, 2002*

(BISMARCK, N.D.) The National Congress of American Indians (NCAI) - the country's oldest, largest and most representative national American Indian and Alaska Native organization - reaffirmed its resolution opposing the University of North Dakota's use of the "Fighting Sioux" name and logo.

United Tribes of North Dakota (Resolution No. 05-06) *September 8, 2005*

...NOW THEREFORE BE IT RESOLVED that the Board of Directors of United Tribes of North Dakota does hereby support the NCAA's decision to ban the use of "hostile and abusive" nicknames, logos and mascots by member colleges and universities of the NCAA in NCAA sanctioned tournaments and urges the NCAA to deny the appeal of UND that seeks permission to continue to use its logo and nickname at such NCAA sanctioned events...

Rosebud Sioux Tribe (Resolution No. 05227) *September 23, 2005*

...THEREFORE BE IT RESOLVED, that the Rosebud Sioux Tribal Council hereby opposes the continued use of the Team Name "Fighting Sioux" by the athletic teams of the University of North Dakota because the term itself is "hostile and abusive" and thus, demeaning to Lakota, Dakota, and Nakota people...

Three Affiliated Tribes, Ft. Berthold Indian Reservation ((Resolution 02-031-RP). *November 21, 2002*

Resolution entitled, "Opposition to the University of North Dakota's use of the Fighting Sioux name and logo"

...NOW, THEREFORE BE IT RESOLVED, that the Mandan Hidatsa & Arikara Nation does hereby support the ending of the use of outdated and politically incorrect American Indian stereotypes at the University of North Dakota and all across America that demean the history and culture of Indian nations...

Standing Rock Sioux Tribe *December 3, 1992*

...NOW THEREFORE BE IT RESOLVED, the undersigned feel that the University of North Dakota should discontinue the use of the "Fighting Sioux" nickname. The undersigned further believe that the President of the University has the authority to discontinue the use of that nickname...

Standing Rock Sioux Tribe (Resolution No. 078-98) *December 2, 1998*

...NOW THEREFORE LET IT BE RESOLVED, the undersigned Standing Rock Sioux Tribal Council hereby reaffirms the Resolution of December 3, 1992, specifically that the University of North Dakota should discontinue the use of the "Fighting Sioux" nickname. BE IT FURTHER RESOLVED, that the foregoing resolution shall be effective on this date and shall remain in full force effect thereafter...

Standing Rock Sioux Tribe (Resolution No. 356-92). *February 16, 1999*

Charles Murphy, Chairman: "The purpose of this letter is to respectfully remind your office and any other entities directly or indirectly associated with UND of our position. It is of course very simple and very clear, "Eliminate and stop the use of the "Fighting Sioux" nickname and caricature today."...while I understand the word tradition is used as rationale to continue the use of the nickname, our people find it very offensive and disrespectful to say the least. This fact alone should compel those fine and respectful people at UND to find a more suitable nickname for such a fine institution as the University of North Dakota..."

Sisseton-Wahpeton Sioux Tribe (Resolution No. SWST-99-015) *February 12, 1999*

...NOW, THEREFORE, BE IT RESOLVED, that the Tribal Council of the Sisseton-Wahpeton Sioux Tribe hereby supports the Standing Rock Sioux Tribe in their efforts to discontinue the use of the Fighting Sioux nickname...

Oglala Sioux Tribe (Executive Committee Resolution No. 99-07X3) *February 3, 1999*

...THEREFORE BE IT RESOLVED, the undersigned Oglala Sioux Tribe Executive Committee hereby support the Standing Rock Sioux Tribal Council reaffirmation of the resolution of December 03, 1992, specifically that the University of North Dakota should discontinue the use of the "Fighting Sioux" nickname...

Crow Creek Sioux Tribe, Harold Miller, Chairman *February 18, 1999*

"...Please accept and understand our position regarding the use of the "Fighting Sioux" nickname use by the University of North Dakota. Our position is simple in that we oppose the use of the nickname and kindly request that UND stop immediately the use of the "Fighting Sioux" nickname and, or mascot...our position regarding the nickname remains until it is eliminated..."

Yankton Sioux Tribe, Stephen Cournover, Chairman *February 19, 1999*

...we hereby reiterate our opposition to the use of the "Fighting Sioux" nickname by the University of North Dakota. People and their culture should not be degraded to such use and we ask UND to "Do the right thing" and change its "Fighting Sioux" nickname.

Cheyenne River Sioux Tribe (Resolution No. 287-97-CR). *October 8, 1997*

...THEREFORE LET IT BE RESOLVED, that the Cheyenne River Sioux Tribe is respectfully requesting the University of North Dakota to do the moral and honorable thing by removing and discontinuing the use of the mascot name "the Fighting Sioux".

Dakota, Lakota, Nakota Summit V (Resolution No. 93-07) *June 10, 1993*

...THEREFORE BE IT RESOLVED, that the Nations and Bands here assembled, denounce the use of any American Indian name or Artifice associated with team mascots...

Turtle Mountain Community College, Gerald "Carty" Monette, President *April 30, 1996*

..."The time has come to drop the name "Fighting Sioux" and to stop the use by UND of American Indians as mascots, symbols and/or caricatures. At one time, I felt that a name change should depend primarily on the wishes of our Sioux Brothers and Sisters. This is still an important factor. However, all Sioux people and all Indian people should not be expected to agree on the name change before you act. Indian people have a right to disagree. What is important is that you recognize that the name "Fighting Sioux" and its accompanying caricatures are wrong. The Turtle Mountain Community College goes on record as advocating for the change..."

United States Commission on Civil Rights *April 13, 2001*

Commission Statement on the Use of Native American Images and Nicknames as Sports Symbols.

...The use of stereotypical images of Native Americans by educational institutions has the potential to create a racially hostile educational environment that may be intimidating to Indian students...The use of American Indian mascots is not a trivial matter...These Indian-based symbols and team names are not accurate representations of Native Americans. Even those that

purport to be positive are romantic stereotypes that give a distorted view of the past. These false portrayals prevent non-Native Americans from understanding the true historical and cultural experiences of American Indians...

American Psychological Association *March 6, 2001*

Letter to President Charles Kupchella: "As President of the American Psychological Association, I implore you to address the concerns of your Native American students, faculty and others that advocate change. Also, while not one of your constituents, I ask that you use the authority of your office to create a safe and protective community within which important issues may be raised without fear of harm to one's self and property." Sincerely, Norine G. Johnson, PhD, APA President. cc. Governor John Hoeven

American Psychological Association *August 21, 2005*

...THEREFORE BE IT RESOLVED that the American Psychological Association supports and recommends the immediate retirement of American Indian mascots, symbols, images, and personalities by schools, colleges, universities, athletic teams, and organizations...

Asian American Psychological Association *February 21, 2001*

Letter to President Charles Kupchella: "This letter serves to formally indicate our support for those students, faculty and staff who have been targets of discriminatory and racist practices by your university. In addition, AAPA supports the efforts to change the university mascot to one that would make ALL students proud, not just a select and privileged few. We would like to appeal to your sense of humanity, and ask that you remedy this situation soon before this issue negatively affects the mental health of yet another group of students. Surely, the university would not be in favor of intentionally oppressing a group of individuals who have a long history of being oppressed in the United States. We urge you to take action." Sincerely, Gayle Y. Iwamasa, Ph.D., President, Asian American Psychological Association. Cc: Society of Indian Psychologists, National Hispanic Psychological Association, Association of Black Psychologists, Office of Ethnic Minority Affairs, American Psychological Association, Society for the Psychological Study of Ethnic Minority Issues

North Dakota Human Rights Coalition *January, 2003*

The North Dakota Human Rights Coalition opposes the use of nicknames, mascots and logos which refer to Native American tribes at educational institutions in North Dakota. The NDHRC is committed to working to effect change so that all people in North Dakota enjoy full human rights, those basic standards without which people cannot live in dignity...

The Preamble to the Universal Declaration of Human Rights begins by recognizing the inherent dignity and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world. The Universal Declaration of Human Rights' Article 26 states that "[e]ducation shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups". The use of Native American nicknames, mascots and logos interferes with the educational institution's ability to fulfill this mandate.

VII. Other organizations calling for an end to the use of American Indians as sports team names, logos and mascots:

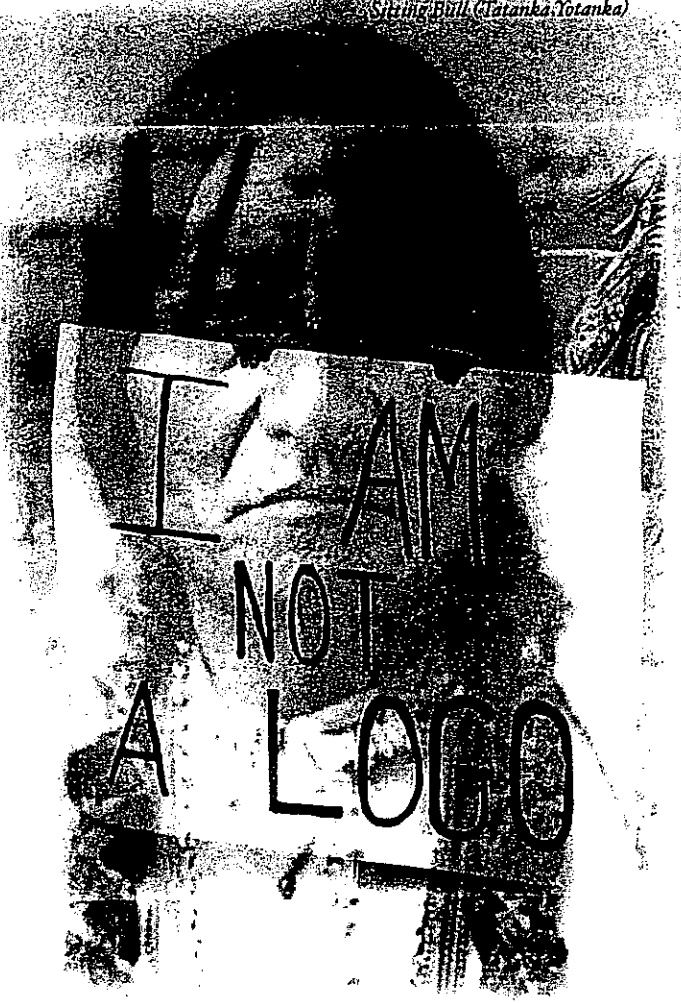
National Education Association; Society of Indian Psychologists of the Americas; American Anthropological Association; Association for Education in Journalism and Mass Communication; Native American Journalists Association; National Association of Black Journalists; Asian American Journalists Association; Association of American Indian Affairs; NCAA Minority Opportunities and Interests Committee; Interfaith Center for Corporate Responsibility; United Church of Christ; American Jewish Committee; National Coalition on Racism in Sports and Media; United Methodist Church; NAACP; Center for the Study of Sports in Society; Rainbow Coalition; National Conference for Community and Justice; UNITY (National Association of Black, Hispanic, Asian and Native American Journalists; American Indian Mental Health Association (Minn.);

These regional American Indian nations and educational organizations have formally requested the University of North Dakota to discontinue using the name "Sioux" and the "Indian head" logo: Standing Rock Sioux Tribe • Turtle Mountain Band of Chippewa • Three Affilliated Tribes • Cheyenne River Sioux Tribe • Oglala Sioux Tribe • Yankton Sioux Tribe • Sisseton-Wahpeton Sioux Tribe • Crow Creek Sioux Tribe • Rosebud Sioux Tribe • North Dakota Indian Education Association • Minnesota Indian Education Association.

The following University of North Dakota departments, programs and organizations are among those supporting a change: American Indian Student Services Office • INMED (Indians Into Medicine) • Department of Indian Studies • University Senate • Student Senate • Native Media Center • School of Law Faculty Executive Committee • Recruitment/Retention of American Indians into Nursing (RAIN) • Indians into Psychology Doctoral Program • National Resource Center on Native American Aging • Multicultural Scholars into Dietetics Program • Native American Law Project • Northern Plains Tribal Judicial Training Institute • Tribal Environmental Law Project • Northern Plains Indian Law Center • Women Studies Program • BRIDGES (Building Roads into Diverse Groups Empowering Students) • MAC (Multicultural Awareness Committee) • United Tribes Special Education Program • United Tribes Principal Leadership for American Indians in Native Schools • United Tribes/UND Community Educators Program • Department of Philosophy & Religion • Department of History • Social Work & Rehabilitation Programs • Campus Committee for Human Rights • Faculty Petition to the State Board of Higher Education

"Let us put our minds together and see what life we can make for our children."

Sitting Bull (Tatanka Yotanka)



Let's find a name we can all rally around.

Following is a representative sample of the over 500 Native American, religious, education and civil rights organizations that are formally on record opposing the use of American Indian peoples as logos, nicknames, or mascots by non Native institutions: National Congress of American Indians • National American Indian Education Association • Great Plains Tribal Chairmen's Association • National Education Association • U.S. Commission on Civil Rights • United Church of Christ • Society of Indian Psychologists • American Psychological Association • National Collegiate Athletic Association • Interfaith Center for Corporate Responsibility • American Jewish Committee • National Coalition on Racism in Sports and Media • United Methodist Church • Minnesota State Colleges & Universities Board of Trustees • NAACP • National Conference for Community & Justice • Wisconsin Indian Education Association • Native American Journalists Association • Minnesota State Board of Education • American Indian Mental Health Association of Minnesota • Great Lakes Inter-Tribal Council • Southern Poverty Law Center • American Anthropological Association • Lac du Flambeau Band of Lake Superior Chippewas • Bad River Band of Lake Superior Chippewas • Menominee Tribe of Wisconsin Chippewa • Affiliated Tribes of Northwest Indians • Commanche Tribe • Cherokee nation of Oklahoma • South Dakota Board of Education • American Sociological Association • Society for the Study of Social Problems • American Counseling Association • Nebraska Commission on Indian Affairs • Modern Language Association • Unitarian Universalists Association of Congregations • Presbyterian Church, U.S.A. • United Indian Nations of Oklahoma • Center for the Study of Sports in Society • Morning Star Institute • National Association of Hispanic Journalists • National Association of Black Journalists • Asian American Journalists Association, and many more.

TEACH RESPECT  NOT RACISM

COMMON THEMES AND QUESTIONS ABOUT THE USE OF "INDIAN" LOGOS

© 1997 Barbara E. Munson, a woman of the Oneida Nation, living in Mosinee, WI

"Indian" logos and nicknames create, support and maintain stereotypes of a race of people. When such cultural abuse is supported by one or many of society's institutions, it constitutes institutional racism. **It is not conscionable that Wisconsin's Public Schools be the vehicle of institutional racism.** The logos, along with other societal abuses and stereotypes separate, marginalize, confuse, intimidate and harm Native American children and create barriers to their learning throughout their school experience. Additionally, the logos teach non-Indian children that it's all right to participate in culturally abusive behavior. Children spend a great deal of their time in school, and schools have a very significant impact on their emotional, spiritual, physical and intellectual development. As long as such logos remain, both Native American and non-Indian children are learning to tolerate racism in our schools. The following illustrate the common questions and statements that I have encountered in trying to provide education about the "Indian" logo issue.

"We have always been proud of our "Indians"." People are proud of their high school athletic teams, even in communities where the team name and symbolism does not stereotype a race of people. In developing high school athletic traditions, schools have borrowed from Native American cultures the sacred objects, ceremonial traditions and components of traditional dress that were most obvious; without understanding their deep meaning or appropriate use. High school traditions were created without in-depth knowledge of Native traditions; they are replete with inaccurate depictions of Indian people, and promote and maintain stereotypes of rich and varied cultures. High school athletic traditions have taken the trappings of Native cultures onto the playing field where young people have played at being "Indian". Over time, and with practice, generations of children in these schools have come to believe that the pretended "Indian" identity is more than what it is.

"We are honoring Indians; you should feel honored." Native people are saying that they don't feel honored by this symbolism. We experience it as no less than a mockery of our cultures. We see objects sacred to us - such as the drum, eagle feathers, face painting and traditional dress - being used, not in sacred ceremony, or in any cultural setting, but in another culture's **game**.

We are asking that the public schools stop demeaning, insulting, harassing and misrepresenting Native peoples, their cultures and religions, for the sake of school athletics. Why must some schools insist on using symbols of a **race** of people? Other schools are happy with their logos which offend no human being. Why do some schools insist on categorizing Indian people along with animals and objects? If your team name were the *Pollacks, Niggers, Gooks, Spics, Honkies or Krauts, and someone from the community found the name and symbols associated with it offensive and asked that it be changed; would you not change the name? If not, why not?

* I apologize for using this example but have found no way to get this point across without using similar derogatory names for other racial and ethnic groups.

"Why is the term "Indian" offensive?" The term "Indian" was given to indigenous people on this continent by an explorer who was looking for India, a man who was lost and who subsequently exploited the indigenous people. "Indian", is a designation we have learned to tolerate, it is not the name we call ourselves. We are known by the names of our Nations - Oneida (On^yote?a·ka), Ho-Chunk, Stockbridge-Munsee, Menominee (Omaeqnomenew), Chippewa (Anishanabe), Potawatomi, etc. There are many different nations with different languages and different cultural practices among the Native American peoples - as in Europe there are French, Swiss, Italian, German, Polish, English, Irish, Yugoslavs, Swedes, Portuguese, Latvians etc.

"Why is an attractive depiction of an Indian warrior just as offensive as an ugly caricature?" Both depictions present and maintain stereotypes. Both firmly place Indian people in the past, separate from our contemporary cultural experience. It is difficult, at best, to be heard in the present when someone is always suggesting that your real culture only exists in museums. The logos keep us marginalized and are a barrier to our contributing here and now. Depictions of mighty warriors of the past emphasize a tragic part of our history; focusing on wartime survival, they ignore the strength and beauty of our cultures during times of peace. Many Indian cultures view life as a spiritual journey filled with lessons to be learned from every experience and from every living being. Many cultures put high value on peace, right action, and sharing.

Indian men are not limited to the role of warrior; in many of our cultures a good man is learned, gentle, patient, wise and deeply spiritual. In present time as in the past, our men are also sons and brothers, husbands, uncles, fathers and grandfathers. Contemporary Indian men work in a broad spectrum of occupations, wear contemporary clothes, and live and love just as men do from other cultural backgrounds.

The depictions of Indian "braves", "warriors" and "chiefs" also ignore the roles of women and children. Although there are patrilineal Native cultures, many Indian Nations are both matrilineal and child centered. Indian cultures identify women with the Creator because of their ability to bear children, and with the Earth which is Mother to us all. In most Indian cultures the highest value is given to children, they are closest to the Creator and they embody the future. In many Native traditions, each generation is responsible for the children of the seventh generation in the future.

"We never intended the logo to cause harm." That no harm was intended when the logos were adopted, may be true. It is also true that we Indian people are saying that the logos are harmful to our cultures, and especially to our children, in the present. When someone says you are hurting them by your action, if you persist; then the harm becomes intentional.

"We are paying tribute to Indians." Indian people do not pay tribute to one another by the use of logos, portraits or statues. The following are some ways that we exhibit honor:

- In most cultures to receive an eagle feather is a great honor, and often such a feather also carries great responsibility.
- An honor song at a Pow-Wow or other ceremony is a way of honoring a person or a group.
- We honor our elders and leaders by asking them to share knowledge and experience with us or to lead us in prayer. We defer to elders. They go first in many ways in our cultures.
- We honor our young by not doing things to them that would keep them from becoming who and what they are intended to be.
- We honor one another by listening and not interrupting.
- We honor those we love by giving them our time and attention.
- Sometimes we honor people through gentle joking.

"Aren't you proud of your warriors?" Yes, we are proud of the warriors who fought to protect our cultures and preserve our lands. We are proud and we don't want them demeaned by being "honored" in a sports activity on a **playing** field. Our people died tragically in wars motivated by greed for our lands. Our peoples have experienced forced removal and systematic genocide. Our warriors gave their sacred lives in often vain attempts to protect the land and preserve the culture for future generations. Football is a game.

"This is not an important issue." If it is not important, then why are school boards willing to tie up their time and risk potential law suits rather than simply change the logos? I, as an Indian person, have never said it is unimportant. Most Indian adults have lived through the pain of prejudice and harassment in schools when they were growing up, and they don't want their children to experience more of the same. The National Council of American Indians, the Great Lakes InterTribal Council, the Oneida Tribe, and the Wisconsin Indian Education Association have all adopted formal position statements because this is a very important issue to Indian people. This issue speaks to our children being able to form a positive Indian identity and to develop appropriate levels of self-esteem. In addition, it has legal ramifications in regard to pupil harassment and equal access to education. If it's not important to people of differing ethnic and racial backgrounds within the community, then change the logos because they are hurting the community's Native American population.

"What if we drop derogatory comments and clip art and adopt pieces of REAL Indian culturally significant ceremony, like Pow-Wows and sacred songs?" Though well-intended, these solutions are culturally naive and would exchange one pseudo-culture for another. Pow-Wows are gatherings of Native people which give us the opportunity to express our various cultures and strengthen our sense of Native American community. Pow-Wows have religious, as well as social, significance. To parodize such ceremonial gatherings for the purpose of cheering on the team at homecoming would multiply exponentially the current pseudo cultural offensiveness. Bringing Native religions onto the playing field through songs of tribute to the "Great Spirit" or Mother Earth would increase the mockery of Native religions even more than the current use of drums and feathers. High School football games are secular; The Creator and Mother Earth are sacred.

"We are helping you preserve your culture." The responsibility for the continuance of our cultures falls to Native people. We accomplish this by surviving, living and thriving; and, in so doing, we pass on to our children our stories, traditions, religions, values, arts, and our languages. We sometimes do this important work with people from other cultural backgrounds, but they do not and cannot continue our cultures for us. Our ancestors did this work for us, and we continue to carry the culture for the generations to come. Our cultures are living cultures - they are passed on, not "preserved".

"This logo issue is just about political correctness." Using the term "political correctness" to describe the attempts of concerned Native American parents, educators and leaders to remove stereotypes from the public schools trivializes a survival issue. A history of systematic genocide has decimated over 95% of the indigenous population of the Americas. Today, the average life expectancy of Native American males is age 45. The teen suicide rate among Native people is several times higher than the national average. Stereotypes, ignorance, silent inaction and even naive innocence damage and destroy individual lives and whole cultures. Racism kills.

"What do you mean, there is hypocrisy involved in retaining an "Indian" logo?" Imagine that you are a child in a society where your people are variously depicted as stoic, brave, honest, a mighty warrior, fierce, savage, stupid, dirty, drunken, and only good when dead. Imagine going to a school where many of your classmates refer to your people as "Dirty Squaws" and "Timber Niggers". Imagine hearing your peers freely, loudly and frequently say such things as "Spear an Indian, Save a Walleye", or more picturesquely proclaim "Spear a Pregnant Squaw, Save Two Walleyes". Imagine that the teachers and administration do not forbid this kind of behavior. Imagine that this same school holds aloft an attractive depiction of a Plains Indian Chieftain and cheers on its "Indian" team. Imagine that in homecoming displays, cheers, and artwork you see your people depicted inaccurately in ways that demean your cultural and religious practices. Imagine that when you bring your experiences to the attention of your school board and request change, they simply ignore you and decide to continue business as usual. Imagine that the same school board states publicly that it opposes discriminatory practices, provides equal educational opportunity and supports respect for cultural differences.

"Why don't community members understand the need to change, isn't it a simple matter of respect?" On one level, yes. But in some communities, people have bought into local myths and folklore presented as accurate historical facts. Sometimes these myths are created or preserved by local industry. Also, over the years, athletic and school traditions grow up around the logos. These athletic traditions can be hard to change when much of a community's ceremonial and ritual life, as well as its pride, become tied to high school athletic activities. Finally, many people find it difficult to grasp a different cultural perspective. Not being from an Indian culture, they find it hard to understand that things which are not offensive to themselves, might be offensive or even harmful to someone who is from a Native culture. Respecting a culture different from the one you were raised in requires some effort. Even if a person lives in a different culture - insight and understanding of that culture will require interaction, listening, observing and a willingness to learn.

The Native American population, in most school districts displaying "Indian" logos, is proportionally very small. When one of us confronts the logo issue, that person, his or her children and other family members, and anyone else in the district who is Native American become targets of insults and threats; we are shunned and further marginalized - our voices become even harder to hear from behind barriers of fear and anger. We appreciate the courage, support, and sometimes the sacrifice, of all who stand with us by speaking out against the continued use of "Indian" logos. When you advocate for the removal of these logos, you are strengthening the spirit of tolerance and justice in your community; you are modeling for all our children - thoughtfulness, courage and respect for self and others.

"Is there any common ground on this issue?" All of Wisconsin's public schools are required to have a non-discrimination statement and a policy to provide enforcement. Through Act 31, all schools are required to provide education, (in the classroom, not on the basketball court), about Wisconsin's Woodland Indians. Many schools have adopted strategic plans emphasizing cultural sensitivity and awareness. These measures should establish considerable common ground between Indian people requesting the removal of the logos and the public schools. Until the logos are removed, however, they are no more than broken promises and hollow, hypocritical rhetoric.

APA Resolution Recommending the Immediate Retirement of American Indian Mascots, Symbols, Images, and Personalities by Schools, Colleges, Universities, Athletic Teams, and Organizations

(Adopted by the APA Council of Representatives on August 21, 2005)

WHEREAS the American Psychological Association has recognized that racism and racial discrimination are attitudes and behavior that are learned and that threaten human development (American Psychological Association, June 2001);

WHEREAS the American Psychological Association has resolved to denounce racism in all its forms and to call upon all psychologists to speak out against racism, and take proactive steps to prevent the occurrence of intolerant or racist acts (American Psychological Association, June 2001);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities undermines the educational experiences of members of all communities-especially those who have had little or no contact with Indigenous peoples (Connolly, 2000; U.S. Commission on Civil Rights, 2001; Society of Indian Psychologists, 1999; Webester, Loudbear, Corn, & Vigue, 1971);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities establishes an unwelcome and often times hostile learning environment for American Indian students that affirms negative images/stereotypes that are promoted in mainstream society (Clark & Witko, in press; Fryberg, 2003; Fryberg & Markus, 2003; Fryberg, 2004a; Munson, 2001; Society of Indian Psychologists, 1999; Staurowsky, 1999);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities by school systems appears to have a negative impact on the self-esteem of American Indian children (Chamberlin, 1999; Eagle and Condor Indigenous People's Alliance, 2003; Fryberg, 2004b; Fryberg & Markus, 2003; Maryland Commission on Indian Affairs, 2001; Society of Indian Psychologists, 1999; The Inter-Tribal Council of the Five Civilized Tribes, 2001; Vanderford, 1996);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities undermines the ability of American Indian Nations to portray accurate and respectful images of their culture, spirituality, and traditions (Clark & Witko, in press; Davis, 1993; Gone, 2002; Rodriquez, 1998; Witko, 2005);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities presents stereotypical images of American Indian communities, that may be a violation of the civil rights of American Indian people (Dolley, 2003; King, 2001; King & Springwood, 2001; Pewewardy, 1991; Springwood & King, 2000; U. S. Commission on Civil Rights, 2001);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities is a form of discrimination against Indigenous Nations that can lead to negative relations between groups (Cook-Lynn, 2001; Coombe, 1999; U. S. Commission on Civil Rights, 2001; Witko, 2005);

WHEREAS the continued use of American Indian symbols, mascots, images, and personalities is a detrimental manner of illustrating the cultural identity of American Indian people through negative displays and/or interpretations of spiritual and traditional practices (Adams, 1995; Banks, 1993; Nuessel; 1994; Staurowsky, 1999; Witko, 2005);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities is disrespectful of the spiritual beliefs and values of American Indian nations (Churchill, 1994; Gone, 2002; Sheppard, 2004; Staurowsky, 1998);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities is an offensive and intolerable practice to American Indian Nations that must be eradicated (U.S. Commission on Civil Rights, 2001; Society of Indian Psychologists, 1999);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities has a negative impact on other communities by allowing for the perpetuation of stereotypes and stigmatization of another cultural group (Fryberg, 2004b; Gone, 2002; Staurowsky, 1999; U.S. Commission on Civil Rights, 2001);

THEREFORE BE IT RESOLVED that the American Psychological Association recognizes the potential negative impact the use of American Indian mascots, symbols, images, and personalities have on the mental health and psychological behavior of American Indian people;

THEREFORE BE IT RESOLVED that the American Psychological Association encourages continued research on the psychological effects American Indian mascots, symbols, images, and personalities have on American Indian communities and others;

THEREFORE BE IT RESOLVED that the American Psychological Association encourages the development of programs for the public, psychologists, and students in psychology to increase awareness of the psychological effects that American Indian mascots, symbols, images, and personalities have on American Indian communities and others;

AND

THEREFORE BE IT RESOLVED that the American Psychological Association supports and recommends the immediate retirement of American Indian mascots, symbols, images, and personalities by schools, colleges, universities, athletic teams, and organizations.

REFERENCES

Adams, D.W. (1995). Education for extinction: American Indians and the boarding school experience. Lawrence, KS: University Press of Kansas.

American Psychological Association (June 2001). An emergency action of the Board of Directors: Resolution against racism and in support of the goals of the 2001 United Nations World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance. Washington, DC: Author. [Available online: http://www.apa.org/pi/racismresolution.html.]

Banks, D. (1993). Tribal names and mascots in sports. Journal of Sport and Social Issues, 17(1), 5-8.

Chamberlin, J. (1999). Indian Psychologists Support Retiring of Offensive Team Mascots. *APA Monitor, 30* (4).

Clark, R. & Witko, T. (in press). Growing up Indian: Understanding urban Indian adolescents. In American Psychological Association (in press). No Longer Forgotten: Addressing the Mental Health Needs of Urban Indians. Washington, DC: Author.

Churchill, W. (1994). Indians are us? Culture and genocide in native North America. Monroe, ME: Common Courage Press.

Connolly, M. R. (2000). What's in a name? A historical look at Native American related nicknames and symbols at three U.S. universities. Journal of Higher Education 71 (5), 515-547.

Cook-Lynn, E. (2001). Anti-Indianism in North America: A voice from Tatekeya's earth. Urbana, IL: University of Illinois Press.

Coombe, R. J. (1999). Sports trademarks and somatic politics: Locating the law in critical cultural studies. In R. Martin & T. Miller (Eds.). SportCult (pp. 262-288). Minneapolis, MN: University of Minnesota Press.

Davis, L. (1993). Protest against the use of Native American mascots: A challenge to traditional, American identity. Journal of Sport and Social Issues 17 (1), 9-22.

Dolley, J. (2003). The four r's: Use of Indian mascots in educational facilities. Journal of Law and Education, 32 (1), pp. 21-35.

Eagle and Condor Indigenous People's Alliance (2003). Resolution by the Eagle and Condor Indigenous Peoples' Alliance on Eliminating Native American Indian Descriptions Naming Mascots, Logos, and Sports Team Nicknames in Oklahoma Public Schools. [Available On-line: http://www.aistm.org/2003ecipa.htm.]

Fryberg, S. A. (June, 2003). *Free to be me? The impact of using American Indians as mascosts.* Invited address at the 16th Annual Convention of American Indian Psychologists and Psychology Graduate Students, Utah State University, Logan, Utah.

Fryberg, S. A. & Markus, H. R. (2003). On being American Indian: Current and possible selves. Journal of Self and Identity, 2, 325-344.

Fryberg, S. A. (November, 2004a). *"Dude, I'm honoring you": The impact of using American Indian mascots.* Invited address at the North American Society for Sociology of Sports, Tucson, Arizona.

Fryberg, S. A. (June, 2004b). *American Indian social representations: Do they honor or constrain identities?* Invited address at the Mellon Humanities Center Workshop/Research Institute for Comparative Studies in Race and Ethnicity network, "How do identities matter?" Stanford University, Stanford, California.

Gone, J. P. (2002). Chief Illiniwek: Dignified or damaging? In T. Straus (Ed.), *Native Chicago* (2nd ed., pp. 274-286). Chicago, IL: Albatross.

Inter-Tribal Council of the Five Civilized Tribes (2001). The Five Civilized Tribes Intertribal Council Mascot Resolution. [Available On-line at: http://aistm.org/2001.civilized.tribes.htm.]

King, C. R. (2001). Uneasy Indians: Creating and contesting Native American mascots at Marquette University. In C.R. King & C. F. Springwood (Eds.). Team spirits: Essays on the history and significance of Native American mascots (pp. 281-303). Lincoln, NE: University of Nebraska Press.

King, C.R., & Springwood, C.F. (2001). Beyond the cheers: Race as spectacle in college sports. Albany, NY: State University of New York Press.

Maryland Commission on Indian Affairs (2001). Resolution of the Maryland Commission on Indian Affairs. [Available On-line at: http://aistm.org/maryland.resolution.2001.htm.]

Munson, B. (2001). Tolerance in the news. [Available On-line at: http://www.tolerance.org/news/article_tol.jsp?id=169.]

Nuessel, F. (1994). Objectionable sports team designations. Names: A Journal of Onomastics 42, 101-119.

Pewewardy, C. D. (1991). Native American mascots and imagery: The struggle of unlearning Indian stereotypes. Journal of Navaho Education, 9(1), 19-23.

Rodriquez, R. (1998). Plotting the assassination of Little Red Sambo: Psychologists join war against racist campus mascots. Black Issues in Higher Education, 15(8), 20-24.

Sheppard, H. Assembly: No redskins---Ban on name advances to Senate. Los Angeles Daily, 2004 [Available On-line at: http://www.dailynews.com/Stories/0,1413,200~20954~1923795,00.]

Society of Indian Psychologist (1999). Position statement in support of "retiring" all Indian personalities as the official symbols and mascots of universities, colleges, or schools (and athletic teams). [Available On-line at: http://www.aics.org/mascot/society.html.]

Springwood, C. F. & King, C. R. (2000). Race, power, and representation in contemporary American sport. In P. Kivisto & G. Rundblad (Eds.), The color line at the dawn of the 21st century (pp. 61-174). Thousand Oaks, CA: Pine Valley Press.

Staurowsky, E. (1999). American Indian imagery and the miseducation of America. Quest, 51 (4), 382 392. [Available On-line at: http://www.aistm.org/staurowsky.miseducation.htm.]

Staurowsky, E. (1998). An Act of Honor or Exploitation?: The Cleveland Indian's Use of the Louis Francis Socalexis Story. Sociology of Sports Journal, 15, 299 316.

U. S. Commission on Civil Rights (April 13, 2001). Statement of U.S. Commission on Civil Rights on the use of Native American images and nicknames as sports mascots. [Available On-line: http://www.aics.org/mascot/civilrights.html.]

Vanderford, H. (1996). What's in a name? Heritage or hatred: The school mascot controversy. Journal of Law and Education, 25, 381-388.

Webster, S. Loudbear, P., Corn, D., & Vigue, B. (1971, February 17). Four MU Indian students describe Willie Wampum as racist symbol. The Marquette Tribune, p. A9.

Witko, T. (2005). In whose honor: Understanding the psychological implications of American Indian mascots. California Psychologist, January Issue.

APA Office of Public Affairs
(202) 336-5700
Public.Affairs@apa.org

For Immediate Release: October 19, 2005

APA Calls for the Immediate Retirement of American Indian Sports Mascots

Such Sports Mascots Promote Inaccurate Images and Stereotypes and Negatively Affect the Self-Esteem of Young American Indians

(WASHINGTON, DC)—The American Psychological Association is calling for the immediate retirement of all American Indian mascots, symbols, images and personalities by schools, colleges, universities, athletic teams and organizations, the Association announced today.

APA's action, approved by the Association's Council of Representatives, is based on a growing body of social science literature that shows the harmful effects of racial stereotyping and inaccurate racial portrayals, including the particularly harmful effects of American Indian sports mascots on the social identity development and self-esteem of American Indian young people.

"The use of American Indian mascots as symbols in school and university athletic programs is particularly troubling," says APA President, Ronald F. Levant, EdD. "Schools and universities are places of learning. These mascots are teaching stereotypical, misleading and, too often, insulting images of American Indians. And these negative lessons are not just affecting American Indian students; they are sending the wrong message to all students."

Psychologist Stephanie Fryberg, PhD, of the University of Arizona, has studied the impact of American Indian sports mascots on American Indian students as well as European American students. Her research shows the negative effect of such mascots on the self-esteem and community efficacy of American Indian students.

"American Indian mascots are harmful not only because they are often negative, but because they remind American Indians of the limited ways in which others see them," Fryberg states. "This in turn restricts the number of ways American Indians can see themselves."

The issue of the inappropriateness and potential harm of American Indian mascots is broader than the history and treatment of American Indians in our society say many psychologists who have studied issues of race in America. Such mascots are a contemporary example of prejudice by the dominant culture against racial and ethnic minority groups, according to these scholars.

- MORE -

Psychologist Lisa Thomas, PhD is a member of the APA Committee on Ethnic and Minority Affairs which drafted the Indian mascot resolution.

"We know from the literature that oppression, covert and overt racism, and perceived racism can have serious negative consequences for the mental health of American Indian and Alaska native (AIAN) people. We also need to pay careful attention to how these issues manifest themselves in the daily lives (e.g., school, work, traditional practices, and social activities) and experiences of AIAN individuals and communities. As natives, many of us have had personal and family experiences of being the target of frightening, humiliating, and alienating behaviors on the part of others. This resolution makes a clear statement that racism toward, and the disrespect of, all people in our country and in the larger global context, will not be tolerated," Dr. Thomas states.

# # #

The American Psychological Association (APA), in Washington, DC, is the largest scientific and professional organization representing psychology in the United States and is the world's largest association of psychologists. APA's membership includes more than 150,000 researchers, educators, clinicians, consultants and students. Through its divisions in 53 subfields of psychology and affiliations with 60 state, territorial and Canadian provincial associations, APA works to advance psychology as a science, as a profession and as a means of promoting human welfare.

Full text of the resolution is attached.

For more information or interviews:

John Chaney, PhD
Oklahoma State University
(405) 744-6027

Stephanie Fryberg, PhD
University of Arizona
(520) 621-5497

Lisa Thomas, PhD
University of Washington
(206) 897-1413

University Senate Resolution
April 2009

Whereas, the University of North Dakota is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools (NCA); and

Whereas, following its 2004 reaccreditation visit to UND, the NCA issued a report explicitly linking UND's controversial use of its Indian nickname and Indianhead logo with negative impacts on the University's academic mission, and calling on the State Board of Higher Education and the campus to develop and implement an orderly plan for discontinuing the use of the Indian nickname and Indianhead logo; and

Whereas, the NCA's conclusions of the negative impacts of the name and logo on the University's academic mission are consistent with scholarly, scientific research conducted on the UND campus and research conducted and published elsewhere; and

Whereas, UND has suffered damage to its institutional reputation at a national level and has lost potential private foundation grant funding which would have resulted in institutional and program growth, as direct results of the continued use of the Indian nickname and Indianhead logo; and

Whereas, the ongoing controversy over the Indian nickname and Indianhead logo is disruptive and divisive to the UND campus community and the Greater Grand Forks community, and

Whereas, UND's continued use of the Indian nickname and Indianhead logo is contrary to UND's Mission, Community Value Statement, and Strategic Plan Goals and Action Plans, and violates UND's Equal Opportunity/Affirmative Action Policy Statement and Procedures for Complaints of Discrimination or Harassment (example: the display of the Indianhead logo can be perceived as intimidating and visual/graphic harassment which violates UND's Harassment Policy as stated in the *Code of Student Life*, and stymies UND's ability to insure a campus climate where "all individuals (will) be respected and treated with dignity and civility" (UND Community Values Statement); and

Whereas, the NCA's call for retirement of the name and logo is in accord with requests and formal resolutions from eight Sioux nations and several other area tribes, numerous educational organizations including the U.S. Civil Rights Commission, National Indian Education Association, National Congress of American Indians, the North Dakota Indian Education Association, the Minnesota Indian Education Association, the American Psychological Association (APA), the American Sociological Association (ASA), the American Anthropological Association, twenty of UND's Indian-related programs, and dozens of other national, regional and local organizations; and

Whereas, the Indian nickname and Indianhead logo controversy at UND has continued for more than 30 years and negatively impacts many of the American Indian students who attend UND and the UND American Indian related programs and staff due to its emotional toll and distractive nature, as documented in the American Indian Student Services Annual Reports over the past decade; and

Whereas, the Indian nickname and Indianhead logo controversy has reached and involved the tribal communities of the states of North and South Dakota, and as a result has negatively impacted UND's ability to increase its enrollment and retention of American Indian students, as evidenced by the fact that American Indian student enrollment at UND has decreased over the past five years, with the current number just over 300, down from over 400); and

Whereas, the October 2007 settlement between the State of North Dakota, the North Dakota State Board of Higher Education, and the National Collegiate Athletic Association (NCAA) provided a period of time until November 30, 2010 to seek approval for the use of the "Fighting Sioux" nickname and logo from both the Spirit Lake Tribe and the Standing Rock Sioux Tribe, placing the responsibility for the decision on the state's Sioux Indian tribes and communities which has now resulted in disrupting and dividing the tribal communities and governments within the state; and

Whereas, this settlement has given rise to concerns regarding the questionable tactics being utilized by pro-logo advocates and supporters for garnishing tribal members' support for the nickname and logo; and

Whereas, this court case determined that unless this required tribal approval is secured, UND will remain under sanctions in NCAA sponsored post season games and hosting the games at UND would also be problematic; under NCAA guidelines regarding use of the Indian nickname and Indianhead logo, several regional teams have publicly refused to compete with UND based on the controversy and; entry into an athletic conference is being hindered by the continued use of the Indian nickname and Indianhead logo; and

Whereas, even if UND gains approval for use of the Indian nickname and Indianhead logo, this would provide no long-term solution as another tribal vote or a change in tribal leadership could reverse this action, resulting in continued conflict.

Whereas, numerous online blogs and comment forums have revealed that the UND campus and Greater Grand Forks community climate has become increasingly negative towards American Indian students and American Indian related programs and staff on campus; and

Whereas, the UND University Senate approved a resolution on January 12, 2006 requesting that President Charles Kupchella promptly seek authority from the State Board of Higher Education to develop and implement an orderly plan for discontinuing use of the Indian nickname and Indianhead logo; and

Whereas, the NCA's explicit concerns, the academic research record, and the extent of tribal and organizational calls for retirement of the name and logo provide substantial reasons for the University Senate to remain concerned that accomplishing the academic mission of the University of North Dakota is hindered by the continued use of the name and logo; and

Whereas, the controversy continues to divert substantial time, energy, and resources of administration, faculty, staff, and students away from important work required to advance the University's academic mission; and

Now, therefore, UND University Senate resolves that the use of the Indian nickname and Indianhead logo cease now in recognition of the central role of the University's academic mission, and that the authority for the development and implementation of an orderly plan for the transition to a new nickname and logo be restored to University President Robert Kelley by the State Board of Higher Education.

September 5, 2005

Myles Brand, President
National Collegiate Athletic Association
P.O. Box 6222
Indianapolis, IN 46206

Bernard Franklin, Senior Vice-President for Governance and Membership
National Collegiate Athletic Association
P.O. Box 6222
Indianapolis, IN 46206

Dear President Brand and Vice President Franklin:

The University of North Dakota's American Indian Student Services and the Campus Committee for Human Rights would like to take this opportunity to respond to the appeal filed recently by the University of North Dakota regarding its use of an American Indian nickname, logo and mascot.

We believe the action taken by the NCAA to restrict the use of race-based imagery in sports is warranted. We further believe the University of North Dakota should not be exempt from this new policy.

Our response to UND's appeal strongly refutes the university's basic arguments that a) the nickname and logo are "used with the utmost respect and class and are in no way inherently hostile or abusive"; and 2) that "UND has substantive positive relationships (including government resolutions) with American Indian tribes." And finally, we believe it is completely reasonable for the NCAA to move post-season tournament play to a venue in which all UND sports fans may participate.

UND's appeal, like its original "NCAA Self-Study" is filled with distorted representations of the situation at UND and contains significant misinformation.

First, in spite of the administration's claims, UND *does* have a mascot. The logo is a symbol of the mascot, which is "the American Indian."

The University of North Dakota sanctions the use of the "Indian-head" logo on shot glasses, beer mugs, the butt of sweat pants and hockey pucks to name only a very few products that UND markets. This is hardly a "classy and respectful" use of the logo.

The University authorizes the use of the nickname to sell "Sioux-per Dog" hotdogs,
"H-Sioux-O" water; "Fighting Sioux Ice Cream" and a wide range of other merchandise and events such as the "Sioux-per Swing Golf Tournament."

The use of any other minority race as marketing or sports caricatures would not be tolerated in our society.

We invite the NCAA Review Committee to view examples at the website www.grandforksnd.net/logoissue/ for examples of ways in which the University of North Dakota's nickname and logo are used by sports fans and opponents. These images are neither respectful nor "classy."

The University Directory states, "UND insists that the team name be used in a completely respectful fashion both on and off campus." The University is marketing the use of the nickname and logo in ways that are not respectful to a race of people, and obviously the university cannot force the respectful use of the nickname and logo.

The University may attempt to monitor the inappropriate behavior of sports fans, both by the opposing teams and UND, but clearly there is no effective way to check this behavior as evidenced by the never-ending chanting of "Sioux Suck" at every game of every event in which UND plays.

UND's appeal states that "some tribes support the use of American Indian imagery and others are, at least, okay with it..." What it does not say is that for years the University of North Dakota has ignored the official requests of seven Sioux tribal governments to cease using the "Fighting Sioux" nickname and logo. These tribes have issued resolutions that are official pronouncements that

Jeffrey W. Lang, Professor Emeritus, Biology

Gretchen Chesley Lang, Professor Emerita, Anthropology

Glinda Crawford, Professor (retired), Sociology, Women Studies, Peace Studies, Institute for Ecological Studies

Kirsten Dauphinais, Assistant Professor, Law

Rebecca Simmons, Assistant Professor, Biology

Marci Giessner, Assistant Professor, Teaching and Learning

Kathleen Dixon, Professor, English

Ralph Koprince, Associate Professor, Languages

Eleanor Yurkovich, Associate Professor, Nursing

Doug Peters, Professor, Psychology

Jan Zahriy, Associate Professor, Management

Tom Rand, Associate Professor, Humanities

Mark Hoffmann, Professor, Chemistry

Mary L. Cutler, Professor, Theatre Arts

Gretchen Daneke Graf, Instructor, Philosophy and Religion

Garl K. Rieke, Associate Professor, Anatomy and Cell Biology

Rebecca Weaver-Hightower, Assistant Professor, English

Robert W. Kweit, Professor, Political Science & Public Administration

Kim W. Fink, Associate Professor, Art

Kim Donehower, Assistant Professor, English

Jeff Carmichael, Associate Professor Biology

Liz Tyree, Clinical Associate Professor Family and Community Nursing

Mary Grisez Kweit, Professor and Chair, Political Science & Public Administration

Michael Atkinson, Associate Professor, Anatomy and Cell Biology

Darin Kerr, Lecturer, English/Honors

Paul E. Sum, Assistant Professor, Political Science & Public Administration

Cherie Lemer, Lecturer, Honors

Alan King, Professor, Psychology

Cecilia Volden, Professor, Nursing

Michele Iiams, Assistant Professor, Mathematics

Robin David, Lecturer, Honors

Margo Adams Larsen, Assistant Professor, Psychology

Judy Milavetz, Instructor, Teaching & Learning

Anne Walker, Assistant Professor, Teaching & Learning

Janet Schauer, Clinical Associate Professor, Family and Community Nursing

constitute tribal law; they are the official position of Sioux governments with which the United States maintains government-to-government relations. How does ignoring these requests honor the Sioux people?

The UND appeal also states, "the University of North Dakota has had the approval of the use of the nickname from the Sioux Tribe geographically closest to us."

A careful reading of this document shows that the Spirit Lake Nation does not give UND their full support, but clearly states "the Spirit Lake Tribe has not to this point taken an official position on this controversy..." The Tribal Council requested that President Kupchella extend the time period in which he planned to make an announcement regarding the name change. The resolution states that in the meantime, the "Spirit Lake Tribal Council feels that as long as something positive comes from this controversy, they are not opposed to keeping the Fighting Sioux name and the present logo at UND." (See attached resolution)

Furthermore, tribal support was conditional. The tribal chairman at the time said that in order to gain the backing of the Spirit Lake Nation, UND would need to establish a zero-tolerance policy for racist incidents and establish cultural awareness courses for all of its students, including athletes. In addition, UND was not to use the new Indian-head logo drawn by Bennett Brien, an enrolled member of the Turtle Lake Band of Chippewa (see attached *Grand Forks Herald* articles). These conditions were never met. (See attached)

In a recent Tribal Assembly meeting, tribal members at Spirit Lake overwhelmingly voted to *not* support UND's use of the "Indian-head" logo and Fighting Sioux nickname. The matter is still before the Tribal Council.

UND's appeal argues that the university should not be expected to honor tribal government requests since, "Approval could be withdrawn by one Council, then reinstated by another." This statement is disrespectful of the legitimate authority of elected tribal officials. It implies that the opinions of the persons in office do not matter. The Tribal Governance system is a democratic system whereby the people of their respective tribes elect the Tribal Chairs and Councilpersons. This is no different than the system used by the states and the country. This attitude would discredit the authority of all U.S. Presidents, Congressmen, Senators, and Governors.

The University's appeal mentions its "more than 25 programs designed to support American Indian students." What it fails to mention is that all but two of these programs have gone on record to oppose the Fighting Sioux nickname and logo. In fact, the only two that have not gone on record are "Indians into Engineering" which was funded just two weeks ago, and "Indians into Aviation" which is currently under development.

In all, there are 21 American Indian programs at UND that oppose the Fighting Sioux nickname and logo (see attachment).

UND's appeal, in addition to ignoring Sioux tribal governments and American Indian programs on campus, also neglects to cite resolutions from the National Indian Education Association, the North Dakota Indian Education Association, the Minnesota Indian Education, the National Congress of American Indians and the Society of Indian Psychologists of the Americas, all of which take stands against use of American Indian logos, nicknames and mascots by non-Indians.

UND's appeal states, "We reject the NCAA argument that Indian nicknames and logos stereotype American Indians."

With this statement, UND also rejects the tribal governments, the Indian education associations and the campus American Indian programs that repeatedly tell them that Indian nicknames and logos do stereotype American Indians. UND is also ignoring the very real concerns of its faculty and staff (see attached letters).

UND is shamefully choosing to ignore national and campus research that contradicts their claim. The American Psychological Association in its recent resolution recommending the immediate retirement of American Indian nicknames, logos and mascots said "the continued use of American Indian mascots, symbols, images, and personalities establishes an unwelcome and often times hostile learning environment for American Indian students that affirms negative images/stereotypes that are promoted in mainstream society" (see attachment).

Research conducted by the University of North Dakota's INPSYDE (Indians into Psychology Doctoral Education) program suggests that the nickname and logo adversely impact Native students (see attachment) and contribute to stereotypes within the non-Native population.

UND does not cite any research or professional organizations that support their claim that use of its American Indian nickname and logo is not hostile and/or abusive. In fact they go so far as to say that the ruling merely "translates an opinion"!

The U.S. Office for Civil Rights did not exonerate UND when it sent an investigative team to campus. The report noted concerns and said there was much work to be done.

Signatories:

Sandra Donaldson, Chester Fritz Distinguished Professor of English

Albert J. Fivizzani, Chester Fritz Distinguished Professor of Biology

William F Sheridan, Chester Fritz Distinguished Professor of Biology

Richard L. Ludtke, Chester Fritz Distinguished Professor of Sociology and Rural Health

David Lambeth, Chester Fritz Distinguished Professor of Biochemistry and Molecular Biology

Thomas V. Petros, Chester Fritz Distinguished Professor of Psychology

Richard D. Crawford, Chester Fritz Distinguished Professor of Biology

William Borden, Chester Fritz Distinguished Professor Emeritus of English

Michael Anderegg, Chester Fritz Distinguished Professor Emeritus of English

Robert W.Lewis, Chester Fritz Distinguished Professor Emeritus of English & Peace Studies

Jeanne Anderegg, Senior Lecturer, Honors/English

Margaret Zidon, Associate Professor, Teaching and Learning

Lori Robison, Associate Professor, English

Eric Wolfe, Assistant Professor, English

Jack Weinstein, Associate Professor, Philosophy and Religion

Heidi K. Czerwiec, Assistant Professor, English

Jim Mochoruk, Professor, Department of History

Dr. Claudia Routon, Assistant Professor, Modern and Classical Languages and Literatures

Christopher Nelson, Assistant Professor, English

Lucy Ganje, Associate Professor, Art

Michael Wittgraf, Associate Professor, Music

Virgil Benoit, Associate Professor, Languages

Wendelin Hume, Associate Professor, Women Studies & Criminal Justice

Daniel N. Erickson, Assistant Professor and Coordinator of Classical Studies

Cheryl Terrance, Assistant Professor, Psychology

Gaye Burgess, Associate Professor, Theatre Arts

Faythe Thureen, Norwegian Instructor, Languages

Birgit Hans/Professor/Indian Studies Department

Curtis Stofferahn, Associate Professor, Sociology

James McKenzie, Professor, English (Retired)

Janet Kelly Moen, Professor, Sociology and Peace Studies

Brian James Schill, Lecturer, Honors

Lonny Winrich, Professor Emeritus, Computer Science

Janet G. Ahler, Professor, Educational Foundations & Research

Donald Miller, Professor, Art

James Grijalva, Associate Professor, School of Law

Colleen Berry, Assistant Professor, Languages & COBPA (Chinese Studies)

Wenona Singel, Assistant Professor, Law

Barbara Handy-Marchello, Associate Professor, History

Marcia O'Kelly, Professor Emerita of Law

Jane Berne, Associate Professor, Languages

Kathleen Tiemann, Professor and Chair of Sociology

Suzana Y. Michel, Lecturer, French and Spanish

Sally Pyle, Associate Professor, Anatomy and Cell Biology

Janice Goodwin, Associate Professor, Nutrition & Dietetics

Marcus Weaver-Hightower, Instructor, Educational Foundations and Research & Teaching and Learning

Matthew L.M. Fletcher, Assistant Professor, UND School of Law/ Director, Plains Indian Law Center

Yvette LaPierre, Senior Lecturer, English/Integrated Studies

Barry Milavetz, Associate Professor, Biochemistry & Molecular Biology

Alvin O. Boucher, Adjunct, University of North Dakota School of Law

Clifford L. Staples, Professor, Sociology

Ann Reed, Lecturer, Anthropology

Barbara Voglewede, Assistant Professor, Law

Robert W. King, Professor (retired), English/Education

Sebastian Braun, Assistant Professor, Department of Indian Studies

Tim Driscoll, Assistant Professor, Sociology

Tami Carmichael, Assistant Professor, Humanities & English

David F. Marshall, Professor, English

Richard Fiordo, Professor, School of Communication

Gayle Baldwin, Associate Professor, Philosophy and Religion

Elizabeth Rankin, Professor, English

Tom Steen, Associate Professor, Physical Education and Exercise Science

J.Doug McDonald, Professor, Psychology

Yvette Koepke, Assistant Professor, English

Sherry O'Donnell, Professor and Chair, English

Patrick Luber, Professor, Art

Fred Schneider, Professor Emeritus, Anthropology

Victoria Smith Holden, Associate Professor, School of Communication.

Peter Meberg, Associate Professor, Biology

Cindy Juntunen, Professor, Counseling

Melinda Leach, Associate Professor, Anthropology

Marcia Mikulak, Assistant Professor, Anthropology

Barbara Combs, Associate Professor, Teaching & Learning

Diane Darland, Assistant Professor, Biology

Brett Goodwin, Assistant Professor, Biology

Judith H. Hall, Assistant Professor, Nutrition & Dietetics

Charles William Miller, Associate Professor and Chair, Philosophy and Religion

Nadine C. Tepper, Assistant Professor, Teaching and Learning

Daphne Pedersen Stevens, Assistant Professor, Sociology

Donald V. Poochigian, Professor, Philosophy and Religion

Shelby J. Barrentine, Associate Professor, Teaching & Learning

Lynn Lindholm, Associate Professor, Philosophy and Religion

Andre Lebugle, Professor, French

Susan Koprince, Professor, English

Thomasine Heitkamp, Professor and Chair, Social Work

February 6, 2006

UND FACULTY PETITION TO RETIRE THE "FIGHTING SIOUX" NAME/LOGO

To: Robert Potts
Chancellor
North Dakota University System

Chancellor Robert Potts:

Faculty members at the University of North Dakota are responsible for the quality and integrity of the educational mission at UND. In that capacity, we the undersigned UND faculty call upon you to take immediate steps to initiate a thoughtful process to retire the "Fighting Sioux" name/logo.

We believe that immediately retiring the name/logo is the long overdue and only respectful response to formal objections to its use by the vast majority of American Indian Programs at UND, by almost all regional tribal councils of the Lakota, Nakota and Dakota (Sioux) Nations, by the National, North Dakota and Minnesota Indian Education Associations, by the U.S. Commission on Civil Rights, and by other educational, civil rights and American Indian tribes and organizations too numerous to list.

We take seriously our responsibility as UND faculty (and as members of a public university system) to respond immediately to serious concerns raised by the American Psychological Association in its 2005 resolution calling for an end to the use of American Indian imagery in athletics, as well as our responsibility to act based upon scholarly research done at UND and elsewhere that has documented the negative effects – especially on all young people-- of stereotypical Indian imagery in sports.

We also are calling for this action in light of the 2004 finding by the Higher Learning Commission of the North Central Association of Colleges and Schools (NCA), wherein an impartial academic re-accreditation team conducted an exhaustive review of this issue during their campus visit. The NCA review team expressed in their final report serious concerns about the damage being done to the educational mission at UND by our continued use of the "Fighting Sioux" name/logo, and strongly urged UND to immediately and respectfully retire the logo/name. We urge you to take immediate action to address the concerns raised in the NCA review.

And finally, as UND faculty members committed to the well-being of our students, the campus, and the region, we also affirm our willingness to assist the campus and the community as we work through the transitions necessary to begin this new era for UND.

Respectfully,

Faculty contacts:

Sharon Carson
Professor,
English/Philosophy and Religion
701.777.2764
sharon_carson@und.nodak.edu

James Antes
Chester Fritz Distinguished Professor,
Psychology
701.777.3882
james_antes@und.nodak.edu

SUBMITTED TESTIMONY ATTACHMENT 19

Good morning. Chairperson Kelsch, members of the committee, I appreciate having a chance to address you this morning concerning HB 1208, HB 1257, or HB 1263. My name is Amber Annis and I am an enrolled member of the Cheyenne River Sioux Tribe. I am currently a graduate student at the University of North Dakota where I am pursuing an M.A. in History. I oppose these bills strongly for a number of reasons. I have been a part of the controversy since 2004. For seven years I have seen this controversy cause friendships to end, students to leave UND, unnecessary debates in classrooms and increasing frustrations over the silencing of Indian opposition to the logo for more than eighty years. Finally, a glimmer of light was at the end of this long tunnel of oppression when UND made the decision to retire the nickname and logo. I am disheartened that, once again, we as Native students of the University of North Dakota and residents of North Dakota have to defend our civil rights.

This is an American Indian issue and it affects American Indian students on UND's campus regardless of their own opinion on the issue. It does not matter what tribe you are from or if you are pro-logo or anti-logo, as an Indian student you are faced with dealing with a difficult racially charged controversy that other students do not have to deal with. Not only do we deal with this target on our backs but we are faced with constant stereotypes regarding Indian people, the most common being that we go to school for free. How do we expect others to learn accuracies about Native people when their daily image of Indians is a stereotypical and archaic logo and nickname?

If this logo is such an honor where was the interest in the tribes in years past? Where are the resolutions that support this logo? Where are the national organizations that support the logo? Why is safety of American Indian students a concern if the logo is removed? Why are the comment boards filled with racially charged commentary? The answers to these questions should be cause for us all to pause and understand the true implications that holding on to this divisive and racially charged logo and nickname cause.

In closing, we are already in transition to retiring the logo--the UND campus has been divided for far too long. We need to pull the campus back together. These bills would cause a major interruption to the reconciliation process among students. There has been so much conflict and so much anger and hurt regarding this issue, this is a chance to bring us back together.

Thank you for your time.

Amber Annis Bercier

Lucy Annis Ganje

SUBMITTED TESTIMONY ATTACHMENT 20

Charles W. Murphy
Chairman

Mike Faith
Vice Chairman

Adele M. White
Secretary

TRIBAL COUNCIL
(AT LARGE)

Jesse "Jay" Taken Alive

Margaret M. Gates

Avis Little Eagle

Dave Archambault II

Joseph McNeil Jr.

Jesse McLaughlin

TRIBAL COUNCIL
(DISTRICTS)

Sharon Two Bears
Cannonball District

Henry Harrison
Long Soldier District

Duane Claymore
Wakpala District

Kerby St. John
Kenel District

Errol D. Crow Ghost
Bear Soldier District

Milton Brown Otter
Rock Creek District

Frank Jamerson Jr.
Running Antelope District

Samuel B. Harrison
Porcupine District

Dear House Education Committee,

Greetings from the Standing Rock Sioux Tribe (SRST). The long history related to the use of the Fighting Sioux name at the University of North Dakota (UND) has put all interested parties into a continuing state of drudgery. In 2007 UND entered into a settlement with the National Collegiate Athletic Association (NCAA) that required UND to drop the Fighting Sioux name if UND could not obtain permission from the Spirit Lake and Standing Rock Sioux Tribes to keep the name. The SRST has made its position known time and again that it does not approve of UND's use of the name.

In 2010, SRST Tribal members garnered 1,004 signatures for a petition that urged the SRST to support the use of the Fighting Sioux name. Likewise, other Tribal members gathered over 1,010 signatures for an opposite petition that urged the SRST to maintain its position against the use of the name. Both petitions were considered and given weight in a meeting of the SRST Tribal Council on June 17, 2010. At the conclusion of that meeting the SRST Tribal Council once again affirmed, by resolution, that it does not support the use of the name. Regardless of any opinion on this matter, I have the following concerns regarding the State Legislature's apparent attempts to prolong this highly divisive issue via HB 2208, HB 2257, and/or HB 2263:

1. The Standing Rock Sioux Tribe has not adopted policies and procedures to govern the certification of petitions of enrolled members;

2. Currently there are no provisions in the Constitution of the Standing Rock Sioux Tribe that provide for a referendum vote;

3. Whether the SRST supports or does not support UND'S use of the Fighting Sioux name is an internal matter and any prolonging of this divisive issue, that has been around since the 1960s, will result in additional wasted time and resources to a matter that likely will not go away.

In the interest of furthering the purpose of education in the State of North Dakota and in preventing the continued divisive in-fighting on our reservation created by the UND Fighting Sioux name, the SRST urges you to let UND abide by the mandates of the State Board of Higher Education and the Federal Court Settlement of 2007 and let the name retire with dignity.

Respectfully,

Charles W. Murphy, Chairman

Schools that continue the use of Indian imagery and references claim that their use stimulates interest in Native American culture and honors Native Americans. These institutions have simply failed to listen to the Native groups, religious leaders, and civil rights organizations that oppose these symbols. These Indian-based symbols and team names are not accurate representations of Native Americans. Even those that purport to be positive are romantic stereotypes that give a distorted view of the past. These false portrayals prevent non-Native Americans from understanding the true historical and cultural experiences of American Indians. Sadly, they also encourage biases and prejudices that have a negative effect on contemporary Indian people. These references may encourage interest in mythical "Indians" created by the dominant culture, but they block genuine understanding of contemporary Native people as fellow Americans.

UND once again fails to note its own North Central Association of Colleges and Schools re-accreditation recommendations. The NCA review team specifically addressed the logo, and in very strong terms. It said that the "Indianhead logo and the Fighting Sioux nickname "reduces the university's ability to accomplish its purposes and diminishes its educational effectiveness." The NCA also noted that the logo had a negative impact on the learning environment at UND and "adversely affects student participation in the classroom and the laboratory."

It is also imperative to note that throughout the process of developing UND's initial Self Study, UND's letter of inquiry regarding the appeal process, and UND's appeal itself, there was absolutely no involvement or input sought or gathered from American Indian people, from the 30 American Indian programs on campus, from the UND American Indian Programs Council, or from American Indian professionals in the field of education either on or off campus. This rather startling fact seems completely ironic, at best, and is certainly unacceptable.

And finally, in UND's appeal, they mention two national surveys regarding and supporting the use of American Indian names and images for sports, but fail to mention a survey that was conducted on this very campus in the year 2000! This unmentioned survey clearly indicated that the majority of American Indian students attending UND strongly support changing the name and logo to improve the learning environment for all. Again, UND's failure to include such pertinent information is indicative of the University's failure to provide honest and complete information regarding this controversy and the overwhelming number of American Indian people, programs, students, local, regional, and national organizations that have strongly stated that the time has come to retire the racially charged Fighting Sioux name and logo.

Ironically both a past UND president and the current president have stated that the wishes of the Sioux tribes should be honored.

Tom Clifford, a long-time president of UND said in his last public statement on the use of the Fighting Sioux name and logo: "When the leaders of the Sioux Nation come and tell me they don't want it, I'll respect that." *(Published in 1991, UND's history of the name).*

And more recently, President Kupchella stated: "I see no choice but to respect the request of Sioux tribes that we quit using their name, because to do otherwise would be to put the university and its president in an untenable position." *(UND President Charles Kupchella in an e-mail to the North Dakota State Board of Higher Education, 12/16/00.*

UND arrogantly concludes its appeal by stating , "Time could be better spent on other things by all involved." With this statement the university dismisses all of the research, tribal government resolutions, civil rights and educational organizations' recommendations, while dishonorably turning its back on its own American Indian programs. We ask that the NCAA not do the same.

Respectfully submitted,

Leigh Jeanotte, Director
American Indian Student Services
701-777-4291

Lucy Ganje, Co-Chair
Campus Committee for Human Rights
701-777-2670

Cc: Chair, Standing Rock Sioux Tribe
Chair, Spirit Lake Sioux Tribe
Chair, Three Affiliated Tribes
Great Plains Tribal Chairman's Association
State Board of Higher Education Members
UND Alumni Association & Foundation Board
Governor John Hoeven
Senator Kent Conrad
Wayne Stenehjem, Attorney General
Roger Thomas, Commissioner, North Central Conference
Chair, Sisseton-Wahpeton Sioux Tribe
Chair, Turtle Mountain Band of Chippewa
David Gipp, President, United Tribes
Robert Potts, Chancellor, NDUS
UND President's Cabinet
Fellows of the University
Senator Byron Dorgan
Representative Earl Pomeroy
ND State Legislative Leadership

MOTION NO. 27 IS CONTINUED.

JAMERSON, J.	YES	TWO BEARS, A.	YES
KEEPSEAGLE, J.	YES	WHITE MOUNTAIN, SR., J.	N.V.

VOTE: YES - 10 NO - 0 NOT VOTING - 4

MOTION CARRIED. 3 - EXCUSED

#28. MOTION WAS MADE BY ALBERT TWO BEARS, SECONDED BY PAT MCLAUGHLIN, TO APPROVE OF THE ECONOMICS COMMITTEE REPORTS DATED FOR NOVEMBER 16, 23, 1992 AND DECEMBER 2, 3, 1992.

ROLL CALL VOTE: MURPHY, C. - NOT VOTING

AGARD, A. (CHAIRING)	N.V.	MCLAUGHLIN, E.	YES
BILLINGSLEY, K.	E.	MCLAUGHLIN, P.	YES
CLAYMORE, S.	YES	MENTZ, T.	YES
FAITH, JR., M.	YES	RED BEAR, K.	E.
GIPP, A.	YES	STRONG HEART, J.	E.
HARRISON, L.	N.V.	TAKEN ALIVE, J.	YES
JAMERSON, J.	YES	TWO BEARS, A.	YES
KEEPSEAGLE, J.	YES	WHITE MOUNTAIN, SR., J.	N.V.

VOTE: YES - 10 NO - 0 NOT VOTING - 4

MOTION CARRIED. 3 - EXCUSED

H.E.W COMMITTEE - Luella Harrison reporting
December 3, 1992 (SPECIAL MEETING)

#29. MOTION WAS MADE BY PAT MCLAUGHLIN, SECONDED BY JAY TAKEN ALIVE, TO APPROVE TO SUPPORT, BY RESOLUTION, THAT UND SHOULD DISCONTINUE THE USE OF THE "FIGHTING SIOUX".

ROLL CALL VOTE: MURPHY, C. - NOT VOTING

AGARD, A.	YES	MCLAUGHLIN, E.	YES
BILLINGSLEY, K.	E.	MCLAUGHLIN, P.	YES
CLAYMORE, S.	YES	MENTZ, T.	YES
FAITH, JR., M.	YES	RED BEAR, K.	E.
GIPP, A.	NO	STRONG HEART, J.	E.
HARRISON, L.	YES	TAKEN ALIVE, J.	YES
JAMERSON, J.	N.V.	TWO BEARS, A.	N.V.
KEEPSEAGLE, J.	YES	WHITE MOUNTAIN, SR., J.	N.V.

VOTE: YES - 9 NO - 1 NOT VOTING - 4

MOTION CARRIED. 3 - EXCUSED

#30. MOTION WAS MADE BY PAT MCLAUGHLIN, SECONDED BY SAM CLAYMORE, TO APPROVE OF GENERAL BULLETIN NO. 43-92. IN REFERENCE TO THE OKLAHOMA TAX COMMISSION V. SAC AND FOX NATION.

RESOLUTION NO. 356-92

WHEREAS. the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, and the recognizing governing body of the Tribe is known as the Standing Rock Sioux Tribal Council, and

WHEREAS, the racially insensitive events of October 24, 1992, at the Homecoming Parade, are not isolated events but, rather an example of what Native Students at UND must endure while attempting to gain an education at the University, and

WHEREAS, the University Administration has stated in the past that such actions, like the ones of October 24, 1992, will not be tolerated on campus, and

WHEREAS, the University's continued use of the 'Fighting Sioux' nickname places Native Students in the position of being mascots and subjects those students to such racially insensitive actions, and

WHEREAS, the University is sending a Dual Message to the students of UND,

NOW THEREFORE BE IT RESOLVED, the undersigned feel that the University of North Dakota should discontinue the use of the 'Fighting Sioux' nickname. The undersigned further believe that the President of the University has the authority to discontinue the use of that nickname.

CERTIFICATION

We, the undersigned Chairman and Secretary of the Tribal Council do hereby certify that the Standing Rock Sioux Tribal Council is composed of 17 members of whom 14 constituting a quorum were present at a meeting thereof duly and regularly called, noticed, convened, and held on the 3rd day of December, 1992, and the following resolution was duly adopted by the affirmative vote of 9 members, with 4 members not voting and with 1 opposing. The Chairman's vote is not required except in case of a tie.

DATES THIS 3rd DAY OF December, 1992

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

ATTEST: Lucille Harrison for
Elaine McLaughlin, Secretary
Standing Rock Sioux Tribe

OFFICIAL SEAL

RESOLUTION NO. 078-98

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Article 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribe had issued Resolution No. 356-92 to demand that the University of north Dakota discontinue the use of the name and mascot of the "Fighting Sioux"; and

WHEREAS, the University Administration has stated in the past that such actions, like the racially insensitive ones of October 24, 1992, will not be tolerated on campus; and

WHEREAS, the University's continued use of the 'Fighting Sioux" nickname places Native American students in the position of being mascots and subjects those students to such racially insensitive actions; and

WHEREAS, the University is sending a Dual Message to the students of UND, by attempting to provide a quality education for its students, but subjects int indigenous students, namely those from the Lakota/Dakota Peoples of North America, to continued racial actions, by not changing its "Sioux" and "fighting Sioux" nicknames; and

NOW THEREFORE BE IT RESOLVED, the undersigned Standing Rock Sioux Tribal Council hereby reaffirms the Resolution of December 3, 1992, specifically that the University of North Dakota should discontinue the use of the "Fighting Sioux" nickname.

BE IT FURTHER RESOLVED, that the foregoing resolution shall be effective on this date and shall remain in full force an effect thereafter.

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [17] members, of whom 16 constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened and held on the 11th day of FEBRUARY, 1998, and that the foregoing resolution was duly adopted by the affirmative vote of 10 members, with 0 opposing, and with 6 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT IN CASE OF A TIE.

Dated this 11th day of FEBRUARY, 1998.

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

ATTEST:

Elaine McLaughlin, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

#104. MOTION WAS MADE BY JOE STRONG HEART, SECONDED BY PALMER DEFENDER, TO APPROVE TO PURCHASE LAND IN THE AMOUNT OF $517.00 WITH THE SRST LAND PURCHASING FUNDS FROM THAT PORTION OF THE CRAZY BEAR ALLOTMENT SR-2052-E, LYLE LAFROMBOISE ESTATE, BY RESOLUTION.

ROLL CALL VOTE: MURPHY, C. - EXCUSED

ARCHAMBAULT, D.		N.V.	KEEPSEAGLE, J.	N.V.
BAILEY, V.		YES	LONG CHASE, F.	YES
BEAR RIBS, D.		N.V.	MCLAUGHLIN, E.	YES
BROWN OTTER, M.		YES	SEE WALKER, R.	YES
CORDOVA, R.		YES	STRONG HEART, J.	YES
DEFENDER, P.		YES	TAKEN ALIVE, J.	YES
GATES, R.		YES	TWO BEARS, S.	N.V.
IRON, T.	(Chairing)	N.V.	WHITE, R.	N.V.

VOTE: YES - 10 NO - 0 NOT VOTING - 6

MOTION CARRIED. 1 - EXCUSED

#105. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY FARRON LONG CHASE, TO APPROVE OF THE RESOLUTION: **NOW THEREFORE BE IT RESOLVED**, THAT THE STANDING ROCK SIOUX TRIBAL COUNCIL HEREBY REAFFIRMS THE RESOLUTION OF DECEMBER 3, 1992, SPECIFICALLY THAT THE UNIVERSITY OF NORTH DAKOTA SHOULD DISCONTINUE THE USE OF THE **"FIGHTING SIOUX"** NICKNAME.

ROLL CALL VOTE: MURPHY, C. - EXCUSED

ARCHAMBAULT, D.		N.V.	KEEPSEAGLE, J.	N.V.
BAILEY, V.		YES	LONG CHASE, F.	YES
BEAR RIBS, D.		N.V.	MCLAUGHLIN, E.	YES
BROWN OTTER, M.		YES	SEE WALKER, R.	YES
CORDOVA, R.		YES	STRONG HEART, J.	YES
DEFENDER, P.		YES	TAKEN ALIVE, J.	YES
GATES, R.		YES	TWO BEARS, S.	N.V.
IRON, T.	(Chairing)	N.V.	WHITE, R.	N.V.

VOTE: YES - 10 NO - 0 NOT VOTING - 6
MOTION CARRIED. 1 - EXCUSED

#59. MOTION WAS MADE BY DEAN BEAR RIBS, SECONDED BY RANDY WHITE, TO APPROVE FOR ART JOCHIM TO OFFICIALLY USE THE TRIBAL EQUIPMENT TO MOVE FEMA TRAILERS.

AMENDED TO: To be use only for this project and be returned upon completion of the project.

ROLL CALL VOTE: MURPHY, C. - EXCUSED

ARCHAMBAULT, D.	E.	KEEPSEAGLE, J.	YES
BAILEY, V.	E.	LONG CHASE, F.	YES
BEAR RIBS, D.	YES	MCLAUGHLIN, E.	NO
BROWN OTTER, D.	YES	SEE WALKER, R.	NO
CORDOVA, R.	NO	STRONG HEART, J.	NO
DEFENDER, P.	YES	TAKEN ALIVE, J.	YES
GATES, R.	E.	TWO BEARS, S.	NO
IRON, T. [CHAIRING]	N.V.	WHITE, R.	YES

VOTE: YES - 7 NO - 5 NOT VOTING - 1

MOTION CARRIED. 4 - EXCUSED

#60. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY DEAN BEAR RIBS, TO APPROVE THAT THE STANDING ROCK SIOUX TRIBAL COUNCIL APPROVES OF SUBMISSION OF LEGISLATION TO THE NORTH DAKOTA STATE GOVERNMENT OPPOSING THE USE OF AMERICAN INDIAN MASCOTS AND MONIKERS BY UNIVERSITY'S AND INSTITUTIONS OF HIGHER EDUCATION IN NORTH DAKOTA SUCH LEGISLATION WILL BE CONSISTENT WITH PREVIOUS ACTIONS TAKEN BY THE STANDING ROCK TRIBAL COUNCIL.

ROLL CALL VOTE: MURPHY, C. - EXCUSED

ARCHAMBAULT, D.	E.	KEEPSEAGLE, J.	YES
BAILEY, V.	E.	LONG CHASE, F.	YES
BEAR RIBS, D.	YES	MCLAUGHLIN, E.	YES
BROWN OTTER, D.	YES	SEE WALKER, R.	YES
CORDOVA, R.	YES	STRONG HEART, J.	YES
DEFENDER, P.	YES	TAKEN ALIVE, J.	YES
GATES, R.	E.	TWO BEARS, S.	YES
IRON, T. [CHAIRING]	N.V.	WHITE, R.	YES

VOTE: YES - 12 NO - 0 NOT VOTING - 1

MOTION CARRIED. 4 - EXCUSED

RESOLUTION NO. 438-05

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribe passed motions and resolutions in 1992 and 1998 against the use of the ***"Fighting Sioux"*** nickname by the University of North Dakota, and

WHEREAS, other Sioux Tribes have consistently opposed the use of the ***"Fighting Sioux"*** nickname by the University of North Dakota (see www.und.edu/org/bridges/index2.html); and

WHEREAS, the University of North Dakota has appropriated the nickname ***"Fighting Sioux"*** without consulting or seeking the permission of Sioux Tribes; and

WHEREAS, Native American students and alumni of the University of North Dakota must endure professional, social and academic hardships due to the ***"Fighting Sioux"*** nickname; and

WHEREAS, the University's continued use of the ***"Fighting Sioux"*** nickname places Native American students and alumni in the position of being mascots and subjects these individuals to racially insensitive actions; and

WHEREAS, the University of North Dakota professes to support Native American issues;

NOW THEREFORE BE IT RESOLVED, the Standing Rock Sioux Tribe supports the recent decision by the National Collegiate Athletic Association to bar the use of Native American Tribal names in post-season games by colleges and universities. We the undersigned feel that the University of North Dakota should discontinue the use of the ***"Fighting Sioux"*** nickname; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [17] of whom 14 constituting a quorum, were present at a meeting thereof, duly and regularly, called, noticed, convened and held on the 15th day of **SEPTEMBER, 2005,** and that the foregoing resolution was duly adopted by the affirmative vote of 12 members, with 0 opposing, and with 2 not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT, IN CASE OF TIE.**

DATED THIS 15th DAY OF SEPTEMBER, 2005.

ATTEST:

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

Sharon Two Bears, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

Meeting Date: 09-15-05
Motion No. 100

#94. MOTION WAS MADE BY JESSE MCLAUGHLIN, SECONDED BY RANDY WHITE, TO APPROVE TO CONCURR WITH THE REQUEST FROM LOIS TWO BEARS – TRIBAL HEALTH ADMINISTRATION TO SCHEDULE THE YOUTH LEADERSHIP/SUICIDE PREVENTION TRAINING ON SEPTEMBER 19-20, 2005 AND A GATHERING OF NATIVE AMERICANS PROGRAM AT PRAIRIE KNIGHTS CASINO ON SEPTEMBER 21-23, 2005 AT NO COST TO THE PROGRAM.

ROLL CALL VOTE: MURPHY, C. – EXCUSED

BAILEY, V.		YES	MCLAUGHLIN, J.	YES
BROWN OTTER, M.		A.	MENTZ, A.	YES
CADOTTE, M.		YES	TAKEN ALIVE, J.	YES
CLAYMORE, M.		N.V.	TAKES THE GUN, D.	N.V.
FOOL BEAR, A.		YES	TWO BEARS, S.	YES
IRON, T.	**(Chairing)**	N.V.	WHITE, R.	YES
LITTLE EAGLE, A.		YES	WHITE BULL, F.	YES
LOPEZ, M.		YES	WHITE EAGLE,, C.	A.

VOTE: YES – 11 NO – 0 NOT VOTING – 3

MOTION CARRIED. 1 – EXCUSED 2 – ABSENT

#95. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY ALMA MENTZ, TO APPROVE TO REAFFIRM THE POSITION OF THE S.R.S.T. REGARDING THE USE OF THE FIGHTING SIOUX NICKNAME BY THE UNIVERSITY OF NORTH DAKOTA (U.N.D.) WHICH IS TO QUOTE: "TO ELIMINATE AND STOP THE USE OF THE FIGHTING SIOUX NICKNAME AND CHARACTER TODAY, FURTHER MORE THAT THE S.R.S.T. DOES NOT CONSENT TO THE USE OF THE FIGHTING SIOUX NICKNAME, MASCOT, AND CHARACTER", BY **RESOLUTION NO. 438-05.**

ROLL CALL VOTE: MURPHY, C. – EXCUSED

BAILEY, V.		YES	MCLAUGHLIN, J.	YES
BROWN OTTER, M.		A.	MENTZ, A.	YES
CADOTTE, M.		YES	TAKEN ALIVE, J.	YES
CLAYMORE, M.		YES	TAKES THE GUN, D.	N.V.
FOOL BEAR, A.		YES	TWO BEARS, S.	YES
IRON, T.	**(Chairing)**	N.V.	WHITE, R.	YES
LITTLE EAGLE, A.		YES	WHITE BULL, F.	YES

RESOLUTION NO. 562-07

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, §§ 1[a], 1[c], and 1[h], is empowered to negotiate with Federal, State and local governments and others on behalf of the Tribe, and to authorize or direct subordinate boards, committees and Tribal Officials, to administer the affairs of the Tribe and to administer the affairs of the Tribe and to carry out the directives of the Tribal Council; and

WHEREAS, the University of North Dakota [hereafter "UND"], signed a settlement agreement with the NCAA late last month, ending a year-long legal battle over a 2005 NCAA mandate that barred the nickname's continued use in postseason play; and

WHEREAS, that settlement requires the university to retire its nickname in three years if the school cannot win support from the Tribal Councils of both the Standing Rock and Spirit Lake reservations; and

WHEREAS, the Standing Rock Sioux Tribe [hereafter "SRST"], was not consulted during negotiation of UND-NCAA settlement; and

WHEREAS, because the SRST was not consulted concerning the said settlement, it is the recommendation of the Tribal Council's Health, Education and Welfare Committee that the Tribal Council maintain its position that the SRST opposes the use of the UND "Fighting Sioux" nickname and logo; and

WHEREAS, the SRST rejects the notion that the Tribal Council will change the Tribe's position concerning the use of UND "Fighting Sioux" nickname and logo in the next three years and rejects the possibility that UND can "win support" of the SRST on this issue;

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribal Council hereby states definitively that the SRST opposes the use of the UND "Fight Sioux" nickname and logo and rejects the notion that UND can "win support" of the SRST on this issue; and

MOTION NO. 95 IS CONTINUED.

LOPEZ, M.	YES	WHITE EAGLE,, C.	A.
VOTE:	YES – 12	NO – 0	NOT VOTING – 2
MOTION CARRIED.	1 – EXCUSED		2 – ABSENT

H.E.W. COMMITTEE – Adele White reporting.
September 1, 2005

#96. MOTION WAS MADE BY VERNA BAILEY, SECONDED BY JESSE TAKEN ALIVE, TO APPROVE TO AUTHORIZE SUBMISSION FOR A TRIBAL EMERGENCY MEDICAL ASSISTANCE (T.E.M.A.) GRANT TO THE ABERDEEN AREA BUREAU OF INDIAN AFFAIRS OFFICE.

ROLL CALL VOTE: MURPHY, C. – EXCUSED

BAILEY, V.	YES	MCLAUGHLIN, J.	YES
BROWN OTTER, M.	A.	MENTZ, A.	YES
CADOTTE, M.	YES	TAKEN ALIVE, J.	YES
CLAYMORE, M.	N.V.	TAKES THE GUN, D.	N.V.
FOOL BEAR, A.	N.V.	TWO BEARS, S.	YES
IRON, T. **(Chairing)**	N.V.	WHITE, R.	YES
LITTLE EAGLE, A.	YES	WHITE BULL, F.	YES
LOPEZ, M.	N.V.	WHITE EAGLE,, C.	A.

VOTE:	YES – 9	NO – 0	NOT VOTING – 5
MOTION CARRIED.	1 – EXCUSED		2 – ABSENT

#97. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY ALMA MENTZ, TO APPROVE OF A CONSULTANT AGREEMENT BETWEEN THE H.E.W. PROGRAM MANAGER AND THE ABERDEEN AREA TRIBAL CHAIRMAN'S HEALTH BOARD (A.A.T.C.H.B) FOR TRIBAL INSTITUTIONAL REVIEW BOARD (I.R.B.) TRAINING.

ROLL CALL VOTE: MURPHY, C. – EXCUSED

BAILEY, V.	YES	MCLAUGHLIN, J.	YES
BROWN OTTER, M.	A.	MENTZ, A.	YES

BE IT FURTHER RESOLVED, that the Tribal Chairman is further authorized and directed to advise UND and the NCAA of this, the Tribal Council's ultimate response regarding the said issue; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council, hereby certify that the Tribal Council is composed of seventeen [17] members of whom 11 constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened and held on the 9th day of NOVEMBER, 2007, and that the foregoing resolution was duly adopted by the affirmative vote of 8 members, and 1 opposing, and with 2 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.

DATED THIS 9th DAY OF NOVEMBER, 2007.

for Ron His Horse Is Thunder, Chairman
Standing Rock Sioux Tribe

ATTEST:

Geraldine Agard, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

Meeting Date: 11-09-2007
Motion No. 61

#61. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY DAVE ARCHAMBAULT, TO APPROVE TO REAFFIRM OUR POSITIONS IN OPPOSITION OF THE U.N.D. LOGO NICKNAME AND TO REJECT THE MOST RECENT FEDERAL COURT DECISION, **BY RESOLUTION NO. 562- 07 .**

AMEND: TO STATE "FEDERAL COURT SETTLEMENT."

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

WHITE MOUNTAIN, J.	NO	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATES, M.	YES
WHITE BULL, F.	E.	MURPHY, C.	YES
HARRISON, H.	YES	MCLAUGHLIN, J.	E.
BIRD, R.	E.	MCNEIL, J.	E.
JAMERSON, F.	E	TAKEN ALIVE, J.	YES
BROWN OTTER, M.	E.	LITTLE EAGLE, A.	YES
STRONG HEART, J.	YES	AGARD, G.	N.V.

VOTE: YES – 8 NO – 1 NOT VOTING – 2

MOTION CARRIED. 6 – EXCUSED

#62. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY MARGARET GATES, TO APPROVE OF THE H.E.W. COMMITTEE MINUTES FOR OCTOBER 22, 23, 25, 2007 AND NOVEMBER 9, 2007.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

WHITE MOUNTAIN, J.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATES, M.	YES
WHITE BULL, F.	E.	MURPHY, C.	YES
HARRISON, H.	YES	MCLAUGHLIN, J.	E.
BIRD, R.	E.	MCNEIL, J.	E.
JAMERSON, F.	E.	TAKEN ALIVE, J.	YES
BROWN OTTER, M.	E.	LITTLE EAGLE, A.	YES
STRONG HEART, J.	YES	AGARD, G.	YES

VOTE: YES – 10 NO – 0 NOT VOTING – 1

MOTION CARRIED. 6 – EXCUSED

RESOLUTION NO. 208-08

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, [48 stat. 984], with the exception of Section 16: and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council: and

WHEREAS, the Standing Rock Sioux Tribe Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, §§ 1[a], 1[c], and 1[h], is empowered to negotiate with Federal State and local governments and others on behalf of the Tribe, and to authorize or direct subordinate boards, committees and Tribal Officials, to administer the affairs of thee Tribe and to carry out the directives of the Tribal Council: and

WHEREAS, for a number of years the nickname bestowed on Athletic teams at the University of North Dakota [hereafter *"UND"*], i.e., the *"Fighting Sioux,"* and the logo it is used with have been a divisive issue. The Standing Rock Sioux Tribe and other Sioux Tribes, including the Cheyenne River Sioux and Rosebud Sioux Tribe, acting through their Tribal Council, have passed resolutions opposing UND's nickname and logo: and

WHEREAS, the Dakota, Lakota and Nakota Tribes opposing the use of the UND nickname and logo have set forth a variety of reasons for their resistence to the nickname and logo, including: the misappropriation of sacred spiritual images: the practices of non-Indians at sporting events: the reduction of complex Tribal, cultural and linguistic issues to a Hollywood stereotype: the attribution of violent images to Indian people by identifying them as "fighting:" and because Indian women, men and children become invisible when their cultures are represented only be historical images of male warriors: and

WHEREAS, more recently a group of American Indian students at UND filed discrimination complaint with UND's affirmative action office because the Gamma Phi Beta Sorority held a party in November during which students dressed up in American Indian costumes and slathered their faces and bodies with red makeup. Photos from the party show a female students wearing *"Indian Maiden"* dresses, stitched up the side with fringe at the bottom, and feather headdresses. Some male students are naked in the photos except for underwear and brown t-shirts wrapped around their waists as makeshift loincloths and red makeup smeared across their faces and chests. Several photos show one for the scantily clad male students with one had raised and a solemn expression on his face, seemingly imitating a stereotypical Indian pose: and

WHEREAS, the actions of those at Gamma Phi Beta Sorority part last November appear to be based on fundamental ignorance at best and out-and-out racism at

worst: and

WHEREAS, UND, in a settlement arising out of litigation with the National Collegiate Athletic Association [hereafter *"NCAA"*], has agreed to give up the name "Fighting Sioux" within three [3] years unless the Spirit Lake Nation and the Standing Rock Sioux Tribe support the name. The Standing Rock Sioux Tribe has already passed a resolution against the name; and

WHEREAS, the Standing Rock Sioux Tribal Constitution, Article III, § 12 mandates that: *"[a] ll members of the Tribal Council and all other Tribally elected officers shall act in accordance with a Code of Ethic."* So, Council Representatives and all other Tribally elected officers to carry out their duties consistent with the *"faith and diligent discharge of duties and responsibilities for and in the best interest of the Standing Rock Sioux Tribe."* SRST Constitution, Article III, § 12a.: and

WHEREAS, as noted above, UND's settlement with the NCAA requires UND to obtain support for the use of the *"Fight Sioux"* nickname within three [3] years unless the Spirit Lake Nation and the Standing Rock Sioux Tribe support UND's use of the nickname. Accordingly, the Tribe views UND's call for a referendum vote on this issue as a modern version of the Long Knives' *"divide and conquer tactics;"* and

WHEREAS, recently, some Tribal members have expressed their belief that the Standing Rock Sioux Tribe should hold a referendum on the UND nickname issue. It is clear that the sole beneficiary of such a referendum would be UND while the SRST would bear the entire financial burden of a referendum vote pursuant to the SRST Constitution Article III § 12[b]: and

WHEREAS, the SRST has expended substantial time and resources in arriving at its current position on this issue stance and b upholding its position the SRST, the government of the SRST seeks to promote the general welfare of its members, including mental, emotional and spiritual welfare pursuant to SRST Constitution Article IV, §§ 1[c] and 1[o]: and

WHEREAS, the Tribal Council is vested with the authority to regulate its own procedure under the Tribal Constitution Article IV, § 1[f]. The Tribal Council hereby proposes a moratorium on a referendum vote on the UND nickname issue for the foregoing reasons:

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribe hereby authorizes and directs that from the date of this Resolution is adopted by the Tribal Council, and certified, there is a moratorium on a referendum vote on the UND nickname issue: and

BE IT FURTHER RESOLVED, that the Tribal Chairman is further authorized and directed

to communicate with UND Chancellor Goetz and advise him of the moratorium established through this Resolution; and

BE IT FINALLY RESOLVED, that the Tribal Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council do hereby certify that the Tribal Council is composed of [17] members of whom 13 constituting an quorum, were present at a meeting, thereof, duly are regularly called, noticed, convened and held on the 8th day of MAY, 2008, and that the foregoing resolution was adopted by the affirmative vote of 7 members, with 5 opposing, and with 1 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT IN CASE OF A TIE.

DATED THIS 8th DAY OF MAY, 2008.

ATTEST:

Chris Little Eagle

for Ron His Horse is Thunder, Chairman
Standing Rock Sioux Tribe

Geraldine Agard, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

Meeting Date: 05-08-2008
Motion # 33

MOTION #31 IS CONTINUED.

JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES – 12 NO – 0 NOT VOTING – 1

MOTION CARRIED. 4 – EXCUSED

#32. MOTION WAS MADE BY HENRY HARRISON, SECONDED BY GERALDINE AGARD, TO APPROVE TO ALLOCATE $4,000.00 FROM THE FY-2008 CASINO FUNDS TO THE PARDON BOARD, BY RESOLUTION **[NO. 207-08]**.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, JR., R	YES	AGARD, G	YES
BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATE, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	N.V.
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES – 11 NO – 0 NOT VOTING – 2

MOTION CARRIED. 4 – EXCUSED

#33. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY AVIS LITTLE EAGLE, TO APPROVE TO ESTABLISH A MORATORIUM ON THE REFERENDUM VOTE TO THE U.N.D. LOGO ISSUE, BY RESOLUTION **[NO. 208-08]**.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, JR., R	NO	AGARD, G	NO
BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	NO	GATE, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.

MOTION #33 IS CONTINUED.

STRONG HEART, SR., J.	NO	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	NO
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES – 7 NO – 5 NOT VOTING – 1

MOTION CARRIED. 4 – EXCUSED

#34. MOTION WAS MADE BY RICHARD BIRD, JR., SECONDED BY MILTON BROWN OTTER, TO APPROVE OF H.E.W. COMMITTEE REPORTS FOR APRIL 7, 21, 2008 AND MAY 5,7, 2008.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, JR., R	YES	AGARD, G	YES
BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATE, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES – 12 NO – 0 NOT VOTING – 1

MOTION CARRIED. 4 – EXCUSED

#35. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY HENRY HARRISON, TO APPROVE TO AMEND THE AGENDA TO ADD AN ICWA ISSUE [RE: Valerie Hill].

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, JR., R	YES	AGARD, G	YES
BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATE, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	NO
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	NO
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

~~MOTION NO. 49 IS CONTINUED.~~

HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	E.	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	NO

VOTE: YES – 8 NO – 4 NOT VOTING – 1

MOTION CARRIED. 4 – EXCUSED

#50. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY CHARLES MURPHY, TO APPROVE TO PUT THE ISSUE OF "THE FIGHTING SIOUX" LOGO ON THE BALLET COME ELECTION.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	E.	AGARD, G.	N.V.
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	E.
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	E.	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	NO

VOTE: YES – 5 NO – 6 NOT VOTING – 2

MOTION DID NOT CARRY. 4 – EXCUSED

#51. MOTION WAS MADE BY FRANK WHITE BULL, SECONDED BY JOSEPH MCNEIL, TO TABLE MOTION NO. 50.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	E.	AGARD, G.	N.V.
BROWN OTTER, M.	YES	ARCHAMBAULT, D.	E.
CORDOVA, R.	NO	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	YES
JAMERSON, F.	E.	MCLAUGHLIN, J.	NO

REGULAR TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: August 11, 2009 **PAGE: 1**

#1. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY MILTON BROWN OTTER, TO APPROVE OF THE AGENDA FOR AUGUST 11, 2009.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	YES	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	YES
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	YES

VOTE: YES – 11 NO – 4 NOT VOTING – 1
MOTION CARRIED. 1 – EXCUSED

#2. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY JOSEPH MCNEIL, TO AMEND THE MAIN MOTION TO INCLUDE THE UND LOGO.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	YES	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	YES
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	NO

VOTE: YES – 9 NO – 6 NOT VOTING – 1
MOTION CARRIED. 1 – EXCUSED

H.E.W. COMMITTEE – Adele White reporting.
July 20, 2009

#3. MOTION WAS MADE BY CHARLES MURPHY, SECONDED BY JESSE MCLAUGHLIN, TO APPROVE TO INCLUDE THE BIRD HORSE FAMILY TO THE NEW GRAND RIVER WATERLINE EXTENSION THAT IS BEING CONSTRUCTED IN THE WAKPALA DISTRICT.

#20. MOTION WAS MADE BY JOSEPH MCNEIL, SECONDED BY FRANK WHITE BULL, TO APPROVE TO ADD ELDERLY NEEDS PROGRAM FOR $500,000.00 TO CASINO REVENUE PRIOR COMMITMENTS, **BY RESOLUTION NO. 513-09.**

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	NO	AGARD, G.	YES
BROWN OTTER, M.	YES	ARCHAMBAULT, D.	NO
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, F.	YES	MCLAUGHLIN, J.	N.V.
STRONG HEART, J.	YES	MCNEIL, J.	YES
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	YES

VOTE: YES – 12 NO – 2 NOT VOTING – 2

MOTION CARRIED. 1 – EXCUSED

#21. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY JOSEPH MCNEIL, TO APPROVE TO MOVE THE UND LOGO UP ON THE AGENDA.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	NO	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	YES
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	YES
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	YES

VOTE: YES – 10 NO – 5 NOT VOTING – 1

MOTION CARRIED. 1 – EXCUSED

#22. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY ROBERT CORDOVA, TO **RESCIND RESOLUTION NO. 208-08,** PASSED BY THE

MOTION NO. 22 IS CONTINUED.

TRIBAL COUNCIL ON MAY 8, 2008 THAT PUT A MORATORIUM ON THE UND LOGO.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	NO	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	NO
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	NO

VOTE: YES – 7 NO – 8 NOT VOTING – 1

MOTION DID NOT CARRY. 1 – EXCUSED

#23. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY JESSE TAKEN ALIVE, TO CALL FOR QUESTION ON MOTION NO. 22.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	YES	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	YES
CORDOVA, R.	NO	GATES, M.	E.
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	YES
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	YES

VOTE: YES – 13 NO – 2 NOT VOTING – 1

MOTION CARRIED. 1 – EXCUSED

JUDICIAL COMMITTEE – Cheryl Long Feather reporting.
July 21, 2009

MOTION #69 IS CONTINUED.

STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	YES
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES - 14 NO - 0 NOT VOTING - 1

MOTION CARRIED. 2 - EXCUSED

#70. MOTION WAS MADE BY RICHARD BIRD, JR., SECONDED BY ROBERT CORDOVA, TO AMEND THE AGENDA TO ADD ON THE UND LOGO ISSUE.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON - NOT VOTING

BIRD, JR., R.	NO	AGARD, G.	NO
BROWN OTTER, M.	EX.	ARCHAMBAULT, JR., D.	NO
CORDOVA, R.	YES	GATES, M.	NO
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, JR., F.	N.V.	MCLAUGHLIN, J.	YES
STRONG HEART, SR., J.	NO	MCNEIL, JR., J.	NO
WHITE BULL, F.	N.V.	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	NO

VOTE: YES - 3 NO - 9 NOT VOTING - 3

MOTION DID NOT CARRY. 2 - EXCUSED

#71. MOTION WAS MADE BY AVIS LITTLE EAGLE, SECONDED BY JOSEPH MCNEIL, JR., TO AMEND THE AGENDA TO ADD ON THE RESOLUTION REQUESTING BIA TO MONITOR THE SEPTEMBER 30, 2009 GENERAL ELECTION.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON - NOT VOTING

BIRD, JR., R.	NO	AGARD, G.	YES
BROWN OTTER, M.	EX.	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATES, M.	NO
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	YES
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES - 12 NO - 2 NOT VOTING - 1
MOTION CARRIED. 2 - EXCUSED

TRIBAL COUNCIL
(AT LARGE)

Jesse "Jay" Taken Alive

Margaret M. Gates

Vacant

Dave Archambault II

Joseph McNeil Jr.

Jesse McLaughlin

Charles W. Murphy
Chairman

Mike Faith
Vice Chairman

Adele M. White
Secretary

TRIBAL COUNCIL
(DISTRICTS)

Sharon Two Bears
Cannonball District

Henry Harrison
Long Soldier District

Duane Claymore
Wakpala District

Kerby St. John
Kenel District

Errol "Doug" Crow Ghost
Bear Soldier District

Milton Brown Otter
Rock Creek District

Frank Jamerson Jr.
Running Antelope District

Samuel "Ben" Harrison
Porcupine District

MEMORANDUM

April 6, 2010

TO: Archie Fool Bear

FROM: Susan White Eagle/Recording Clerk SWE

SUBJECT: Excerpt from Regular Tribal Council meeting held on April 6, 2010.

EXCERPT **EXCERPT** **EXCERPT**

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOSEPH MCNEIL, JR., TO APPROVE DUE TO THE RECENT DEVELOPMENTS REGARDING THE UND LOGO ISSUE THE S.R. SIOUX TRIBAL COUNCIL WILL RESUME DISCUSSING THE MATTER ONCE THE N.D. STATE BOARD OF HIGHER EDUCATION MAKES IT'S FINAL DECISION ON THE RETIREMENT OF THE UND LOGO AND NICKNAME.

ROLL CALL VOTE: MURPHY, CHARLES - NOT VOTING

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CLAYMORE, D.	NO	FAITH, JR., M.	NO
CROW GHOST, E.	E.	GATES, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
HARRISON, B.	YES	MCLAUGHLIN, J.	E.
JAMERSON, JR., F.	NO	MCNEIL, JR., J.	YES
ST. JOHN, K.	NO	TAKEN ALIVE, J.	YES
TWO BEARS, S.	NO	WHITE, A.	NO

VOTE: YES - 8 NO - 6 NOT VOTING - 1

MOTION CARRIED 2 - EXCUSED

Should you have any questions please do not hesitate to contact me at 854-8577.
pc: file

TRIBAL COUNCIL
(AT LARGE)

Jesse "Jay" Taken Alive

Margaret M. Gates

Vacant

Dave Archambault II

Joseph McNeil Jr.

Jesse McLaughlin

Charles W. Murphy
Chairman

Mike Faith
Vice Chairman

Adele M. White
Secretary

TRIBAL COUNCIL
(DISTRICTS)

Sharon Two Bears
Cannonball District

Henry Harrison
Long Soldier District

Duane Claymore
Wakpala District

Kerby St. John
Kenel District

Errol "Doug" Crow Ghost
Bear Soldier District

Milton Brown Otter
Rock Creek District

Frank Jamerson Jr.
Running Antelope District

Samuel "Ben" Harrison
Porcupine District

MEMORANDUM

MAY 4, 2010

TO: Jesse Taken Alive/H.E.W. member

FROM: Susan White Eagle/Recording Clerk

SUBJECT: Excerpt from Regular Tribal Council meeting held on May 4, 2010.

EXCERPT EXCERPT EXCERPT

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOSEPH MCNEIL, JR., TO APPROVE TO REAFFIRM MOTION NO. 2 OF APRIL 6, 2010 TRIBAL COUNCIL MEETING.

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOSEPH MCNEIL, JR., TO APPROVE DUE TO THE RECENT DEVELOPMENTS REGARDING THE UND LOGO ISSUE THE S.R. SIOUX TRIBAL COUNCIL WILL RESUME DISCUSSING THE MATTER ONCE THE N.D. STATE BOARD OF HIGHER EDUCATION MAKES IT'S FINAL DECISION ON THE RETIREMENT OF THE UND LOGO AND NICKNAME.

ROLL CALL VOTE: MURPHY, CHARLES - EXCUSED

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.		YES
CLAYMORE, D.	NO	FAITH, JR., M.	[**Chairing**]	N.V.
CROW GHOST, E.	YES	GATES, M.		NO
HARRISON, H.	YES	LITTLE EAGLE, A.		E.
HARRISON, B.	YES	MCLAUGHLIN, J.		NO
JAMERSON, JR., F.	NO	MCNEIL, JR., J.		YES
ST. JOHN, K.	NO	TAKEN ALIVE, J.		YES
TWO BEARS, S.	NO	WHITE, A.		NO

VOTE: YES - 7 NO - 7 NOT VOTING - 1

Due to a tie vote the Chairman's vote is required, he voted "YES", the vote is as follows.

VOTE: YES - 8 NO - 7 NOT VOTING - 0
MOTION CARRIED 2 - EXCUSED

Should you have any questions please do not hesitate to contact me at 854-8577.

L COUNCIL
(AT LARGE)

Jesse "Jay" Taken Alive

Margaret M. Gates

Avis Little Eagle

Dave Archambault II

Joseph McNeil Jr.

Jesse McLaughlin

Charles W. Murphy
Chairman

Mike Faith
Vice Chairman

Adele M. White
Secretary

TRIBAL COUNCIL
(DISTRICTS)

Sharon Two Bears
Cannonball District

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Long Soldier District

Duane Claymore
Wakpala District

Kerby St. John
Kenel District

Errol D. Crow Ghost
Bear Soldier District

Milton Brown Otter
Rock Creek District

Frank Jamerson Jr.
Running Antelope District

Samuel B. Harrison
Porcupine District

MEMORANDUM

TO: ALL TRIBAL COUNCIL MEMBERS, ALL PROGRAM DIRECTORS SRST

FROM: CHARLES W. MURPHY, CHAIRMAN SRST

DATE: June 14, 2010

RE: SPECIALTRIBAL COUNCIL MEETING.

Please be advised that a Special Tribal Council meeting is scheduled for June 17, 2010, regarding the referendum vote. The meeting will begin at 10:00 a.m. and will be held in the Tribal Council Chambers.

If you should have any questions, please contact my office. Thank you.

SPECIAL TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: June 17, 2010 **PAGE: 1**

#1. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY MILTON BROWN OTTER, TO APPROVE OF THE AGENDA FOR JUNE 17, 2010.

ROLL CALL VOTE: MURPHY, C. – NOT VOTING

BROWN OTTER, M.	NO	ARCHAMBAULT, JR., D.	E.
CLAYMORE, D.	YES	FAITH, JR., M.	YES
CROW GHOST, E.	YES	GATES, M.	NO
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	NO
JAMERSON, F.	YES	MCNEIL, J.	NO
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	YES	WHITE, A.	YES

VOTE: YES – 10 NO – 4 NOT VOTING – 1
MOTION CARRIED. 2 – EXCUSED

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOE MCNEIL, TO APPROVE THAT IT SHALL BE THE FINAL DECISION OF THE STANDING ROCK SIOUX TRIBE THAT THE UND LOGO AND NICKNAME IS RETIRED AND FURTHER DISCUSSION IS NOT NECESSARY AND WILL NOT BE CONDUCTED AS THERE ARE MANY ISSUES OF PRIORITY THAT NEED TIMELY ATTENTION.

AMENDED: "BY RESOLUTION".

ROLL CALL VOTE: MURPHY, C. – NOT VOTING

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	E.
CLAYMORE, D.	YES	FAITH, JR., M.	NO
CROW GHOST, E.	YES	GATES, M.	YES
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	NO
JAMERSON, F.	NO	MCNEIL, J.	YES
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	NO	WHITE, A.	YES

VOTE: YES – 10 NO – 4 NOT VOTING – 1
MOTION CARRIED. 2 – EXCUSED

#3. MOTION WAS MADE BY JOE MCNEIL, SECONDED BY MILTON BROWN OTTER, TO ADJOURN THE SPECIAL TRIBAL COUNCIL MEETING AT 10:45 A.M. CENTRAL TIME.

ROLL CALL VOTE: MURPHY, C. – NOT VOTING

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	E.
CLAYMORE, D.	YES	FAITH, JR., M.	YES
CROW GHOST, E.	YES	GATES, M.	YES
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	YES
JAMERSON, F.	YES	MCNEIL, J.	YES
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	YES	WHITE, A.	YES

VOTE: YES – 14 NO – 0 NOT VOTING – 1

MOTION CARRIED. 2 – EXCUSED

RESOLUTION NO. 408-10

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, §§ 1[a], 1[c], and 1[h], is empowered to negotiate with Federal, State and local government and others on behalf of the Tribe, and to authorize or direct subordinate boards, committee and Tribal Officials, to administer the affairs of the Tribe and to carry out the directives of the Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, in a duly and regularly called, noticed and convened meeting hon the 17th day of June, 2010, to determine a course of action in the ongoing Fighting Sioux controversy, acted to reaffirm all the governing body's earlier actions to end the use of the Fighting Sioux Nickname and Logo; and

WHEREAS, the Standing Rock Sioux Tribe recognizes the duly enacted positions of its six [6] Governing Districts that have acted to support an end to the use of the Fighting Sioux name by the University of North Dakota; and

WHEREAS, the Standing Rock Sioux Tribe recognizes that off reservation influences, including the Ralph Englestad Arena, have proven to be disruptive and divisive to our people, are not necessary and will not be tolerated within our homelands; and

WHEREAS, the Standing Rock Sioux Tribe hereby supports the position and action of the North Dakota State Board of Higher Education to retire the Fighting Sioux Nickname and Logo; and

WHEREAS, the Standing Rock Sioux Tribe recognizes the importance of ensuring the safe and effective transition from the Fighting Sioux Nickname and Logo at the University of North Dakota and the State at large and hereby supports any such related efforts; and

WHEREAS, the Standing Rock Sioux Tribe has not adopted policies and procedures to govern the certification of the petitions of enrolled members, both petitions submitted to the Chairman of the Standing Rock Sioux Tribe are not applicable;

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribe hereby reiterates that this decision is the Final Decision of the governing body of the Standing Rock Sioux Tribe, that officially authorized copies of the foregoing Resolution will be forwarded to the North Dakota State Board of Higher Education, the Chancellor of the North Dakota University System, the University of North Dakota, North Dakota Governor's Office, National Collegiate Athletic Association, and the Honorable Lawrence Janke of the Federal District Court in Grand Forks, North Dakota presiding over the related settlement forthwith; and

BE IT FURTHER RESOLVED, that the Standing Rock Sioux Tribal Council hereby approves that it shall be final decision of the Standing Rock Sioux Tribe, that the Fighting Sioux Nickname and Logo is retired and further discussion is not necessary and will not be conducted, as there are many issues of priority that need timely attention; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of **[17]** member; of whom **15**, constituting a quorum, were present at a meeting duly and regularly, called, noticed, convened and held on the **17th** day of **JUNE, 2010,** and that the foregoing resolution was duly adopted by the affirmative vote of **10** members, with **4** and with **1** not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.**

DATED THIS 17th DAY OF JUNE, 2010.

ATTEST:

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

Adele M. White, Secretary
Standing Rock Sioux Tribe

[OFFICIAL TRIBAL SEAL]

Meeting Date: 06-17-2010
Motion No.: 02

TESTIMONY ATTACHMENT 21

To : ND Legislature

Steve Fool Bear
Grand Forks, North Dakota

Good day, my name is Steve Fool Bear. I am a senior at the University of North Dakota. I am an enrolled member of the Standing Rock Sioux Nation and a veteran of the United States Marine Corps. I'm writing this letter in reference to the laws that are being discussed in retaining the "Fighting Sioux" nickname and logo. It has always been my opinion that Sioux people should decide whether the name stays or goes. I have placed my trust in our tribal democratic process to settle the issue, but unfortunately Standing Rock's leadership has failed. It has been publicly observed over the past several years that a great majority of Sioux people indeed supports the nickname and logo.

These democratic facts have been very clear. Spirit Lake voted 2 to 1 to keep the name, Standing Rock's Sioux vs. Oyate vote, which was a direct result of the nickname debate, had identical results. Our current Chairman, Charles Murphy, a pro-logo candidate defeated Ron McNeal "His Horses Thunder" the anti-logo candidate, by identical results. It is always been the same 2/3rds support shown. Yet the logo is still being removed. Maybe I'm just a simple-minded man, but does this make sense to anyone?

You are going to hear many arguments today why the logo should be removed, "it causes division, it's hurtful, it's degrading, it's easier just to retire it, etc". Emotionally charged language is a basic tactic I have come across [redacted]he years in this debate. As tribal members we have heard it all. We have been told that we're uneducated, [redacted]ve are oppressed; we are colonized, that we should take offense to the logo. That there's something wrong with us, for not agreeing the anti-American mentality they harbor, my response has always been, do not tell me what I should think or feel, or anyone else for that matter, I can distinguish right and wrong for myself.

Who do these people think they are? Their elitist mentality only holds weight within their minority circles. They DO NOT speak for the majority. The one thing all their arguments cannot account for is "why" the majority of Sioux people support UND's use of the name and logo. Those along with the 1969 name giving ceremony giving UND the right to use the name and logo are issues they refuse to acknowledge or debate.

Over the past year while studying at UND, I have not come across a racist incident. The social circles I travel in, which are comprised primarily of Native Americans carry the same opinion. Many of who are fellow students, Dr's, Lawyers, Nurses and Teachers. Are these people "not as" educated as the anti-logo academics? Does my opinion matter more than an anti-logo freshman's? No it does not. The answer comes down to this. The people need to decide. Education levels, service to country or social status does not matter. This is America, where the "collective" voice decides.

We do not live in a country or state where the minority dictates the majorities' opinion. We live in a society where our constitutional freedoms ensure our progress and stability. Contrary to that idea, it is now apparent that the minority does in fact control the majority on Standing Rock. Which is an issue only our future generations can fix. Dysfunctional and corrupt politics has brought this issue to where it is today. If the state wishes to intervene on behalf the tribal members rights, I am full support, as the majority will also be. If the [redacted]s democratic process succeeds where the tribe failed, then so be it. Corrupt politicians on Standing Rock [redacted] have won within the reservation boundaries, but that does not mean they have to outside its limits. Thank you for your time

Steve Fool Bear

SUBMITTED TESTIMONY
ATTACHMENT 22

Testimony to the House Education Committee
HB 1208, HB 1257, and HB 1263
Andrew Varvel
January 26, 2011

Madam Chairman and Members of the Committee:

Aŋpa na Woahophe

This is the motto of the University of North Dakota in the Dacotah language. UND's motto at present is "Lux et Lex", which is Latin for "Light and Law". If we truly seek to honor the Sioux, let's shift the language of UND's motto from Latin to Dacotah.

To those who fought long and hard for UND to use Indian nicknames, mascots, and logos, you won. You won when the Spirit Lake Dakota gave UND permission to use their name. If you force UND to keep the "Fighting Sioux" nickname against the will of the National Collegiate Athletic Association, you would snatch defeat from the jaws of victory. On the other hand, if either the Legislature or UND chooses to use the nickname "Dacotah", supporters of that nickname would be on solid ground.

I hope UND remains a member in good standing of the National Collegiate Athletic Association. I don't want the Legislature to do anything that could jeopardize that membership.[1] Moreover, the University of North Dakota started using "Dacotah" – that's D-A-C-O-T-A-H – for its yearbook in 1904, twenty-six years before the editorial staff of the Dakota Student pushed to replace the Flickertails nickname with the "Fighting Sioux" in 1930.[2] The 1926 Dacotah was dedicated to Dr. Orin G. Libby specifically as "a friend of the Dacotah" and to honor Dacotah Indians.[3]

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[1] According to my lay reading of the North Dakota Constitution, it would appear to be within your power to do so. In Section 6.6.b. of Article 8 of the North Dakota Constitution, it states, "The said state board of higher education shall have full authority to organize and reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions." The key words are "*within constitutional and statutory limitations*" which would appear to be a strong limitation upon the Board's power.

So, I think you can. However, "can" and "should" are quite different from each other.

[2] See Appendix A. Also See Appendix B. According to New Lakota Dictionary of the Lakota Language Consortium, "Odz-dzo-dzi" (ožiži) means "whispering"; "Ri-ri-ri" (LILILILILILILILI), means a woman's praise of the bravery of warriors; and "Hyah, Hyah" (Hiyá, Hiyá) means "No! No!" Although parts of this "Sioux War Cry" are definitely authentic, it is probably garbled.

[3] See Appendices C and D. During the 1920's, any dedication of the Dacotah Yearbook to Dr. Libby would have been seen as an implicit rebuke toward President Kane. President Kane was a

Those who have been to UND can see an example of sympathetic magic. Oxford Street, Cambridge Street, Harvard Street, Princeton Street, Yale Drive, Stanford Road, Columbia Road, Berkeley Drive, Cornell Street, Tulane Drive – the list goes on and on. It is as if the reputation or quality of each of these schools is intended to rub off onto the University of North Dakota with the invocation of these names. When the streets of UND advertise the excellence of other schools, it sends a clear message.

One of the most important events in North Dakota sports history happened on October 4, 1929. Dignitaries from around the region including the president and vice president of the Great Northern Railroad, the president of the state board of administration, Governor George F. Schafer, and Joseph Chapman of the L. S. Donaldson company were present for a pep rally before the game. A special train was chartered to bring alumni from Fargo. This was the third anniversary of the dedication of the Memorial Stadium, a football game at night under lights. The banner headline for the *Dakota Student* that day was "Redskin Horde Invades Stadium". The Haskell Indian football team was coming to town.[4]

The Haskell Indians came. They saw. They conquered. They defeated the Flickertails thirteen to six. The 1931 Yearbook later claimed "it held no bitterness for the losers". It was an epic defeat.[5] One day before the one-year anniversary of Haskell's victory over the Flickertails, the University of North Dakota adopted the "Fighting Sioux" nickname after a major press campaign by the staff of the *Dakota Student* in the fall of 1930.[6]

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controversial president known for attending a church where he would listen to the sermons of Halsey Ambrose, who was an energetic leader of the Ku Klux Klan in North Dakota during the 1920's.

[4] See Appendix E and F.

[5] See Appendix G.

[6] In pages 9-10 of the UND's Centennial Departmental History of the Journalism Department, Tom Deats recounts the story of how journalism students pushed the "Fighting Sioux" nickname:

In the second edition, the student newspaper began a campaign to change the university's "pep name" from Flickertails to Sioux. The campaign was largely one of staff-authored bogus letters-to-the-editor and public opinion polls that purported to show university-wide support for the name change. Several years later, former editor Al Austin recalled the Dakota Student campaign: "For years our cartoonists (Ernie Wenner most of the time) had been trying to draw convincing pictures of huge Flickertails chasing midget Bison, by they never clicked.

"So in the fall of 1930, while I was homecoming chairman and editor of the Student at the same time, we decided it was time for something to be done about it – especially since a Sioux Pow Wow theme would be a natural for homecoming. So what did we co but start writing opinions to ourselves about why the name Flickertail wasn't so hot, and how Sioux would be a natural 'handle' for the U athletes!

To quote Jose, a fictional minor league baseball player who believed in Voodoo, from the movie *Bull Durham*, "No, that is not belief. That is desperation."[7]

The first cartoon depicting the "Fighting Sioux" was, shall we say, raucous;[8] it is easy to imagine how many Sioux might not feel honored by it. Moreover, opposition to the "Fighting Sioux" nickname is as old as the nickname itself.[9]

"The next step was to take it up editorially, pointing out how the student body was demanding change. After that the Athletic Association was a cinch. 'Sioux' was adopted as the official name, and gradually became accepted all over the country."

A front-page banner headline in the Oct. 3, 1930, Dakota Student proclaimed the name change.

Also see Appendix H.

[7] It may interest the Legislature what the meaning of the word "Sioux" happens to be in Dacotah.

According to the New Lakota Dictionary by the Lakota Language Consortium, "su" means "seed", "kernel", "hail", or "bullet". This etymology is also found in Lakota Dictionary by Eugene Buechel and Paul Manhart, A Dakota-English Dictionary by Stephen R. Riggs, and An English-Dakota Dictionary by John P. Williamson. According to New Dakota Dictionary, Lakota Dictionary, and A Dakota-English Dictionary, the word "susu" means "testicles". So, "Fighting Su" could be variously regarded as a "fighting seed", a "fighting bullet" or a "fighting testicle".

The word "su" is an ancient word in North America. According to A Dictionary of the Biloxi and Ofo Languages, by James Owen Dorsey and John R. Swanton, "su" meant "seed" or "pupil of the eye" in Biloxi, a distant and extinct Siouan language from modern day Mississippi. According to A Grammar and Dictionary of Tutelo by Giulia Oliverio, "su" meant "seed" or "pupil of the eye" in Tutelo, an extinct Siouan language from modern day Virginia. Possible cognates may include "asuŋt" meaning "testicle" in Mandan (Mandan Dictionary, by Robert Hollow) and "ifhu" meaning "seed" in Ofo (A Dictionary of the Biloxi and Ofo Languages, by Dorsey and Swanton).

Although there is a professional basketball team called the "Denver Nuggets" and the "Washington Wizards" were known until 1997 as the "Washington Bullets", the closest analogy to the meaning of "Su" in college sports probably comes from the Rhode Island School of Design. Its nickname is the "Nads", its chant is "Go Nads", its unofficial mascot is an anthropomorphized penis called "Scrotie", and its cheerleaders are called the "Jockstraps".

[8] See Appendix I.

[9] See Appendix J.

While the Arikara are related to the Pawnee, the Hidatsa are related to the Crow, and the other tribes have counterparts elsewhere, North Dakota is the only part of the world where Mandan (Nu'eta) is spoken at all.

Indian languages are part of our common heritage. They are part of what makes us special as a state.

As well meaning as these proposed statutes may be, at least one of the them should be hoghoused into a statute establishing an Indian Languages Department.[11] I think the Spirit Lake Dakota would regard an Indian Languages Department (with a four semester series of courses on Lakota/Dakota, of course) as recognition of their intrinsic importance beyond any nickname.

If you want the Legislature to take control of UND's nickname, it would be wise to establish its nickname as the Dacotah;[12] after all, you already have permission to use it. A bird in hand is worth two in the bush. If you would like, UND's nickname could be turned into the "Dacotah" by legislative fiat; alternatively, it could be turned into a concurrent resolution calling upon the University of North Dakota to restore the "Dacotah" as its nickname. Take the victory you have.

Aŋpa na Woahophe

Andrew Varvel
1800 East Capitol Avenue #258
Bismarck, ND 58501
kiksuya74@yahoo.com

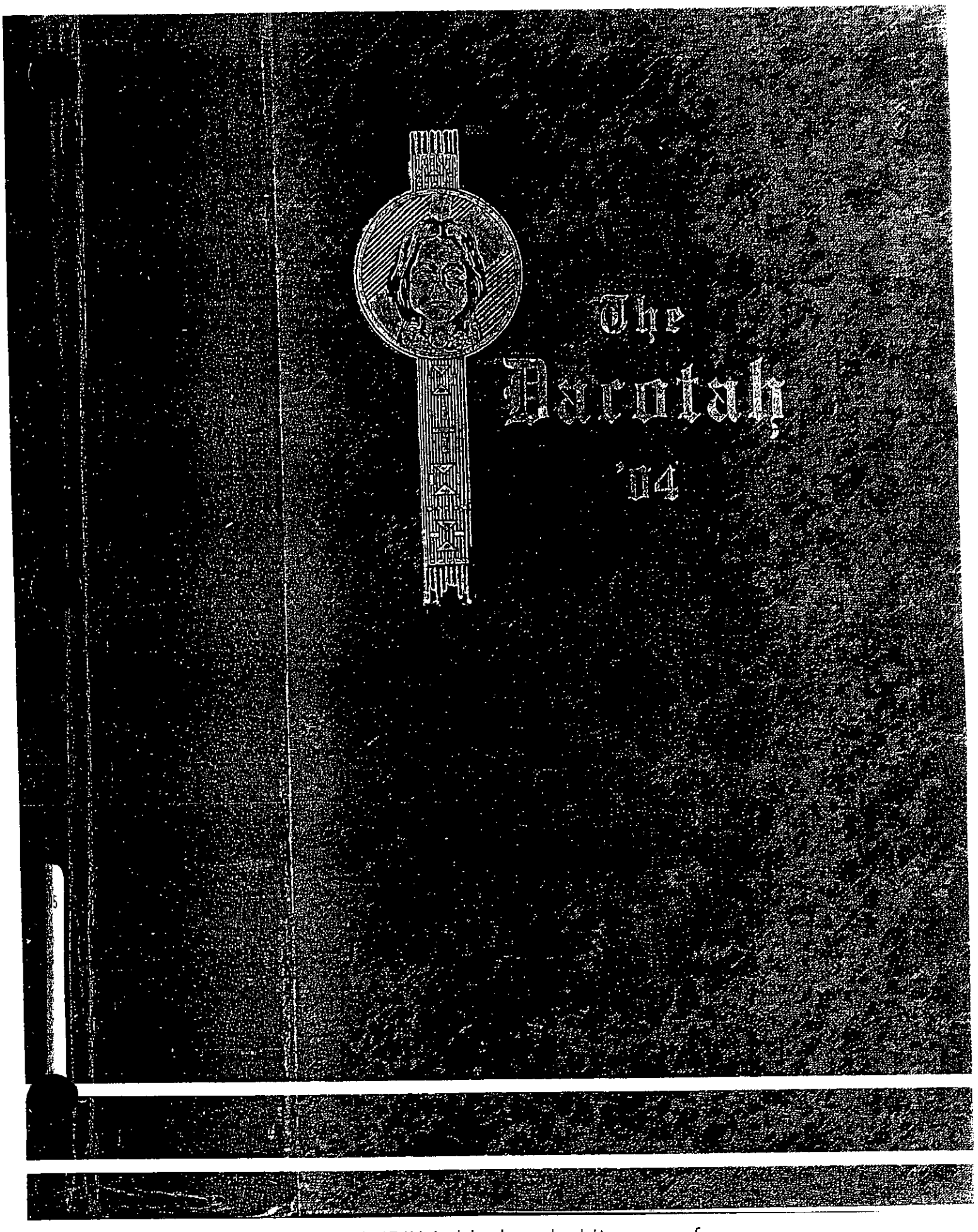
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[11] A proposed hoghouse amendment is shown in Appendix K. It is loosely based upon language establishing the Alaska Native Language Center at the University of Alaska at Fairbanks found in Title 14, Chapter 40, Section 117 of the Alaska Statutes, which is the following:

"The University of Alaska shall establish an Alaska Native Languages Center, the purposes of which are to

(1) study languages native to Alaska;
(2) develop literacy materials;
(3) assist in the translation of important documents;
(4) provide for the development and dissemination of Alaska Native literature; and
(5) train Alaska Native speakers to work as teachers and aides in bilingual classrooms"

[12] A proposed amendment is shown in Appendix L.



APPENDIX A: black and white copy of

Odz-dzo-dzi,

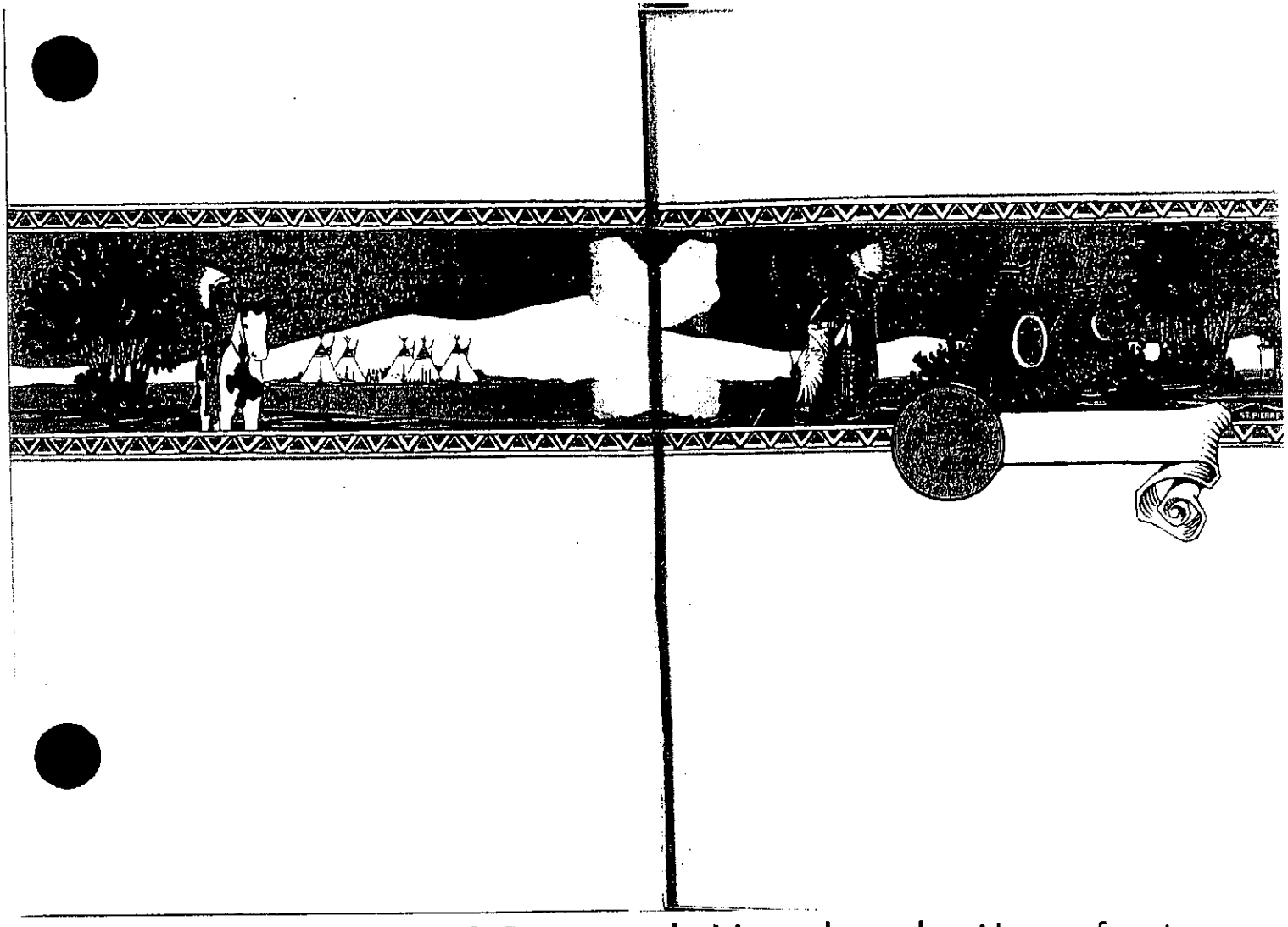
Ri-ri-ri,

Hyah Hyah!

North Dakota!

(Sioux War Cry)

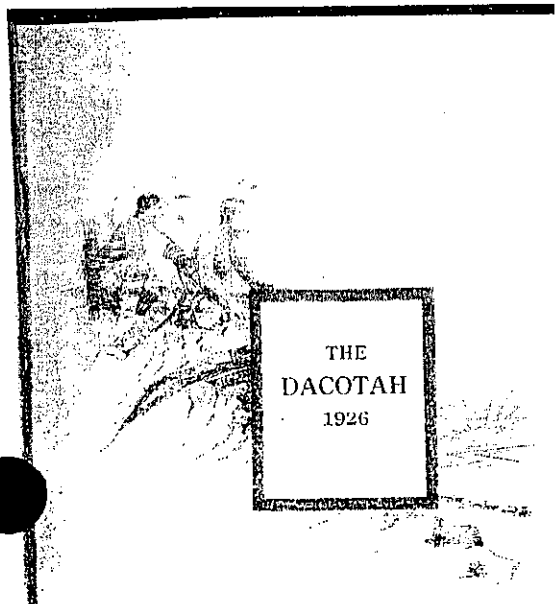




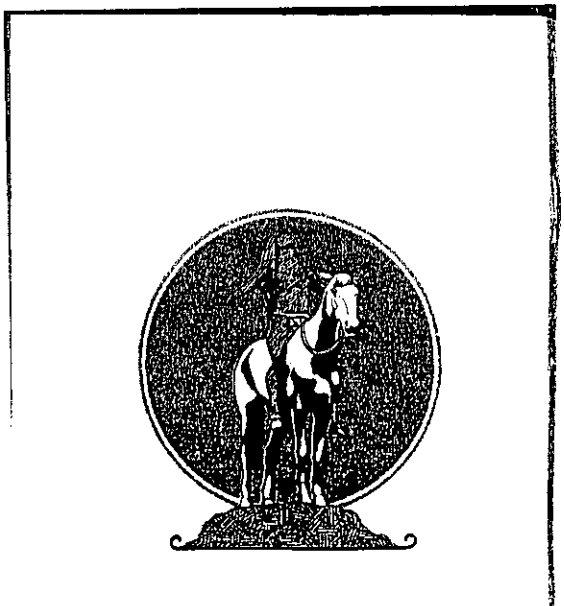
APPENDIX C: 1926 Dacotah Yearbook

Above: front pages

Below left: title page



Below right: page 1



Source: North Dakota State Historical Society

Foreword

FIGHTING Nodaks; lofty hours spent in halls of learning; evenings on the coulee; gayeties and perplexities of campus life; men who have come, gone and made good, make up the pages of this book.

We have gone for tradition and counsel to the Dacotah Indians whose trail, marked by the embers of smouldering campfires, is blazed across the pages of our history. We have attempted to depict, as applicable to college life, the many-sided, colorful existence of an Indian. The calm of meditation, exhilaration of play, work, love and laughter—this was his life and is ours.

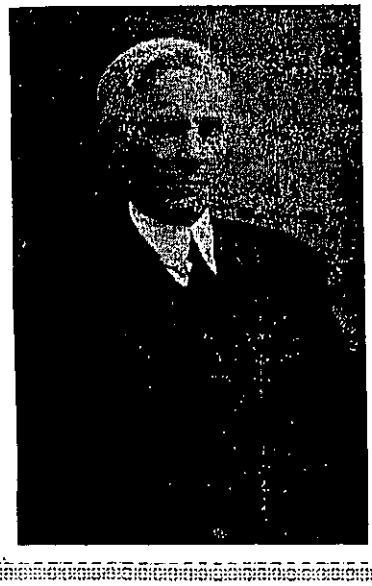
In honoring the Indian, we have tried to give you a Dacotah full of things remembrances are made of; a book that will live with you, and hold you fast to your Alma Mater—to the school "in the land of the Dacotahs."

Dedication

TO a friend of the Dacotah Indians, educator and historian; a man who has worked as secretary of the State Historical Society to preserve the story of the Redman's dwindling nation that we might have permanently intact this source of inspiration and tradition; a man who has completed twenty-three years of faithful service to the University of North Dakota—

To Dr. O. G. Libby, we are happy to dedicate this, the twelfth volume of the Dacotah.

APPENDIX D: 1926 Dacotah, pp. 5-7,24 (source: NDSHS)



DR. O. G. LIBBY

DEAN OF WOMEN

A STUDENT'S OBLIGATION



THE good fortune to attend a state college brings certain obligations upon every student which cannot be evaded. It is natural to feel a sense of self-satisfaction and exhilaration at being a college student, but we also realize that the privilege which special privilege really is. Little does a college student contribute to the support of the state, or his parents which usually make that fact, in spite of so his best, so as to be worthy of the honor which is his. Little does he consider that there is no privilege without a service rendered. The debt and credit account must balance. If one is not to be either a recipient or a benefactor he is cheated in all directions. In reality, to possess an even balance in health, in friendships, with broad capacities, consistent of talents and privileges, is that guide to the highest and honest pursuits. Then it can be said of a college student that he is educated. Then it can be said of him that he is successful. For [illegible] as it seems it is not true that it is the [illegible] who inherit the earth.

H. ELIZABETH GLENN

FRESHMAN DEAN

THE FRESHMAN TRIBE



THE Freshmen and their ways. They are verdant all of them; aspiring forward-looking, monstrous hopeful most of them, somewhat homesick, indifferent, some of them. You may see an exhibit of colorful mass, unorganized and often unrecognizable, seeking their among guidance, as in self-satisfaction stumbling and often failing.

We take our Freshmen as we find them. Years hence, those who survive will wear the caps and gown. Again a few years later, and they will take their place in the affairs of state, some things that may mean much and some little.

Here's to the Freshmen, the hope of Alma Mater, the builders of tomorrow! May their tribe multiply!

WM. G. BEK.



Yea! Frosh! Look Out Behind

NTROLLED, FOUNDED IN 1888

H DAKOTA, FRIDAY, SEPTEMBER 27, 1929. Number 3

'aditional Initiation Of Frosh Begins Saturday

s For Hazing First Year fon Announced By Soph Committee.

tual initiation of freshmen will in the campus Saturday and last nt until Homecoming, accord- hazing rules announced Thurs- by the sophomore committee in s of enforcing the traditional n.

tioned this year by University istration officers, the custom, is of long standing at the Uni- y but which has been slightly upon the past three years, e revived with all its old time

shmen were called upon by Pre- Thomas F. Kane and Dean W. h Thursday at the freshman lec- to take the initiation in the pro- spirit, and to prevent trouble for selves by cheerfully living up to rules laid down by the sopho-

Phillips In Charge

Phillips has been named chair- charge of initiating the class of of the sophomore committee to Regulations which the frosh follow during the next month been drawn up by him and his iates, who represent fraternity other campus groups.

cording to the rules, all fresh- boys must appear on the tradi- al green caps on Saturday, and t be ready to touch the button of cap with both hands on being manded to "button" by an upper- man. All entering students are ject to the traditional initiation song, ven the traditional initiation song, e to the tune of "Jingle Bells", freshman who does not know the can refer it from any upper- man, it is pointed out.

ckskins cannot be worn during the ling period, and collars must be ttoned at all times, the rules de- . In addition, coats must be worn de out and the left trouser leg st be rolled half way to the knee.

Can't Walk With Girls

The last rule on the list, forbidding first year Nodaks to walk with de on the campus, will be the hard- of all for them to keep, the soph committee members believe. The rules are to be strictly enforc- by the sophomores, and failure to mply with them will result in the essity of correcting the over-sight the paddling committee of the

ond Year Class

Homecoming will mark the crisis in initiation period. Traditional ashmen-sophomore contests on Oc- 25 and 26 will determine whe- or not the freshmen will have to e the green caps until the time r the Christmas vacation or whether cy will be allowed to Lucia Dom in ay's annual Homecoming banquet.

N.E.A. Delegates To Attend S. D. U. Game

Delegates to the annual convention of the Northeastern Educational association, which meets in Grand Forks October 10, 11 and 12, have been invited to attend the football game with South Dakota U. on the evening of the 11th, it was announced today by R. H. Johnson, who has been placed in charge of the affair.

This will be the last night game of this season, as the Homecoming game is to be played in the afternoon. Every effort will be made to accommodate visiting teachers at the game, according to R. H. Johnson.

Pep Contest To Be Featured At Next Grid Clash

Rally Will Be Staged In Stadium Wednesday Evening.

Featuring the Nodak clash with the Haskell Indians will be a singing and cheering contest between the two sides of the stands, according to Pep King Paul Yoder. Judges will be picked to determine which side can out sing and out yell the other and a suitable prize will be awarded to the winning side.

The songs upon which the judges will base their decisions will be the "Cannibal King", with the Oak Oak-Dri yell following it and "Stand Up and Cheer", followed by Yea, Nodaks. The seats will be arranged so that one side will be mostly students and the other. In order to give the downtown people practice a five-minute interval will be devoted to all the songs, cheers clubs to practicing these songs and yells.

Yoder also announces the changing of the clog hands stunt from "Hail, Hail, the Gangs All Here", to "Stand Up and Cheer".

A pep rally will be held in the Stadium Wednesday evening starting at 7:30, and lasting for about 45 minutes. The pep king and his staff urge every student to attend as the whole student body needs drilling.

Debate Season Opens Oct. 31

Nodak Squad To Clash With

KANE MAKES PLEA FOR NO SMOKING TRADITION AT U

Asks Freshman To Uphold Unwritten Law On Campus

NO ULTIMATUM ISSUED

President Gives Annual Matriculation Lecture.

Putting the solution of the campus smoking problem squarely upon the shoulders of the student body, President Thomas F. Kane yesterday in his matriculation lecture to members of the freshman class called upon members to do their part in observing and keeping intact a tradition that is as old as the University itself.

In his comments, President Kane made a distinction between smoking on the campus and smoking in University buildings. He indicated that authorities would depend on the students for the tradition, especially so far as the campus is concerned, and would not lay down any hard and fast rule.

In regard to the buildings, he implied that if the students were not able to uphold the tradition authorities would have to supplement the tradition with an official request not to have smoking in the buildings on account of the fire hazard and for sanitary reasons.

The tradition is referred to in the "Regulations for the Guidance of Undergraduate Students", as follows: "Smoking in University buildings or on the campus is in violation of the traditions of the University."

In his address yesterday, President Kane stated that he felt it was much better for the whole tradition to be left in the hands of the students, if they would observe it and prevail upon fellow-students to observe it, as one of the fine traditions that has reflected credit on the University.

Men's Glee Club Personnel Named

Twenty-two Applicants Successful in Tryouts For Group

Twenty-two of the thirty men trying out for men's glee club were selected to make up the organization for the coming year, it was announced Thursday by Hjorel C. Rowland, head



Dakota Student

STUDENT OWNED AND CONTROLLED, FOUNDED IN 1888

GRAND FORKS, NORTH DAKOTA, TUESDAY, OCTOBER 1, 1929.

'0— 'ED DAY

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onor Of

e newest s campus, set for Robertson, charge of

0,000, the lumnus of eley col- entirely ituation of

will open he regular d will con- periods, s program noon, from evening s held. ograms in- Brannon, neck, don- E. Brown, church for North Da- anna, for- kota. in charge ng in Min- ber of the from 1913 ill officiate building. to be pre- of Frank upon whom the bun- Lows. Mr. ber of the ley College, at the time affiliated

All be held new build-

U Will Observe Stadium Dedication Anniversary At Haskell Game Friday

EXCHANGE BOXES TO RECEIVE MAIL

The registrar's office will henceforth distribute faculty mail in the exchange boxes, according to an announcement made yesterday by R. O. Wilson, registrar.

It has been customary in the past for members of the faculty to distribute their own mail in the exchange boxes in the registrar's office. Under the new method faculty members will deposit their mail in the large box provided for that purpose, and the registrar will then distribute it. According to the new plan, mail will be distributed at 8:30, 1:00, and 4:00.

49 Girls Named To Form Second Coed Glee Club

Must Spend Year In Junior Division To Join Senior

Forty-nine girls were selected by Mrs. Carol Miles Humpstone, glee club director, for membership in the second division of the women's glee club. The senior division requires that one year must be spent in the secondary organization before entering. The personnel of the group chosen was as follows:

First Soprano: Camilla McLaren, Betsy Everson, Emmeline Siebert, Josephine Brown, Ardith Berg, Jeanne Hill, Crystal Jacobson, Merle Janice Schroeder, Jean Eddie, Eunice Courtney, Rosalie Fullerton, Louise Ehert, Maurine Graham, Patricia Johns, Marjorie Glew, Jean Campbell, and Maxine Sandlie.

Second Soprano: Louise O'Connor, Eva Lest, Marcille Carter, Eleanore Gordon, Dorothy Mougey, Helen Taft, Jean Quistgard, Ula Johnson, Jean Thomson, Dorothy Mathys, Margaret Hayes, Mary Ford, Marion Kin-

Prominent Northwest Men Will Take Part In Exercises.

Third anniversary of the dedication of the University's Memorial Stadium will be observed Friday evening with exercises preceding the Nodak-Haskell Indian football clash. Five men well-known to the Northwest will appear on the anniversary program, according to Jack Stewart, Stadium campaign manager, in charge.

Ralph Budd and C. R. Martin, president and vice-president of the Great Northern railroad, will give short addresses before the game in the stadium. They will be introduced by J. E. Davis, president of the state board of administration.

Pep Rally Planned

Governor George F. Shafer and Joseph Chapman, president of the U. S. Donaldson company, Minneapolis, will be the principle speakers at a pep rally to be held at the theatre corner of Third street and Strat-avenue north at 6 p. m. Friday. The University band under the direction of John E. Howard will play, a large percentage of the 10,000 people expected at the game will be at the pep meeting, it is thought.

Budd and Martin, who have been friendly to the University, will make their speeches over the new University loud speaker which proved so popular with the fans at the initial football game this season with St. Mary's. C. J. Murphy, Grand Forks, attorney for the Great Northern road in North Dakota, will also represent the railroad at the game.

Directors To Be Present

Directors of the Stadium Corporation, Dr. M. B. Ruud, Philip R. Bangs, J. W. Wilkerson and Fred L. Lindman, Grand Forks; John M. Hancock, New York City; Arthur L. Kelcher, Fessenden, and Walter Schlosser, Regina, Can., are all expected to be here for the anniversary game with the Indians. Mr. Hancock is now on a hunting trip in the Canadian Rockies, but he has written that this will be terminated so that he may

(Continued on Last Page)

DIRECTORIES TO BE DISTRIBUTED SOON

Having been sent to the printer's office ten days earlier this year than last, the University directory is expected to be ready the latter part of this month or the first of next. 2300 copies are to be printed.

The publication contains the names and addresses of all students and faculty members.

The directory is compiled from data given at registration. Many of the desired information. Unless this is immediately remedied, their names cannot be included, according to Wilson. A list of these students has been posted on the Bulletin board and Mr. Wilson requests that they report at once at the registrar's office.

Press Group To Hold Convention November 22, 23

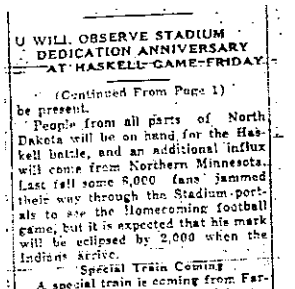
Plans Under Way For Annual Meeting Of N. I. P. A.

All papers to be entered by various schools of the state in the contest conducted by the Northern Intercollegiate Press association must be in before November 9, Bertha Turner, director of the association has announced. The convention will be held Friday and Saturday, November 22-23, at the University.

General information concerning the convention will be published in the first bulletin of the year which will be distributed the latter part of this week.

Definite arrangements concerning the program are not complete but will be published in detail in the second bulletin which will be completed at the end of two weeks. Information concerning the awarding of prizes and cups will be given in the first edition of the bulletin.

Cups which were won by the different high schools last year have been called in by the director. A large number of the schools have written to the University for information concerning the convention. These schools have been informed that all schools wishing to enter the contest must have their papers in be



U WILL OBSERVE STADIUM DEDICATION ANNIVERSARY AT HASKELL GAME FRIDAY

(Continued From Page 1)

be present.

People from all parts of North Dakota will be on hand for the Haskell battle, and an additional influx will come from Northern Minnesota. Last fall some 8,000 fans jammed their way through the Stadium portals to see the Homecoming football game, but it is expected that his mark will be eclipsed by 2,000 when the Indians arrive.

Special Train Coming

A special train is coming from Fargo for the occasion and special rates of fare and one-third have been secured on railroads in the state.

Under arrangements made by John E. Howard, band leader, luncheon club members of Grand Forks will become experienced Nodak rooters. University pep kings will meet with the clubs this week and lead them in a practice of U. N. D. songs and yells during their regular song periods. Mimeographed copies of the songs and cheers are to be given the club members.

Paul Yoder will attend the Kiwanis club meeting and O. T. Tergeson rooter king, will meet with the Lions club.

Practice Wednesday

Night rooting practice will be held Wednesday between 7:30 and 8:15 p. m. Yoder, Tergeson and the school band directed by Mr. Howard will be present and a special practice of the football team under night lights has been arranged by Coach C. A. West. Cooperation between the loudspeaker announcements and the cheering will be worked out Wednesday. At the St. Mary's game, cheering was hampered because it could not break in on the speaker, and it is planned to eliminate this difficulty for the Haskell game.

September 27, 1929. p.1

October 1, 1929. p.1

October 1, 1929. p.4

APPENDIX E: Hype for the UND-Haskell Game in the Dakota Student

(source: University of North Dakota Special Collections)

N. D. UNIVERSITY TO CELEBRATE STADIUM'S THIRD ANNIVERSARY THIS EVENING

Dakota Student

STUDENT OWNED AND CONTROLLED, FOUNDED IN 1898

VOLUME XLII. GRAND FORKS, NORTH DAKOTA, FRIDAY, OCTOBER 4, 1929. Number 5

REDSKIN HORDE INVADES STADIUM

Wesley College Dedicates New $40,000 Structure

HANCOCK IS PRESENT AT CEREMONIES

Chancellor Brannon Gives Principle Address At Program.

BISHOP BROWN SPEAKS

Honorary Doctor Of Laws Degree Conferred On Frank Lynch.

Nodak Mentor



TACY WEST

Football Team Of 1899-1900 Will be Honored Oct. 25

Alumni To Entertain Former Gridiron Met At Banquet.

Prominent Northwest Men Will Take Part In Stadium Program

Rooting Contest For Spectators Will Be Held Between Halves

An interesting program for the period between the halves fo the Haskell game tonight has been formulated.

The first part of the time will be taken up by the University band which has been practicing harmonies for the past two weeks under the direction of Milton Upgraven. The band will play two numbers in formation, one on each side of the stands.

The rest of the period will be taken up by the cheering and singing contest. A judge—the world's champion mourner, non-rebuking, endearment combined yeller and singer—has been selected to choose the winner of this contest. First the students will sing "Stand Up and Cheer" and then the stadium crowd will do the same. Following this each side will yell a locating. Then the judge will give his decision as to who did the best, and maybe a prize will be given to the winning side—who knows!

Anyway, the cheer-leaders won't tell.

Shafer; Hancock, Will Speak At Pep Rally Downtown Tonight; Radio Program; Luncheon This Noon.

The University tonight will pay tribute to several of its friends, famous men of the Northwest, who will be here to take part in exercises celebrating the third anniversary of the dedication of the school's Memorial Stadium.

Before the football game between the University and the Haskell Indians, J. E. Davis, president of the State Board of Administration, will call on C. R. Martin, vice-president of the Great Northern Railway; Joseph Chapman, president of the L. S. Donaldson Co., Minneapolis, and John M. Hancock, New York City, for short talks.

They will be heard over the new broadcaster. The Great Northern quartet of St. Paul will appear before grandstand as an added attraction. Ralph Budd, St. Paul, another

NODAKS WILL HAVE COED YELL LEADER

Yell leading by a coed will be one of the innovations at the Nodak-Haskell clash tonight.

Dorothy Tuseblad, a freshman at the University has been chosen as the new coed yell leader and will be introduced to the student body by Yell Leader "Red" Tarentum tonight.

"No more holding hands," says Paul Yoder, pep boss. When asked why not he gave as his reason that not being satisfied with playing Hobo on the student body, they would now have the men and women seated in separate sections.

Competition in yelling between the coeds and the men will be the order of the day and the new plan is to be used for the first time tonight. It is hoped that this will create a keen school spirit—something which has been found lacking in former games.

CONCERT GROUP MEMBERS NAMED

Symphony Orchestra Will Give Program At Convocation Soon

Announcement of the personnel of the University Concert orchestra was made by John E. Haggard, director.

The following people will make up the membership of the organization: violins, Jean Lyons, Evelyn Palmer, Tracy Trogstad, Amy Mehle, Lark Silverman, Frank Hetsild, Ruth Harris, Joseph Farver, Arnette Brown, Ruth Hughes, Ruth Marta, Herman Larson; cello, George Pitts, and Lynn Grimson; flutes, Loren Jorgenson and Sue Lee; clarinets, Hazel Lyons, Harris Thompson, Leota Jones; trombone, Charles Larson and George Ty-

invited guest, wired yesterday from the west coast that conflicting business would not permit him to take part in the Stadium program.

Pep Rally At 6:30

Governor George F. Shafer and John M. Hancock, director of the Student Union campaign and an honorary alumnus, will give short addresses at the pep rally to be held at 6:30 in the corner of University avenue and Kennedy, north.

Dave Howard's other University band, which is an added attraction at the pep rally, will play. R. E. Lasswell, director, will have after rooting for the game so that alumni and students may assemble well into the surrounding streets for the rally. After a program of only 25 minutes, Governor Shafer and Mr. Hancock have been invited to speak over the station KFJM this same evening and at 12:30 the University quartet will be given a luncheon date by President Thomas J. Kane.

Men Are Well Known

All the men on tonight's program are well known to Grand Forks and vicinity. Mr. Martin at one time was assistant superintendent of the Great Northern with headquarters at Larimore. That was back in the '90's when Larimore was a bustling railroad town. Mr. Chapman made a business visit to Grand Forks in 1928 and Mr. Martin are also interested in the Memorial University fund. Governor Shafer, Mr. Davis and Mr. Hancock are all University graduates. The latter two played on the varsity football teams of [illegible] when Mr. Davis was captain of the [illegible] eleven in 1895.

Haskell Coach



LONE STAR DIETZ

Playmakers Pick 'The Boomer' For First Production

140 Students Trying Out For Reserve Membership.

NODAKS MEET HASKELLS IN MAJOR GAME

Squad Of 25 Indians Arrives; Works Out Under Lights.

OUTLOOK BRIGHTENS

Scheve, Jarrett, Kahl, Burma To Be Starting Flicker Backs.

Tonight's Lineups:

Nodaks:		Haskells
Thorliefson	C	Grant
Smith	T	Potts
Tweidan	G	Ward
Sullivan	C	Johnson
Stegenhein	G	Bowles
Durein	T	Costa
Herz	E	Beaver
Burma	F	Smith
Kahl	QB	Hendricks
Scheve	H	Weller
Jarrett	H	Wilson

By Carlisle Matheson

One of the biggest football moments in the history of the University will be experienced tonight when eleven sturdy sons of the prairie gather with the hope of bringing home the bacon to the University of North Dakota. Tonight at 8 o'clock the Nodaks will meet the Haskells on the gridiron in the biggest athletic contest to be staged here since the Redskins invaded Memorial stadium for the first time.

Probable power behind the Nodak attack is the fleet-footed Scheve, Nodak quarterback, who has been showing up in great form in practice sessions this week. Scheve is expected to be the open field threat of the backfield. Jarrett and Kahl are expected to be the power drivers against the Indians. Burma, Nodak fullback, is counted upon to do the punting for the Sioux.

Probable power behind the Haskell attack is Four Bear, Indian fullback. Four Bear is said to be the best punter on the Haskell squad. He is also a triple threat man.

Coach Lone Star Dietz has Haskell squad of 25 men arrive in Grand Forks yesterday morning [illegible] their workout under the floodlights last night for the purpose of becoming familiar with field and accustomed to punting [illegible] after dark.

The first major encounter of the season, Coach D. A. West's men have been seasoned in two practice games, the first with St. Mary's and the second with Superior Normal last Saturday. Both meetings resulted in decisive wins from the scrappy squads of both these smaller schools.

[illegible] Will Play

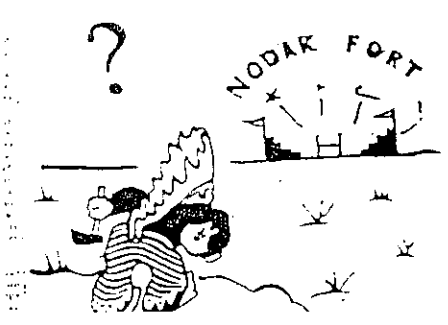
An alarming toll of injuries and sickness [illegible] Coach West's squad of Nodaks [illegible] Manager Lager [illegible] Coach West has been seasoned in two practice games, the first with St. Mary's and the second with Superior Normal last Saturday. Both meetings resulted in decisive wins from the scrappy squads of both these smaller schools.

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Continued to Page Three

Whose Scalp AT WINNER



Students Who Give Tickets To Others Should Be Careful

NIGHT PEP RALLY DRAWS BIG CROWD

New Songs and Yells Practiced For Haskell Game.

APPENDIX F: October 1, 1929 edition of the Dakota Student

(source: UND Special Collections)

[D]akota Student

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Student Owned and Controlled

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EDITORIAL STAFF

Oscar J. Buttedahl, Editor-in-Chief

Alvin Austin, ----Managing Editor
Maxine Hegland, --Assistant Editor
Bertha Turner, ------ News Editor

Henry Frank ---------Desk Editor
Donald Reinoehl, ------Desk Editor

Ethel Schlesinger, Miriam Taylor, Billy Ogden, Joseph Carlin, Donald McCarthy, Assistant Desk Editors.

Josephine Fee, ----Women's Editor
Phyllis Robideau, ----------
------- Assitant Women's Editor
Henriette Haney, ----------
------- Assitant Women's Editor

Carlyle Mathison, ----Sports Editor
Gilbert Stewart, Asst. Sports Writer
Ann Uglom, Women's Athletic Editor

Betty Hall, ------ Exchange Editor
Catherine Baker, --Official Bulletin

Neva Bremm, Bessie Olson, Irene [illegible], Katherine Breitweiser,—Writers.

BUSINESS STAFF

[illegible]ethren, --Business Manager

Harold Billigmeier, ----------
-------Assistant Business Manager
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We Can Help Our Team Win Tonight!

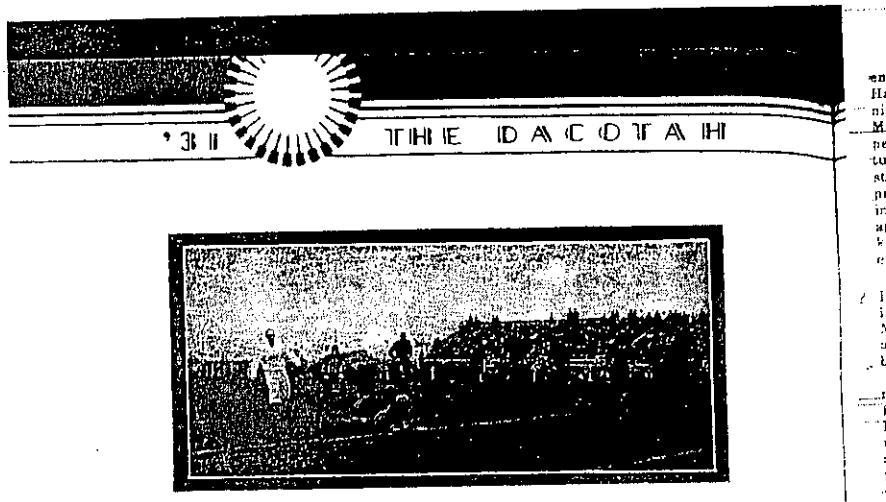
It may have been the flooding glare of lights on the Nodak gridiron, the stirring strains of martial music floating out on the evening air from that brick-inclosed bowl, or just the plain dare students take not to miss anything of importance—anyway, the pep rally at the stadium Wednesday night was one of the most successful held at the University in recent years.

The gathering was successful for two reasons—the large number of students who turned out, and the spirit with which they responded to the overtures of their cheerleaders.

No one would say that yelling was a pleasant and enjoyable diversion. And "practice" yelling much less so. But if the spirit manifested Wednesday is any criterion of what the student body will do when the Nodaks clash with the Indians tonight, then all we can say, is that those who planned the stadium were wise not to put a roof on it.

There will be hundreds of visitors from all parts of the state at the game. It is up to us to show them that North Dakota University has not only a fighting football team, but a loyal student body with a school spirit that backs up that team in every way it can.

Helen Benson, of the Theta house, has gone home to Rolette to rest until she recovers completely from the injuries sustained in an accident a week ago.



HASKELL, 13; NORTH DAKOTA, 6

Led to victory by the flashiest halfback that ever stepped on a Flickertail gridiron the great Haskell team fought their way to a 13 to 6 victory over the Nodaks, Friday night, October 4, in Memorial stadium. It was a defeat that held no bitterness for the losers, for it was a battle all the way through between two great machines.

Weller, 150 pound Caddoe from Arkansas, was the outstanding star of the fast, smooth working Indian machine. It was he that fumbled a high punt on his own 30 yard line, recovered it from under half a dozen Nodaks, slipped away from them and the rest of the Nodak team for the first score of the game.



EGIZII



WENTER

North Dakota's score came in the first quarter, when Kahl, playing quarter, switched to an aerial attack, enabling the Nodaks to work their way to the only university counter of the game. Richmond's place kick went wild.

With the score 7-6 for the invaders the Flickertails braced and play was even in the remainder of the first period.

The second half brought another change, this time in the favor of the Indians, who marched right back for the last counter of the game.

Haskell had the whip hand for the rest of the way until, with but five or six minutes to play, the Flickers suddenly opened up, Burma and Kahl making several nice gains. However, the timekeeper's gun ended the Nodak rally before a counter was materialized.

WESTMEN EVEN UP HASKELL DEFEAT

Win From Manitoba Closes Whirlwind Week End; Score 27-1...

(By Gil Stewart)

Following an intensive grid week end during which the Nodaks held Haskell to a 13-6 score in a thrilling night classic, Friday, and downed Manitoba University 27-1 at Winnipeg Saturday afternoon in a turn and turn about mixture of rugby and straight football, Coach C. A. West is preparing for the Nodak's fall debut in North Central Conference circles against the University of South Dakota at Memorial Stadium, Friday evening.

It was a gruelling contest with the Indians that best gave the coach an insight into combat defects, with the Manitoba game serving more as an annual feature struggle than a football game of the first class.

Containing many thrills and with many brilliant plays ever bringing fans to their feet, the tussle with the Haskell Indians, Lawrence, Kansas, may well be classed as the most sensational gridiron contest ever to take place in the Memorial stadium. Exceptional broken field running on the part of the invaders and the plucky fight displayed by the Nodaks in the face of defeat last Friday night's contest will be remembered among the significant battles of the year.

North Dakota entered the fray considerably strengthned by the return of two veterans in the lineup. Curt Schave and Asa Smith, who had not played in inter-collegiate competition this year up to the time of the Haskell game on account of scholastic difficulties, were declared eligible. However, the lineup missed to a great extent the assistance of Bernie Schmidt in the backfield and Jacobson in the line. Although crippled by injuries received in previous encounters, Captain "Stew" MacMillan entered the game at his customary post of center and Felber held down the end position for the greater part of the contest.

Captain Weller of the Indians proved to be the most scintillating star of the struggle, bringing many a tense moment for both opponents and spectators by his spectacular broken field running and his uncanny knack of dodging tacklers. His seventy-eight yard run in the first period which netted the visitors' first counter served only as a starter for many more heart-breaking plays.

Cy Kahl, the galloping fullback for the Nodaks, perhaps outshone his teammates with his rapid-fire passing attack which netted North Dakota her only touchdown of the game.

A conglomeration of rugby and football was an enigma for a seemingly football-crazy Nodak eleven Saturday afternoon. Playing their second game in twenty-four hours, a journey of 460 miles and two games between contests, North Dakota waltzed to easy victory over the University of Manitoba team. The first half played according to the rules of straight football and the last half according to rugby regulations, Feyther edis a 27 to 1 decision in favor of the University aggregation. The U. N. D. representatives outplayed their opponents in their half of the struggle by a score of 27 to 0. The rugby side of the question was ruled by the Canadians by a score of 1-0. Burma, Cy Kahl, and "Knute" Storem were the boys who put the ball over the line, the latter making his counter after picking up a blocked kick.

The starting lineup was as follows: Bourne, center; Wisner and Sather, guards; Storem and Mideer, tackles; Lowe and Nelson, ends; Horne, quarterback; Simmons and Scott, halfbacks; Lax, fullback.

Stadium's Third Anniversary Was Observed Friday

The third anniversary of the dedication of Memorial Stadium was observed last Friday evening, October 4. Short speeches were given by Governor George Shafer, Joseph Chapman, president of the U. S. Domestic company, and C. E. Marcus, vice-president of the Great Northern Railroad. Two numbers were rendered by the Great Northern quartet of St. Paul.

The program took place in the stadium just before the football game between the Haskell Indians and the Nodaks at 8 o'clock last Friday night. The talks and music were broadcast to the crowd by the new loud speaker at the north end of the field. J. E. Davis, president of the state board of administration, introduced the speakers.

On April 21, 1926, a $186,681 contract was let for the construction of the stadium. This was the result of 12 months of campaigning to raise the necessary funds. On October 8 of the same year the dedicatory game was played with Creighton. This marked the completion of the first [illegible]

APPENDIX G: UND Lost!

Left: Dakota Student editorial stressing importance of school spirit, October 4, 1929, p.2.

source: UND Special Collections

Center: 1931 Dacotah Yearbook, p. 298.

Source: North Dakota State Historical Society

Upper Right: Article from the Dakota Student referring to the UND-Haskell game as "sensational", October 8, 1929, p.3.

Source: UND Special Collections

APPENDIX The Dakota Student's banner headline proclaiming the new "Fighting Sioux nickname, October 3, 1930. (source: UND Special Collection

"Sioux" Replaces "Flickertail" as Caption of University Sport Teams

STUDENT OWNED AND CONTROLLED

The Dakota Student

FOUNDED AT U-N-D IN 1888

VOLUME XLV. GRAND FORKS, NORTH DAKOTA, FRIDAY, OCTOBER 3, 1930. Number 5.

SIOUX BATTLE SENATORS TONIGHT

NODAKS PLAY NEW ROLE AS WARRIORS OF THE PRAIRIE

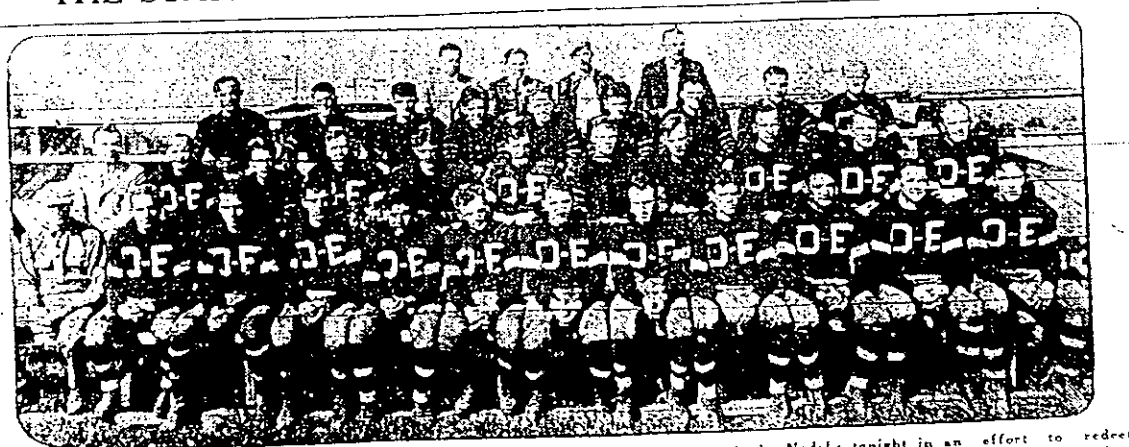
Athletic Board Of Control Approves Movement Begun Two Weeks Ago.

NAME HAS GREAT HISTORICAL VALUE

Board of the Fighting Sioux of North Dakota university will be no more. The [illegible] of the gridiron, of the basketball court, and of the cinder track once used labor under the stress of cheering & combustible support for they have been newly baptized "Sioux". Consequently, it will be a band of warriors sweeping down upon their invading foes tonight when they meet Davis and Elkins, instead of a scurrying swarm of rophers.

At convocation yesterday morning the formal and official announcement was made that the athletic board of control had conducted the case of changing the name and had given their approval to the abolition of Flickertail and to the adoption of the more appropriate Sioux.

THE SCARLET HURRICANE FROM DAVIS AND ELKINS



These huskies, constituting one of the most feared aggregations in the east, will clash with the Nodaks tonight in an effort to redeem themselves throughout the northwest for the unexpected defeat handed them at Fargo last weekend. Included in the line-up are three men from the famous points-a-minute team that Haskell boasted a few years back. Haskell, it will be remembered, proved a little too tough for the North Dakota men last year.

Impromptu Pep Rally Arouses Student Body

Take This With You Tonight

North Dakota:	Position:	Davis-Elkins:
Felber, 14	left end	Kennes, 71
Eckholm, 17	left tackle	Gilkerson, 91

Junior Class to Dedicate Annual Next Thursday

'HURRICANE' IS SET TO REGAIN LOST PRESTIGE IN BIG AFFRAY

Odds Slightly In Favor Of Nodak Team After Bison Victory.

SMITH TO ADD TO VIRGINIAN OFFENSE

The "Scarlet Hurricane" of Davis-Elkins college takes on its second North Dakota grid team this evening at Memorial gridiron when they meet Big Chief West's battling Sioux. This game which is the university's first intersectional contest of the year is slated to begin at 8 P. M.

While odds slightly favor the Sioux warriors, Coach Cam Henderson's Davis-Elkins squad have caused the Nodak coaches a great deal of worry. Especially is this true since the southerner's scrimmage against the North Dakota Aggies, Tuesday afternoon, when they shoved over four touchdowns, while holding the Sioux scoreless in a brief workout. Henderson's squad opened up a box of brand new tricks and plays that they have been saving especially for the Nodaks tonight.

APPENDIX J: Early Opposition to the "Fighting Sioux" Nickname

On page 2 of the October 28, 1930 issue of the Dakota Student, a UND supporter by the name of "J.M." wrote a letter in opposition to the "Fighting Sioux" nickname. He enunciated reasons against the nickname that would be regarded as politically incorrect by modern standards. Here is a reprint of that letter in its entirety:

To the Editor:

We on the sidelines of the Flickertail-Sioux controversy have gotten a good kick out of the argument. Perhaps the nickname of an institution is a matter of considerable importance but the writer for one refuses to consider it so. If the youngsters are feeling their oar mean porritch and want to play Indian for awhile, that's all right. Nobody will get hurt – very seriously – at least we hope now. And perhaps the boys and girls will grow up after awhile and prefer some more dignified title such as the Continentals or the Senators – but hold everything, some other college has copped the name Senators already, have they not. That's too bad. Well, the Continentals were a victorious army anyhow. The Blue Ridge Mountaineers sounds impressive also, except that the Nodaks do not hail from the Blue Ridge mountains. Well Red River then. Dress the team up in gleaming red uniforms and let them flow as the Red River From the North, overwhelming all opposition.

But laying all pleasantry aside the names Flickertail and Sioux bear further consideration before placing the feathered warrior upon our shield.

The Sioux have been referred to as warriors, fighters, yes – yet the Sioux came into this land as a fleeing people, driven westward by the Chippewa and other east central tribes and by the white man himself. They were a barbaric people as compared with the nations behind them and the Mandans and Arikaras of the Missouri Valley. It has been observed that the native name for Sioux was Dacotah. What better. Why take the name Sioux when we already have the genuine article Dacotah or Nodak for short. It has been pointed out that Nodak is a meaningless term. The name Nodak means what this University makes it to mean. Put the stamp of scholarship, good sportsmanship, intellectual power and artistic skill into everything about the institution and Nodak will be a name to conjure with, feared on the gridiron, loved by alumni, respected far and wide. The name Sioux stands for nothing save barbarism and warfare. Remember the Pact of Paris.

As for the name Flickertails, while the writer is not a particular friend of the little pest on our campus, not to speak of the farmers grain fields, the humble flickertail has some qualities which Nodaks might well emulate. No one will deny that the Flickertail possesses remarkable staying qualities. He was here before the Sioux came and he is still here. Then too, according to scripture "The Meek shall inherit the Earth." The humble flickertail has survived the haughty Sioux. The Flickertail is keen and quick and clever. He wins his war by digging in, rather than by gaudy headgear, hideous war cry, deadly arrow and tomahawk. How about it Nodaks, is it Flickertail or Sioux? Make it Flicker first and Flicker last and Nodak all the time, yea Nodak?

– J. M.

APPENDIX K: PROPOSED AMENDMENT TO HOUSE BILL NO. 1263

Page one, replace lines 6 through 15 with:

University of North Dakota Indian Languages Center.

The University of North Dakota shall establish an Indian Languages Department, which shall do the following:

1. Study Indian languages native to North Dakota
2. Develop literacy materials
3. Assist in the translation of important documents
4. Provide for the development and dissemination of literature in Indian Languages
5. Teach Indian languages native to North Dakota to continue North Dakota's common heritage
6. Develop and promote a curriculum for the study of Siouan languages and other language native to North Dakota

APPENDIX L: PROPOSED AMENDMENT TO HOUSE BILL NO. 1208

Page one, replace lines 7 through 13 with:

The intercollegiate athletic teams sponsored by the university of North Dakota shall be known as the Dacotah until the state board of higher education receives written notice from the chairman of the Spirit Lake Dakota Tribe indicating that members of that tribe have voted in a tribal referendum to revoke the permission granted to the university to use the Dacotah nickname and logo.

7) It is the right thing to do. When someone declares that they are not "honored" by a nickname, then we, as decent, kind human beings, should respect their request to change. Those who support the logo are not harmed by changing to a new identity for UND's athletic teams. Those who have been harmed by the old logo deserve consideration by abandoning what has become over the past eight decades a mockery of Indian identity and an embarrassment to the University.

SUBMITTED TESTIMONY
ATTACHMENT 23

Education Committee Hearing, January 26, 2011.

To: Chairperson Rae Ann Kelsch, and the House Education Committee members

From: Barbara Handy-Marchello, Associate Professor Emerita, University of North Dakota History Department

RE: House Bills No. 1208, 1257

I oppose these bills for the following reasons:

1) The wording of the bill states that the actions of the State Board of Higher Education (SBHE), the University of North Dakota, the National Collegiate Athletic Association and their assigned duties and contractual relationships have no standing. This suggests that the legislature has overstepped its bounds in relation to the decisions of the SBHE and the University which are protected from specific actions of the Legislature for good reasons which have a strong legal and historical foundation.

2) University of North Dakota faculty teach classes in which students are expected to learn about the importance of a supportive educational environment, the historical roots of racism in our nation's past, the sovereignty of American Indian tribes, and efforts to apply the promise of the Declaration of Independence and the US Constitution to every citizen. A university that retains a logo which demeans (however innocently) any citizens or students undermines the efforts of the faculty and creates an educational environment that deprives some students of a supportive learning environment.

3) The American Indian tribes located on reservations in North Dakota have addressed the issue of the logo and have asked the university to give up the name and the image of a Sioux Indian as a logo and mascot. There is no substantial reason why these requests should not be honored.

4) The Faculty Senate of UND has voted to retire the logo and nickname. The Student Government of UND opposes these bills. Both are legitimately constituted bodies representing faculty and students and these votes should be recognized.

5) The NCAA process of admitting UND to a Division I conference is under way. Any effort to retain the "Fighting Sioux" logo and name would interfere with this process and cost UND a great deal of money.

6) While the people of North Dakota and the University's loyal alumni will feel a loss when the old logo and name are retired, they will adjust to a new logo and will especially appreciate the leadership of state officials in this process. The passage of these bills will send a message that individuals cannot adapt to a new institutional symbol. This is an insult to the good, wise, and generous people of this state.

Education Committee Hearing, January 26, 2011.

To: Chairperson Rae Ann Kelsch, and the House Education Committee members

From: Barbara Handy-Marchello, Bismarck. Associate Professor Emerita, University of North Dakota History Department

RE: House Bill No. 1263

I oppose this bill because it states that the legislature is assuming illegal powers over the State Board of Higher Education (SBHE) and the University of North Dakota. This bill is therefore unconstitutional, illegal, and a waste of legislators' time and taxpayers money. If it should become law, the principle and precedents it presents will be detrimental to the operations and administration, as well as the educational and research environments of all state-supported institutions of higher education in the state of North Dakota.

Table 15

HEADCOUNT ENROLLMENTS BY RACE*

Fall 2010

INSTITUTION	AMERICAN INDIAN	AFRICAN AMERICAN	ASIAN/ PACIFIC ISLANDER	HISPANIC	WHITE	OTHER	NO RESPONSE	TOTAL
BSC	98	64	14	56	3,650	62	233	4,177
DCB	36	42	9	18	583	39	136	863
DSU	56	42	17	54	1,695	307	497	2,668
LRSC	62	37	20	33	1,677	47	37	1,913
MASU	28	60	15	27	803	49	0	982
MISU	142	141	39	86	2,937	411	110	3,866
NDSCS	47	122	13	10	2,605	36	0	2,833
NDSU	132	254	203	125	11,786	1,402	505	14,407
UND	358	225	193	229	11,477	972	740	14,194
VCSU	20	37	11	24	1,099	52	42	1,285
WSC	35	17	2	10	785	42	41	932
NDUS Total	1014	1041	536	672	39,097	3,419	2,341	48,120
JC	8	24	17	28	889	1	0	967
UM	122	102	35	50	2,451	82	135	2,977
Subtotal	130	126	52	78	3,340	83	135	3,944
GRAND TOTAL	1,274	1,293	640	828	45,777	3,585	2,611	56,008

*All institutions' data are voluntarily self-reported by students.

Note: Information includes students in extended degree programs and students jointly enrolled through collaborative program arrangements.

ATTACHMENT

JON BACKES, PRESIDENT **STATE BOARD OF HIGHER EDUCATION** **1.26.11**

HB 1263, 1208, 1257

Madam Chair, and members of the committee, I am Jon Backes, president of the State Board of Higher Education. I have been a member of the State Board since July of 2007. Lest my anyone wonder ~~where my loyalties lie~~, I have been a fan of the Fighting Sioux since I ~~attended college there in the 1970's, I continued to be a fighting Sioux fan through law school in the~~ 1980's. I have a daughter who will graduate from UND a fighting Sioux fan, and two others who are fans as well. With that background, I can say that I understand full well the emotion with which many citizens of our state view the debate over the discontinuance of the use of the fighting Sioux nickname and logo. It's popularity is, I believe, a tribute to the positive and distinguished manner in which the University of North Dakota has ~~utilized it.~~

As you may be aware, at our last meeting the State Board took a neutral position with respect to the bills before you today. Hence, it is not my position, nor that of the board, to in any way seek to quiet the debate undertaken here. Nor is it my position to suggest in any manner that the legislature should not undertake this debate. Rather, I am here to request that as you do so, that you do so in a manner that seeks A SOLUTION to the problem, rather than merely adding to the rancor of the debate. As you look for that solution, I beseech you to seek a solution that has the best interests of the University of North Dakota and its students ~~at heart~~ at the fore.

I ask that because your deliberations and actions are not with the potential for consequence. Should any of the bills before you pass and be held a constitutionally valid exercise of the legislative function, the NCAA will most assuredly return UND to its list of schools who are in violation of its policy on Native American Imagery. As such, UND would be prohibited from hosting NCAA tournament events such as the football playoff hosted by NDSU this year. Other NCAA schools would be encouraged not to compete against UND in athletic events. It is not outside the realm of possibility that the NCAA could even seek legal redress against the State of

in a worst case scenario

North Dakota for breach of contract or could invite the University to affiliate with some other Intercollegiate athletic association. ~~While I am sure that UND would dominate the NAIA for quite some time, I am not sure that is a consolation that most students, fans, alumni or citizens of North Dakota would appreciate.~~ While I am hopeful that none of these results would be visited upon UND, I think the ~~co~~ national economic events of the last several years should have given us all a new respect for the law of unintended consequences.

~~I wish upon you wisdom and~~

Again, I wish you the best in your deliberation of this issue and would be happy to respond to any questions you may have. ~~I would~~ leave you with ~~the a~~ ~~old~~ Irish blessing based on an old Irish Proverb

This government. - May god grant you the ~~serenity~~ straight to change the things you can - the serenity to accept those that you cannot and the wisdom to know the difference.

With that ~~wish~~ I do wish you the best as you seek a solution to on this issue.

Monson ~

- NCAA Bully
- Don't ~~micro~~ run away
  Big Talk - Consider consequences - unelected

Chasba -
agree NCAA

Earl Strayhorn
very Important - ~~go~~ want controversy to go away - Want to solve the problem

Summit League
- Desire to remove this

NCAA - Reps

Hypocrisy ? Discussion of a conspiracy - bet. UNO, BA of HE, and NCAA

NCAA → Attorney General

Gordon Caldis → NCAA's authority - Tarkanian vs. NCAA ? its progeny

Chris = News knows
Sean Johnson
} Board has been open / transparent none of these people have appeared

Mr. Hodson - Impact

Prepared by the North Dakota Legislative Council staff for Representative Carlson
January 2011

HISTORY OF THE FIGHTING SIOUX NICKNAME AND LOGO

This memorandum provides a chronology of the events that have occurred since the inception of the University of North Dakota (UND) Sioux nickname and logo. This memorandum includes excerpts and information derived from an article written by Mr. David Vorland entitled "The Fighting Sioux team name and logo at the University of North Dakota: An historical and contextual summary" and from an April 2010 article in the *Fargo Forum* entitled "Fighting Sioux Timeline." This memorandum also includes a list of those schools located on Indian reservations in the state which use a tribal or tribal-related name as their nickname, mascot, or logo.

CHRONOLOGY OF FIGHTING SIOUX NICKNAME AND LOGO

In Mr. Vorland's article, he notes that turn-of-the-century copies of UND's yearbook--the "Dacotah"--reveal Indian imagery in use on the campus in the university's earliest days at various events and celebrations. He also noted that this was not unusual given that the earliest settlers used Indian names to name cities, waterways, geographic features, and businesses, as well as the name of the state of North Dakota itself.

Athletic programs at UND date back to shortly after the institution's founding in 1883. For many years, the teams were known as the "Flickertails." Sometimes the teams were referred to as the "Nodaks."

1930s

In 1930 after the adoption by the then North Dakota Agricultural College of the nickname "Bison" and a campaign led by the student newspaper, the university's Athletic Board of Control adopted the name "Sioux." During a decade when UND athletic teams dominated the North Central Conference, the new name quickly became popular at UND. Beginning in 1937, the "Nickel Trophy," featuring an Indian image on one side and a bison on the other, was awarded to the winner of the UND-North Dakota State University football game. Similarly, a "Sitting Bull" trophy was awarded to the winner of UND-University of South Dakota rivalry. The addition of the word "Fighting," modeled after the University of Notre Dame's "Fighting Irish," occurred later.

1950s and 1960s

During the 1950s and 1960s, graphic symbols with Indian themes were used at UND for athletics as well as in the nonathletic realm. "Sammy Sioux," a cartoon character, appeared on coffee cups and other items. A men's pep club--the "Golden Feather" organization--centered on Indian themes. For many years female basketball cheerleaders wore fringed buckskin dresses and feather headdresses. Until the mid-1990s, the university's elite men's chorus--the Varsity Bards--entered and departed each concert venue while "war whooping" at the tops of their lungs. Indian themes were commonly depicted in the giant ice sculptures created annually by UND's fraternities and sororities as part of the now defunct "King Kold Karnival." In 1969 Sioux Indians from the Standing Rock Reservation gave UND President George Starcher the name "Yankton Chief" in a campus ceremony and authorized the use of the name Fighting Sioux by UND athletic teams.

1970s

The administration of UND President Thomas Clifford (1971-92) began with protests and violence directed initially against a fraternity that had erected an obscene ice sculpture with a Native American theme. President Clifford negotiated with the aggrieved parties, including leaders of the national American Indian Movement, and agreed to eliminate those aspects of the use of Native American imagery that were clearly demeaning and offensive. Nearly all of the Indian-related logos and symbols, including the popular "Sammy Sioux" caricature, were no longer permitted to be used.

1976

A new geometric Indian head logo was introduced in 1976 and adopted for most athletic purposes. The Chicago Blackhawks logo, which had been used by the hockey team since the late 1960s, however, was retained. President Clifford also insisted that Indian imagery be used with respect, and took steps to ensure that students, fans, and others were aware of UND policy regarding the symbols. He also intensified UND's efforts to include a focus on Native Americans in the curriculum, initially through a minor in Indian Studies, and to develop yet more programs to assist students.

1977

In 1977 President Clifford convinced the Legislative Assembly to provide permanent state funding for both a new academic Department of Indian Studies and a separate Native American Programs Office to coordinate support services for Indian students. President Clifford also encouraged the Chester Fritz Library to build upon its important collection of Indian documents and artifacts.

1990s and Beyond

President Clifford's last public statement on the use of the name and symbol was published in a newspaper interview on March 15, 1991: "I just don't see the reason for changing it right now. The very leaders of the Sioux Nation supported that. When the

leaders of the Sioux Nation come and tell me they don't want it, I'll respect that."

1992-93

In 1992, shortly after the beginning of the Kendall Baker administration (1992-99), an incident involving racial slurs and rude gestures aimed at Native American students and children occurred during UND's homecoming parade. Following the incident, the Standing Rock Sioux Tribal Council requested that UND change the team name, and the University Senate approved a resolution opposing continued use of the Fighting Sioux name. President Baker convened two well-attended university-wide forums and visited the North Dakota reservations to seek input. President Baker announced his decision on July 27, 1993, that UND would not change the name; however, it would drop the Blackhawks logo. A committee was formed to propose steps that could be taken by the athletic department to ensure respectful use of the team name. One result was a mandatory public address announcement before every athletic event. President Baker also stated that UND would renew its commitment to cultural diversity with new, positive activity on many fronts and would leave open the question of the team name for further discussion and education.

1999

In 1999 President Baker's last public statement on the issue was read into the record at a legislative hearing during the legislative session:

> A controversy over the use of the Sioux team name was among the first issues that faced me when I came to North Dakota in 1992. After much conversation and consultation, it was my conclusion that there was no consensus on this issue, not even among Native Americans. I decided, therefore, that the respectful use of the team name should continue and, indeed, that the appropriate use of the name could be a positive influence in helping UND encourage respect and appreciation for diversity in all of its forms. Although some individuals disagreed with me then, as they do today, this remains my position on the issue.
>
> In closing, let me be very clear: Although the approach UND took regarding the team name was and is, in my view, an appropriate one, I also have stated on numerous public occasions that the issue remains on the agenda for dialogue, discussion, and learning.

The North Dakota House of Representatives, in rejecting 1999 House Concurrent Resolution No. 3024, voted 71-26 against urging UND to drop its nickname. The UND Student Senate approved a motion asking UND to drop the name, but the student president vetoed it. Also in 1999, a new Indian head logo was unveiled, created by noted Native American artist Mr. Bennett Brien. Mr. Ralph Engelstad, a UND alumnus and benefactor, announced a gift of $100 million for a new hockey arena and other projects at UND.

2001

After hearing that UND might opt for a new name and logo in the middle of the new hockey facility's construction period, Mr. Engelstad wrote a letter to UND President Charles Kupchella in which he threatened to abandon the project if UND dropped the Fighting Sioux nickname. Subsequently, the State Board of Higher Education voted 8-0 to keep the nickname and a newly designed logo.

Also in 2001, the United States Commission on Civil Rights called for an end to Indian nicknames at non-Indian schools. In August 2001, workers scraped a Sioux Indian head logo from the floor of Hyslop Sports Center after President Kupchella ordered its removal.

In October 2001, the Ralph Engelstad Arena was dedicated.

2005

On August 5, 2005, the National Collegiate Athletic Association (NCAA) formally announced the adoption of a policy forbidding its member institutions from employing "hostile and abusive . . . mascots, nicknames or imagery" during NCAA championship play. President of the NCAA, Mr. Myles Brand, stated that the policy was designed to promote the core values expressed in the NCAA Constitution, including "cultural diversity, ethical sportsmanship and nondiscrimination." The NCAA claimed that the impetus for the policy was a combination of NCAA member feedback, a report from the United States Commission on Civil Rights dealing with Native American imagery in sports, and recurring NCAA debates over the use of the Confederate flag in similar situations. Eighteen institutions were initially found by the NCAA to be using hostile and abusive Native American references, causing them to fall within the scope of the policy.

Under the policy, NCAA teams were immediately prohibited from wearing uniforms with "hostile or abusive" indicators at NCAA championship events. Effective February 1, 2006, colleges and universities having such Native American mascots were to be prohibited from hosting any NCAA championships at their facilities. By August 1, 2008, all schools with hostile or abusive mascots or references on their cheerleader, dance team, or band uniforms would be prohibited from wearing them at NCAA championship events. Two weeks after the policy was announced, the NCAA Executive Committee approved an appeals process by which colleges and universities subject to the sanctions could challenge their individual status.

On August 23, 2005, the Executive Committee applied a newly created policy exception to exempt Florida State University--a large Division I school--from the policy. In support of this action, the NCAA issued a press release stating that "[t]he decision of

namesake sovereign tribe, regarding when and how its name and imagery can be used, must be respected even when others may not agree" while maintaining that it still considered Florida State University's use of Native American imagery to be "hostile and abusive." The NCAA Executive Committee subsequently removed Central Michigan University, Catawba College, Mississippi College, and the University of Utah from the list of schools prohibited from using Native American names and imagery based upon the namesake tribe exception.

The University of North Dakota responded to the 2005 NCAA policy with an appeal to the NCAA Executive Committee's staff review committee; this appeal was denied. In a letter addressed to the NCAA President Myles Brand and Vice President Bernard Franklin, President Kupchella expressed his concerns about the "organizational self-righteousness" and "executive fiat" evident in the NCAA's policy. Specifically regarding the appeals determination in UND's case, President Kupchella stated that the "unfair, arbitrary, capricious, fundamentally irrational, and harmful manner" in which the policy was applied to UND "leaves us no recourse but to consider litigation."

2006

The UND Indian Association--a student group--voted 26-2 to oppose the name because "use of American Indian names and logos in athletics is demeaning whether intended or not."

In October 2006 North Dakota Attorney General Wayne Stenehjem filed a complaint in a state district court against the NCAA. The complaint was filed on behalf of both UND and the State Board of Higher Education. The complaint stated three causes of action--breach of contract, breach of contract for implied covenant of good faith and fair dealing, and unlawful restraint on trade. Along with the complaint, the Attorney General filed for a preliminary injunction to "prevent tremendous consequences to UND and its athletic . . . programs by immediate application of an absurd, unauthorized and unlawful Policy of the NCAA."

In the brief filed by the Attorney General, the general allegations indicated that in applying the NCAA Executive Committee's exemption policy, Central Michigan University was removed from the list of schools prohibited from using Native American mascots, names, and imagery based upon namesake tribe approval from the Saginaw Chippewa Indian Tribe of Michigan. Numerous other federally recognized tribes utilize the "Chippewa" name or refer to themselves as "Chippewa," including others within the state of Michigan, of which a large number opposed the use of the name by Central Michigan University.

According to the brief, the "NCAA Executive Committee did not consider opposition to Central Michigan University's use of the name 'Chippewa' by other Chippewa tribal authorities. The NCAA Executive Committee did not inquire about the views of other federally recognized Chippewa tribes other than the Saginaw Chippewa Tribe of Michigan. The NCAA Executive Committee has applied a different 'standard' to UND." In addition, according to the brief, "[Florida State University] and other schools removed from the list on the basis of namesake tribe approval are free to participate in any NCAA championship event in any venue while continuing to display their schools' Native American names, mascots, and imagery."

The brief also indicated that "UND does not sanction the use of stereotypical behavior historically associated with Native American imagery, including, but not limited to, drum beats, 'tomahawk chops,' and the like. Before home games, a short presentation on the history of the 'Fighting Sioux' name is shown. All incoming students to UND additionally receive information on cultural diversity generally."

Attorney General Stenehjem declared that the grounds in support of the preliminary injunction included the irreparable damages that would result to UND, the strong likelihood UND would ultimately prevail at trial based on the merits of the case, the fact that UND would suffer a relatively greater harm from not having the injunction than the NCAA would if the injunction were granted, and that the injunction serves the public interest of the people of North Dakota, as "[they] have a pivotal interest in having a nationally recognized, superior state institution of higher education with a correspondingly superior academic program." This preliminary injunction was granted by the presiding judge, Judge Lawrence Jahnke, with the trial set to begin in December 2007.

Also in 2006 the University of Minnesota said because of the nickname, it would not compete against UND in any sport except men's and women's hockey.

2007

In 2007 award-winning author Ms. Louise Erdrich declined an honorary degree from UND because of the Fighting Sioux nickname and logo. Also in 2007 the Ralph Engelstad Arena hired Mr. Sam Dupris of the Cheyenne River Sioux Tribe in South Dakota to meet with tribal officials in North Dakota about the nickname. Cheyenne River leaders later distanced themselves from Mr. Dupris and reaffirmed their opposition.

In October 2007 a settlement was reached between the NCAA and UND. Under the agreement, UND was given three years to obtain approval for using the name and logo from the two major Sioux tribes in North Dakota--the Spirit Lake Tribe and the Standing Rock Sioux Tribe. If this occurred, UND would become exempt from the policy. However, if UND were unable to obtain the tribes' approval within the allotted three years, the school would have to officially retire the "Fighting Sioux" nickname and logo and be forced to adopt a new one that did not violate the 2005 policy's "hostile and abusive" standard.

2009

In 2009 the Summit League stated that UND's application for membership would not be considered until the university's nickname issue was resolved. In addition a resolution opposing the nickname passed UND's University Senate by a vote of 25-17, with unanimous opposition from student senators.

On April 21, 2009, a Spirit Lake Tribe referendum in support of the continued use of the Sioux nickname and logo was approved by more than a 2-to-1 margin.

On May 5, 2009, the State Board of Higher Education directed UND to drop the name and logo unless it could obtain binding 30-year agreements with the namesake tribes by October 1, 2009.

In November 2009 several members of the Spirit Lake Tribe filed a lawsuit challenging the deadline for tribal action, and a district court issued a temporary injunction prohibiting action to retire the nickname. Following a hearing, the district court dismissed the lawsuit, but plaintiffs appealed to the North Dakota Supreme Court.

2010

In January 2010 nickname supporters from the Spirit Tribe Lake filed an appeal to the North Dakota Supreme Court from a district court judge's ruling that the State Board of Higher Education has the authority to change the nickname at any time.

On March 22, 2010, petitions in support of a referendum on the nickname and logo issue, which contained 1,004 signatures, were submitted to the Standing Rock Sioux Tribal Council.

On April 8, 2010, the North Dakota Supreme Court issued an opinion that affirmed the district court's decision.

At an April 8, 2010, meeting in Mayville, State Board of Higher Education President Richie Smith said the board would stand by its May 2009 decision to change the nickname and start the transition unless a motion was made to reconsider that action. Board member Claus Lembke of Bismarck made a motion to reconsider, but the motion died due to lack of a second. Board Chancellor William G. Goetz was instructed to direct UND President Robert Kelley to start the process of retiring the Fighting Sioux nickname and logo. Following the announcement of the retirement of the nickname and logo, several rallies of support were conducted on the UND campus.

On April 21, 2010, North Dakota Governor John Hoeven urged the State Board of Higher Education to give "due consideration" to the results of a possible Standing Rock Sioux Tribal Council referendum on whether UND should keep its Fighting Sioux nickname.

On May 6, 2010, President Kelley announced the appointment of Dr. Robert Boyd, UND Vice President for Student and Outreach Services, as the transition officer for the retirement of the nickname and logo. President Kelley indicated that the process must be inclusive, thoughtful, and deliberate.

The State Board of Higher Education voted unanimously on May 10, 2010, to extend the deadline for UND to retire its nickname and logo to August 15, 2011.

On May 26, 2010, UND announced a timeline for retiring the use of the Fighting Sioux nickname and logo on merchandise. According to the timeline, by July 1, 2010, the Fighting Sioux logo and nickname will be removed from the Trademarx artwork website. No new designs bearing the Fighting Sioux logo and nickname will be approved after October 1, 2010. The last day to sell merchandise bearing the Fighting Sioux logo and nickname at retail is June 30, 2011.

Mr. Charles Murphy, the chairman of the Standing Rock Sioux Tribal Council, announced on June 9, 2010, that he would try to arrange a tribal council meeting for the following week to consider petitions seeking a referendum on support for the UND Fighting Sioux nickname.

On June 17, 2010, the Standing Rock Tribal Council, by a vote of 10-4, voted to make a final decision that UND's Fighting Sioux nickname should remain retired.

A September 10, 2010, statement from the NCAA indicated that the NCAA was satisfied with UND's plan to retire the Fighting Sioux nickname and logo. The report stated that "UND has been removed from the list of schools subject to the policy regarding Native American nicknames and imagery at NCAA championship events."

On September 21, 2010, UND President Robert Kelley and Vice President of Student Affairs Robert Boyd held an open forum regarding the process behind the retirement of the Fighting Sioux nickname and logo. At the forum, it was reported that the transition from the Fighting Sioux nickname and logo would happen in three stages. Each of the three stages has committees that have been selected or are in the process of being constructed. The first committee--the Honoring History and Traditions Task Group--is charged with examining how the images and history of the 80-year-old name that has been the athletic identity for the majority of the university's existence will be remembered. The second committee--the Communications Task Group--is charged with maintaining communication between the committees, the general public, and President Kelley. The final group--the New Directions Task Group--will oversee the process of finding a new nickname and logo.

On October 12, 2010, the Honoring History and Traditions Task Group held its first meet. The task group's duties are to investigate, meet, and discuss the best way for UND to recognize the former logo and its history. The task group is also required to make recommendations to President Kelley and Vice President Boyd. Subsequent meetings of the task group were held on October 26, November 9, November 30, and December 14. The task group indicated at its November 30, 2010, meeting that Mr. Bruce Smith, Co-Chair, will be drafting a report for

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President Kelley regarding the group's comments, recommendations, and supporting data.

USE OF TRIBAL NICKNAMES BY NORTH DAKOTA SCHOOLS LOCATED ON RESERVATIONS

The following is a list of North Dakota schools that are located on Indian reservations in the state which use a tribal or tribal-related name as their nickname, mascot, or logo:

1. Four Winds Community High School Indians - Spirit Lake Reservation.
2. Warwick Public School Warriors - Spirit Lake Reservation.
3. Mandaree Public School Warriors - Fort Berthold Reservation.
4. Parshall High School Braves - Fort Berthold Reservation.
5. White Shield High School Warriors - Fort Berthold Reservation.
6. Turtle Mountain Community High School Braves (Belcourt) - Turtle Mountain Reservation.
7. Selfridge Chieftains - Standing Rock Reservation.
8. Solen High School Sioux - Standing Rock Reservation.
9. Standing Rock High School Warriors (Fort Yates) - Standing Rock Reservation.

January 21, 2011

Honorable Al Carlson
State Representative
2548 Rose Creek Parkway South
Fargo, ND 58104-6699

Dear Representative Carlson:

This is in response to your request for information regarding the constitutional authority of the Legislative Assembly to enact legislation affecting the State Board of Higher Education and the institutions under the authority of the board.

CONSTITUTIONAL AUTHORITY OF STATE BOARD OF HIGHER EDUCATION

Article VIII, Section 6, of the Constitution of North Dakota establishes a State Board of Higher Education to control and administer state institutions of higher education. Subdivision b of subsection 6 of that section states:

> The said state board of higher education shall have full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions. In furtherance of its powers, the state board of higher education shall have the power to delegate to its employees details of the administration of the institutions under its control. The said state board of higher education shall have full authority to organize or reorganize **within constitutional and statutory limitations**, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions. (emphasis supplied)

The plain language of subdivision b indicates the authority of the State Board of Higher Education is subject to constitutional and statutory limitations and does not exclude the Legislative Assembly from enacting legislation that would affect the board or the institutions under its control.

The Legislative Assembly has enacted legislation that mirrors the constitutional language regarding the authority of the State Board of Higher Education. That legislation is codified as North Dakota Century Code Section 15-10-11.

NORTH DAKOTA SUPREME COURT DECISIONS

The Supreme Court of North Dakota has generally addressed the authority of the State Board of Higher Education in two recent decisions. However, the court has not directly addressed the issue of limitations on the authority of the Legislative Assembly to enact legislation that affects the board or institutions under the control of the board.

In a 2009 case, *Ellis v. N.D. State Univ.*, 2009 ND 59, 764 N.W.2d 192, the Supreme Court discussed the balancing of the constitutional authority of the State Board of Higher Education and the authority of the Legislative Assembly to enact laws generally for all its citizens. In its opinion, the court relied on a 1957 decision in which the court upheld the constitutional authority of the university to dismiss faculty members. In arriving at its decision, the Supreme Court expressed concern as to whether a statutory enactment may supersede the constitutional authority of the State Board of Higher Education to hire and discharge its employees, but determined that the constitutional issues need not be addressed. However, it further stated that there is some judicial precedent in others states which indicates a "legislature may enact provisions giving certain rights to the employees of institutions of higher education overned by boards with exclusive constitutional authority."

Although the Supreme Court did not address the constitutional issue, the dissenting opinion in the *Ellis* case pointed out the majority opinion's "expansive reading of the constitutional authority of the Board, however, fails to acknowledge that the Board is still subject to legislation. Article VIII, § 6(6)(b) of the North Dakota Constitution

plainly states, in relevant part: 'The said state board of higher education shall have full authority to organize or reorganize *within constitutional and statutory limitations*, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions.'"

In April 2010 the Supreme Court addressed the question of whether the State Board of Higher Education could be enjoined from ordering the retirement of the University of North Dakota's Fighting Sioux nickname and logo before the final deadline specified in a settlement agreement between the National Collegiate Athletic Association and the board. In *Davidson v. State*, 2010 ND 68, 781 N.W.2d 72, the Supreme Court concluded the board had the authority to order the name change before the date specified in the settlement agreement. Again, the court quoted the constitutional and statutory authority of the board to control the institutions of higher education. However, the court had no need to fully address the extent of or limitations on the authority of the board under the constitution because "[t]he plain language of the settlement agreement does not restrict the board's constitutional and statutory authority to change UND's nickname and logo, and we agree with the district court that nothing in the plain language of the settlement agreement limits the Board's constitutional and statutory authority, or requires the board or UND to continue using the nickname and logo throughout the approval period." Because the question of the authority of the policymaking branch of government to enact legislation which limits or affects the authority of the board was not before the court, the court did not address that issue.

THREE COEQUAL BRANCHES OF GOVERNMENT

Although there have been some assertions that the State Board of Higher Education is the fourth branch of government, Article XI, Section 26, of the Constitution of North Dakota is very clear that there are three coequal branches of government. Even before that provision was adopted in 1982, the Supreme Court, in a long line of decisions, recognized that each of the three branches of government is supreme in its sphere. The sphere of the legislative branch is to enact policy. In furtherance of that constitutional responsibility, the Legislative Assembly has regularly enacted legislation that affects or regulates the institutions of higher education and the board. Title 15 is filled with examples of the Legislative Assembly limiting or placing conditions upon the authority of the State Board of Higher Education.

It should also be noted that Section 26 was enacted after the article that established the State Board of Higher Education and did not include the board as a fourth branch of government. Thus, it is clear that although the State Board of Higher Education is constitutionally created, it is not a branch of government that is entitled to the deference the three coequal branches of government offer each other when acting within their spheres of responsibility.

PRESUMPTION OF CONSTITUTIONALITY

Each enactment of the Legislative Assembly is presumed to be constitutional. Furthermore, under Article VI, Section 4, of the Constitution of North Dakota, it takes four of the five Supreme Court justices to declare a state law unconstitutional.

SUMMARY

The Constitution of North Dakota provides the State Board of Higher Education has authority over the state institutions of higher education within constitutional and statutory limitations. Although the Supreme Court has recognized the constitutional authority of the board, it has not specifically addressed the issue of the authority of the Legislative Assembly to enact legislation affecting the board or institutions under its control. The constitution provides for three coequal branches of government, one of which is responsible for enacting policy. Although constitutionally created, the State Board of Higher Education is not one of the three branches of state government and is not an autonomous entity with the authority to act independently of legislative policymaking.

Sincerely,

John Bjornson
Counsel

JB/BM

#2 HB1263

Testimony on HB 1263

Rep. David Monson

Chairman Freborg and members of the ~~House~~ Senate Education Committee, for the record I'm Rep. David Monson of Dist. 10. District 10 is located in northeastern North Dakota along the Canadian border not too far north of the Spirit Lake reservation.

I introduced HB 1257,one of three Sioux bills. HB 1263 is the one that the House sent to you. I support HB 1263 for the following reasons:

1. I'm a graduate of UND holding degrees from there, so I'm a long-time Sioux fan.
2. I believe the Sioux name and logo show great respect and honor to the great people who dominated the ND plains for many years. A school chooses names and logos they respect.
3. I believe the Sioux name and logo help preserve our history and provide an opportunity for people all over this nation and all over the world to learn about ND and the Sioux.
4. I feel the board of higher education and the chancellor were "bullied" into making a decision to drop the name and logo by an outside entity, the NCAA. What really angered me about this is the fact that the NCAA has a double standard which allows some schools to use Indian names and logos but not UND. This is akin to the UN criticizing the US for human rights violations when they say nothing to China, Iran, and numerous others. How do you defeat a bully? You stand up to them and face them head on. You don't run away.
5. The most important reason I introduced this bill is because the voices of the majority of the Sioux people at Spirit Lake and Standing Rock were ignored. Their voices went unheard. Today they get to have their voices heard. That's what our legislative process is all about. We're letting the voice of the people involved be heard.
6. I might add a last reason I introduced this bill. A couple months ago I heard about a group of people at UND who were not content with getting the board to retire the Sioux name and logo. They were going to try to obliterate the memory of the Sioux off the entire campus. I've even heard they want to remove every mention of the Sioux everywhere in ND if they are successful here. I don't know if that awoke the Viking blood in my veins or the Sioux spirit instilled in me at UND, but those are fighting words! That was the final impetus for me to contact people at Spirit Lake to ask if they wanted me to introduce a bill. They want the bill.

To me the only people who should be able take the name and logo away are the people who gave the blessing for UND to use the name in the first place. A handful of unelected people (the board and chancellor) and an outside organization (the NCAA) guilty of using bullying tactics should not decide. Some people asked, "Isn't this bill too late? The decision has been

made and we should just move on." My response is that it is never too late to right a wrong. The Sioux people were wronged when the board and chancellor didn't listen to their voices. Right can still be done by passing this bill. I would have introduced a bill in 2009 if I had dreamt the board and chancellor would have made their decision in the manner in which they did. Had I introduced a bill in 2009, I have little doubt that some would have thought the bill was too soon.

Some people have said that only the higher education board has the right to decide this issue. I've even heard some people say passing this bill would be unconstitutional. Well, I say that the board of higher education may be in the constitution, but they aren't one of the three branches of government. The legislature is the branch of government that is charged with making laws. We have an entire volume of laws passed by the legislature that pertains to all sorts of higher education as well as K-12 education issues. And, I might add, every bill we pass is constitutional until 4 of 5 Supreme Court Justices say otherwise.

Some people say using the Sioux name and logo is disrespectful. In all my years as a Sioux fan and UND student, I've seen only second hand evidence reportedly given on this issue. Any instances I've heard about have been handled in a very positive way by the faculty and administration at UND. They've used that as a "teachable moment'. Probably the most disrespect shown the Sioux people was when their voices were ignored, and it was decided to retire the Sioux name without regard for the wishes of the majority of the Sioux people.

One last comment I've heard is that the athletes may be hurt if this bill passes. I know others here are much more qualified than I to refute that claim and will do so. However, I would like to say that I believe if the Sioux name goes away, the ability to raise money from UND alumni for scholarships and other programs will be seriously diminished.

There are many who follow me who wish to have their voices heard. They are the real experts on this issue. Please listen to them and consider their wishes to keep the Sioux name and logo.

#3

HB 1263

EDUCATION COMMITTEE

Chairman Layton Freborg

March 7, 2011

Chairmen Freborg and members of the Education Committee for the record my name is Mark Dosch representing the 32nd district of the great State of North Dakota.

I am here today to voice my support of HB 1263. As a 1982 graduate and alumni of UND and the fighting Sioux, I felt compelled to co-sponsor this bill.

I believe one of mans greatest fears is to someday be forgotten – not remembered. We all want to leave our legacy behind, either individually, or as a people. We often hear of the desire to tell our stories, to teach our language and traditions, so it can be passed down from generation to generation.

I remember returning to UND several years ago to attend a Hockey game. I was excited to see the new Ralph Engelstad Arena. I remember standing in au as I first saw the towering statue of Sitting Bull lit in the night's sky. I observed the sea of fans, thousands of them all dressed in their fighting Sioux attire, proudly wearing their logoed attire (designed by the way by a Native American artist). And then the moment I stepped into the stunning arena, adorned with the Indian head logo inlayed into the marble floors and walls. What a first class facility I thought. Then the moment I walked into the arena itself. The flood of memories of the countless number of games I attended in the past, and the swell of pride I felt when the student section began the cheer go Sioux go. The chants continued "Who are we? We are the fighting Sioux. I felt at home, a member of a family, a feeling of belonging. We were the fighting Sioux, age did not matter, your sex did not matter, nor the color of your skin. We all were there for the same reason, and that was to cheer our team to victory.

I was later shocked and saddened when the news came with the accusations of disrespect and racism in connection of the use of the name the Fighting Sioux. How could that even be possible? Had they never attended a hockey game? Had they never heard the cheers from the thousands of students and fans proudly displaying the logo and cheering their team to victory? I seriously doubt it, because if they did, they could have never come to that conclusion – never. Especially if a minority feels it is important to preserve their image, to preserve their culture, to preserve the memory of their people, for a people working to create a better relationship with all the people of ND. My question is how could they and us stand by and allow all this to be lost? Don't they and their leadership realize the consequences?

#4

If the name and logo were dropped? Things like the removal of the proud statue of Sitting bull. The Indian head logo proudly imbedded in the tile of the Engelstad Arena to b e covered with black paint, and jerseys and attire that once displayed the logo be removed from the shelves. And perhaps the saddest thing is that with each passing year of new freshmen students none of whom would be given the opportunity to cheer for the mighty Sioux, the once proud image and name of the Sioux would soon be forgotten. How could this possibly be good for the Native Americans of our state?

There is a saying that goes, be careful of what you which for, because it may just come true. Perhaps this is what some may want, but I do believe for many of the proud American Indians and for the 10s of thousands of UND grads, I believe this is not what they want. For I believe, it is not about the color of one's skin, but the spirit that is in our heart... the proud tradition that we all share... for we are the Fighting Sioux.

My name is Archie D. Fool Bear and I am an enrolled member of the SR Sioux Tribe. I served on our tribal council from 2003 to 2007. In 2005 I voted against UND's use of the "Fighting Sioux" nickname and logo. It was after this that our constituency questioned why we voted against UND. I was told by an elder, "the council didn't know what they were doing and the matter should be looked into further."

In our review, we found Mr. Aljoe Agard, the Tribal Chairman in 1969, sent a delegation to UND. This delegation consisted of: Ed Loon, Frank White Buffalo Man both Spiritual Leaders, Bernard Standing Crow, Tribal Judge. This delegation worked with UND president Starcher for educational benefits. Through our ceremonies UND was given the right to use the name. This information caused us to question whether we had the power to take a name away. The powers delegated to the Tribal Council in the Tribes Constitution does not give authority to choose what ceremony to honor. This was discussed with our elders who have said, "Once a name is given through ceremony, it cannot be taken away".

In our fact finding efforts we traveled to UND to gather all information. We asked for Reports from the UND Chief of Police, there were no police reports. We met with several students, we listened to all of their comments. One of our Council Members asked how many were SR Sioux there were none, none were of Sioux descent.

In February 2008, the Cannon Ball community passed a resolution demanding a referendum vote on the whether the University of North Dakota could continue to use the "Fighting Sioux" nickname for their athletic teams. **The tribal council denied this action and passed a resolution placing a moratorium on anything to do with the UND nickname/logo.** In June 2008, the tribe held a vote to change the tribe's name from the Standing Rock Sioux Tribe to the Standing Rock Oyate; the people of Standing Rock denied the name change.

The Tribes Attorney in his letter dated Dec. 7, 2009 stated, **"The passage of a motion/resolution by the Tribal Council placing a moratorium on a referendum/initiative vote regarding any issue negates the peoples' right to redress their grievances regarding that issue. This is a direction violation of Article XI 1 of the Constitution of the SRST as well as 1302 of the Indian Civil Rights act of 1968. Additionally. It denies the peoples' right to liberty without due process of law violating Article XI 8 of the Constitution of the SRST"**

February 2010, We initiated a petition drive to hold a referendum. March 22, 2010, committee members and I delivered a petition containing 1004 signatures to the tribal chairman. Our petition was stalled for 3 months, in June 2010 the council took no action "because they had more important issues that needed timely attention." The council won't allow the people to vote because they know what the outcome will be. This was proven when a referendum was held to change the tribe's name and it failed, today we are known as the Standing Rock Sioux Tribe. Many of us Standing Rock members have advocated for a vote because our tribal council does not have the authority to decide what ceremonies to honor. Our demands have fallen on deaf ears. The council has shown disregard for the people and completely ignored our Constitution.

I am here today in favor HB1263 my reason is: We at Standing Rock gave UND the right use the nickname and our tribal council does not have the authority to pick and choose what ceremonies they want to honor. As a people our hands have been tied by the Tribal Council and our Courts, therefore I'm asking for your support and vote in favor of the Bill. Your support of the bill will show the people of North Dakota and Standing Rock that all people matter. Thank you for your support.

#5

FIGHTING SIOUX

IN HONOR AND RESPECT

OF OUR UNWRITTEN TRIBAL LAWS, CUSTOMS AND PRACTICES



Aljoe Agard
TRIBAL CHAIRMAN



Edward Loon
TRADITIONAL & SPIRITUAL LEADER



Bernard Standing Crow
TRIBAL JUDGE



Frank White Buffalo Man
TRADITIONAL LEADER

In July of 1969, a group of Standing Rock Sioux tribal leaders, including Aljoe Agard, Edward Loon, Bernard Standing Crow and Frank White Buffalo Man, traveled to the University of North Dakota (UND) and formally gave UND the right to use the name of "Fighting Sioux" for their athletic teams. In a colorful and feathered ceremony, Chief Bernard Standing Crow conferred on Dr. George Starcher, UND President, the name of "Yankton Chief" and Dr. Starcher was adopted into the Standing Rock Sioux tribe.



Bernard Standing Crow closed the ceremony with this prayer: "Great spirit we humbly pray that you guide and protect the people here tonight and all over the world so that they will open their hearts to everyone, treat everyone as blood brothers so peace always will be with us, we humbly pray to you Great Spirit."

#6

Dear Layton,

Thank you for your attention to the HB 1263. This is very much appreciated!

For some time there has been a concerted effort by a vocal minority to create doubt, confusion, and issue fatigue by presenting untruths and creating controversy.

This can be likened to what is presently happening in Wisconsin, Ohio and other states by those who believe by creating enough controversy the facts will be ignored or minimized by the public. This strategy does not serve the public interest and should fail.

The Sioux name and logo issue is important to North Dakota, UND and our Sioux Indian citizens.

This connection is historic. UND was established in 1883. The first public University in the Dakota Territory. Most of the Territory had been the Great Sioux Nation.

The Sioux Name was chosen for UND athletic teams in 1930 to highlight this history and because of the Sioux Warriors having strength, courage, pride, and a reputation for overcoming adversity and winning battles. In 1969, Standing Rock leaders and elders in a special ceremony at UND gave the Sioux name to UND and they made then President Starcher an honorary chief. The newspaper article is attached.

Here are some quick points.

- The NCAA was presented with nonfactual information in their decision against UND's name and logo. Among the misinformation was that UND had a hostile and abusive climate for American Indian students.
- The fact is UND has one of the largest American Indian enrollment of any public University in the nation and offers more programs for Native Americans.

#7

- UND President Kupchella and the North Dakota Board of Higher Education decided on legal action against the NCAA but with private money being used to fund the legal action.
- President Kupchella contacted the Ralph Engelstad Family trust members requesting their financial assistance. The Engelstad Family Trust financially supported this effort by UND and the Board of Higher Education with over 1 million dollars.
- In the court settlement the NCAA withdrew the claim of UND having a hostile and abusive climate and other charges.
- President Kupchella then dropped his interest in fighting to save the name and logo.
- Were the members of the Engelstad family trust deceived even be it unintentional? It is doubtful the Engelstad family trust members would have responded to President Kupchella's request if they had known this was going to happen.
- The late Ralph Engelstad was very proud of his UND connections and of having been a Fighting Sioux Hockey Player. (Please see attached letter he sent to the Governor and also a copy of my "Remembrances of Ralph"). Ralph wanted the Fighting Sioux tradition to be very visible in the hockey facility he gifted which was approved by the State Board of Higher Education and the legislature. President Kupchella supported UND athletic teams being the Fighting Sioux.
- The logo was the work of an Indian artist. President Kupchella enthusiastically approved the logo for UND Fighting Sioux athletics.
- President Kupchella changed his mind on the name and logo. The Board of Higher Education took control of the issue from the UND President.
- The beautiful 100 million dollar facility was completed as a gift from Ralph and Betty Engelstad to the people of North Dakota. The facility is recognized as one of the finest facilities in the world. The REA is self-supporting and provides at a minimum 2 million dollars a year to UND.

Also, the hockey facility generates sufficient revenue to retire the bonds for the adjacent basketball and volleyball facility.

- The Board of Higher Education has changed its position. What brought about the change?
- Before Robert Kelley arrived on campus as UND President Chancellor Bill Goetz told Kelly he would take care of the name and logo matter.
- Did the Chancellor understand the importance of the long standing UND athletic Fighting Sioux proud history and how important this is to North Dakota– obviously not. This goes for beyond the situation involving Ralph Engelstad.
- The value of branding should not be underestimated. Here is an article of a survey showing the Fighting Sioux and logo to be the most popular for North American hockey - professional, University and amateurs.
- Here also is a copy of an article speaking to the drawing power of Fighting Sioux hockey nationally. The headline on a Boston daily sports page "The Sioux are Coming" speaks volumes about what this identification means.
- Some years ago the National Professional Football produced an hour long television show called "Football America". This was about the history of football in our nation. This was shown on several TV stations across the nation. A main feature was the football rivalry between the Sioux and the Bison in North Dakota.
- Spirit Lake and Standing Rock did not ask to be in the NCAA – UND Board of Higher Education settlement but they were included. By almost a 70% majority the enrolled members of Spirit Lake voted their desire for UND to continue to be the Fighting Sioux and with the respectful logo. The 1969 action by Standing Rock should have fulfilled the requirement in the settlement.
- The majority of the North Dakota Sioux Indians have good reason to feel they are being treated with disrespect. As an example, when representatives from the NCAA and the North Dakota

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attorney for the State Board of Higher Education toured the Ralph Engelstad Arena determining what they deemed to be offensive to the Indian citizens not a single American Indian was present.

- The facts are when the facility was planned American Indians were involved including the Sioux for the statue honoring Sitting Bull and the names and logo.
- The cost of defacing this beautiful gift to UND and North Dakota to meet the settlement is estimated at about 1 million dollars.
- Tribal members from Spirit Lake and Standing Rock requested an opportunity to have a flag ceremony in the Ralph Engelstad Arena. The UND administration attempted to prevent this from happening and forbid the hockey coach to have the team present for the ceremony. (A video of the impressive ceremony is available.)
- Greg Holy Bull from Standing Rock is a very talented individual who has done choreography for an Indian performance group with a New York City Agency. Greg and others put on a performance for UND athletics about the history and culture of the Sioux. The next night was for the public. A member of the Board of Higher Education saw the performance and thought this very educational and interesting and should be on every campus in North Dakota. She proposed this at the next Board of Higher Education meeting. How ironic those who lobbied against this happening were non-Indian members of the UND Faculty who claimed Greg Holy Bull, who speaks the Sioux language and the Holy Man Ambrose Little Ghost from Spirit Lake were not qualified to speak about Sioux Indian culture. The arrogance of academic liberals was again on full display.

It is not in North Dakota's interest to give into misguided and irresponsible political correctness.

#7

This issue is important for our state. I am hoping this bill will pass and we can have some optimism, the NCAA will change its position when they know the facts and how much this is a valued and cherished part of our state history and how important this is to the citizens of North Dakota.

With warm regards,

Earl

Earl Strinden

Thank you for
all you are doing
on this one.
Much appreciated

#7



DARLENE SPIDELL, Uncpapa Sioux tribal princess, dances during a powwow put on Friday night at the University of North Dakota by tribal members from the Standing Rock Sioux Indian Reservation at Fort Yates. Dr. George Starcher, UND president, was made an honorary tribal member in a ceremony and was given the name, "The Yankton Chief." (Herald Photo).

'Fighting Sioux' Get Uncpapa OK

By ART RAYMOND

The Fighting Sioux of the University of North Dakota now come by their name moralistically right.

Friday night a band of Standing Rock Sioux (Uncpapa Sioux) formally gave UND teams the right to use the name of "Fighting Sioux" for their athletic teams.

Chief Standing Crow, Fort Yates, N.D., led a band of Sioux to the UND University Center here and in colorful and feathered ceremony conferred on Dr. George W. Starcher, UND president, the name of "The Yankton Chief."

Chief White Buffalo Man, grandson of Sitting Bull, the Uncpapa medicine man of Little Big Horn (and later) fame, conferred the title on Dr. Starcher. Dr. Starcher was adopted into the Standing Rock Sioux tribe as well as being given a name.

The new "Yankton Chief" said the University of North Dakota was "delighted to serve" the needs of the Sioux and hoped to help them in meeting their needs. He urged that more Sioux attend UND so educational benefits could be brought to bear to a greater degree.

Chief Bernard Standing Crow is coordinator for the Sioux Head Start program and it was in this context the dance and powwow was staged.

The Sioux, now living on the Standing Rock Reservation spilling over into the states of North and South Dakota, wished to express their appreciation for UND efforts for them in the educational field.

Dr. Richard Pittman, head of the Linguistics School at UND, was adopted into the tribe and given the name Hincote Agadi — "Bring Back the Roan Horse." It was a signal honor for it was the name borne many years by Chief Standing Crow, grandson of Chief Sitting Bull.

"I am deeply touched and highly honored by this privilege which is mine tonight," said Dr. Pittman. "I hope I always will be worthy of this great honor bestowed upon me."

Standing Crow closed the powwow with this prayer:

"Great Spirit we humbly pray that you guide and protect the people here tonight and all over the world so that they will open their hearts to everyone — treat everyone as blood brothers so peace always will be with us, we humbly pray to You Great Spirit."

ANN LANDERS

DEAR ANN LANDERS: THE letter from that 17-year-old kid who complained about the food they were getting from welfare really burned me up. He mentioned everything but work. I am up to here with government handouts — county, state and national, and yes, international, too. Our country didn't get to be the richest nation in the world because our forefathers sat around on their duffs waiting for somebody to give them something. They worked.

Eight years ago we bought a beautiful home in the suburbs. Last year we had to sell our dream house because we couldn't get anybody to work out here. The man who promised to shovel the snow never showed up. The sub who called himself a gardener worked when he felt like it—and he didn't feel like it very often. I hired and fired four day-ladies and two laundresses in less than nine weeks, three quit. To interest a sitter I had to promise her the moon. Finally I give up. We couldn't get the storm windows up, or the screens off or the garage painted. Nobody wants to work. The yolk's on you, Brother. Those "dullards" may not have your classy credentials but their chances of succeeding are better than yours. There's a lot to be said for sticking with a situation and guising it out.

* * * *

UNSURE OF YOURSELF on dates? What's right? What's wrong? Should you? Shouldn't you? Send for Ann Landers' booklet "Dating Do's And Don'ts," enclosing with your request 35c in coin and a long, self-addressed, stamped envelope.

Ann Landers will be glad to help you with your problems. Send them to Ann Landers, P.O. Box 2046, Chicago, Ill., enclosing a self-addressed, stamped envelope.

Y Offers Many Boys Activities

Many activities still remain for any boy, age 10 to 16, who wants to join the YMCA Woodsmen's Club, according to Phil Yagla, YMCA physical

Steak dinner

Mayville College's Commencem

MAYVILLE, N.D. — Commencement exercises will be held in the auditorium at Mayville State College at 1:30 p.m. Aug. 1 for summer graduates.

Richard L. Davison of the staff of the state Board of Higher Education in Bismarck will give the address.

Baccalaureate services will be at 10:30 a.m. that day, with the sermon by Rev. Alten R. Solheim, pastor of the Holmes United Methodist Church of Reynolds.

Those graduating cum laude will be Judith C. Bilden of Northwood, and Judy M. Lovik of Pisek.

The graduates will be Ronald Aasen, Ruth Amundson, Joseph Baisley, Mrs. Lulu E. Johnson, Mrs. Sandra McQueen, Allen Myers, Mrs. Marge Ralston, Emily Rousseau, Richard Rousseau and Mrs. Joanne Wilmayer, all of Mayville.

Carol Wesolowski, Ardoch; Johnny Washington, Minneapolis; Delnore Warner, Hatton; Mrs. Eleanor Tupa, Petersburg; Roger Thies, St. James, Minn.; Larry Tag, Sutton; Mrs. Doris Stubson, Cavalier; Etta Stein, Lakota; Wesley S Rostad, Er Velva; Edn Mary Over Solveig Ny G. Daryl Larry Niels Sally Age Mrs. June Connie Bey Bilden, Nor Borgen, H Burchill, Oscar Byror Thomas C Eleanor D Christensen, Margie De Mrs. Peggy

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UAP# 15,730 George Starcher, UND President

The Work of UND Alumnus Artist Ben Brien



In the spring of 1999, noted Native American artist Bennett Brien of Belcourt, N.D., was commissioned by the UND Alumni Association to do a painting. Here is a copy of the work he delivered on July 29, 1999.

The Alumni Association has signed over all rights of the artwork to the University.

Brien, '84, '88, holds a master of fine arts degree from UND. His best-known artwork is the sculpture of an American bison that stands on the State Capitol grounds. He describes the meaning of his painting as follows:

- The feathers symbolize outstanding rewards that students, faculty, staff, and alumni will achieve for academic, athletic and lifelong excellence.
- The determined look in the eyes symbolizes fortitude (and never giving up) and the focus necessary for sustained academic, athletic and lifelong achievement.
- The paint on the cheekbone symbolizes that life can be a battle and we have daily struggles.
- The color green symbolizes the development of young people and their growth at the University of North Dakota.
- The color yellow symbolizes the sun which provides humanity light and warmth in order that life may continue.
- The color red symbolizes the lifeblood that has been poured out to make our state and peoples great.

#7

GrandForksHerald.com

[redacted]hed October 05 2009

The Hockey News: UND's jersey is best

The Hockey News says UND has the best hockey jerseys in North America. The worldwide hockey magazine compiled jerseys from every pro, minor pro, college and major junior league in North America — a total of more than 100 teams — for a tournament-style poll among readers.

By: Brad Elliott Schlossman, Grand Forks Herald

The Hockey News says UND has the best hockey jerseys in North America.

The worldwide hockey magazine compiled jerseys from every pro, minor pro, college and major junior league in North America — a total of more than 100 teams — for a tournament-style poll among readers.

The Sioux were the only college team to make the final 16 in the tournament. Then, UND knocked off Rimouski (Quebec Major Junior Hockey League) and London (Ontario Hockey League) to make the semifinals.

UND's jersey was voted better than the Boston Bruins and the Chicago Blackhawks in the semifinals and finals, winning both by considerable margins.

The Sioux logo was created by Native American artist Bennett Brien about 10 years ago. Brien once described the logo this way:

"The features symbolize the outstanding rewards that the students, faculty, staff and alumni will achieve for academic, athletic and lifelong excellence.

"The determined look in the eyes symbolizes the fortitude and never giving up and the focus necessary for sustained academic, athletics and lifelong achievement. The paint on the cheekbone symbolizes that life can be a battle of daily struggles.

"The color green symbolizes the development of young people and their growth at UND. The yellow symbolizes the sun, which provides humanity, light and warmth so that life may continue. The red symbolizes the lifeblood that has been poured out to make our state and people great."

UND's jerseys are annually voted as the best by Western Collegiate Hockey Association captains, too.

Belfour inducted

[redacted]er UND goalie Ed Belfour went into the Manitoba Hockey Hall of Fame on Saturday night.

Belfour, the third winningest goalie in NHL history, led UND to the 1987 national championship. He then signed with the Chicago Blackhawks and posted nine 30-win seasons.

The Carman, Man., native has four William M. Jennings Trophies for fewest goals against, a Calder Trophy for being rookie of the year and a Vezina Trophy for being the best goaltender in the NHL.

Tickets available

There are limited tickets available for UND's season-opening series against Merrimack. UND says 520 tickets remain for Friday's game and 375 tickets for Saturday's game.

UND will raise its 2008-09 Western Collegiate Hockey Association championship banner on Friday night.

Reach Schlossman at (701) 780-1129; (800) 477-6572, ext. 129; or send e-mail to bschlossman@gfherald.com.

Tags: und sports, und hockey, college sports, hockey, sports

[redacted]

#7

Sioux drawing a crowd

UND has been packing the stands at home and on the road

Author: *Brad **Schlossman**; Herald Staff Writer*

Article Text:

When the UND men's hockey team pulled up to Alfond **Arena** in Maine last month, an **arena** worker greeted them.

"Glad to have you here," he said before pausing and revising his statement. "Our ticket office is glad to have you here."

That's been an overriding theme for the **Sioux** during the first seven weeks of the season. Wherever they've played, large crowds have followed.

At home, they are averaging a touch over capacity (11,669). The **Sioux** are outdrawing three National Hockey League teams (Thrashers, Islanders and Coyotes), every minor league team in North America and traditional men's basketball powerhouses such as UCLA, UConn, Duke, Texas and Florida.

Despite the fact that the students will be vacating their near-2,000 seats for Thanksgiving weekend, Ralph Engelstad **Arena** is expecting more sellouts when the University of Notre Dame comes to town (7:37 tonight, 7:07 p.m. Saturday) for a nonconference series.

"That doesn't ever go unnoticed," UND coach Dave Hakstol said of the fan support. "It's never forgotten here. Our students are going to be gone this weekend and the building is still going to be sold out. That means there will be some new faces in the building. Hopefully, we can go out and play real well in front of them."

Road attraction The **Sioux** have been just as popular on the road.

Bemidji State drew a home record of 4,373 for both games against the **Sioux**. Those are the only two sellouts that the Beavers have had this season.

A week later, UND went to Orono, Maine, and Maine drew its largest crowd in three years.

The next road trip was to Wisconsin.

With UND in town, the Badgers registered their only sellout of the season so far.

And last weekend, Nebraska-Omaha drew the second-largest hockey crowd in the state's history (11,181) to watch a highly-entertaining 6-5 **Sioux** victory on Friday night.

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Factoring into the large crowds on the road are **Sioux** fans who travel to the series and UND graduates who live nearby and make it a point to get to the games when the **Sioux** are in town. An estimated 1,500 to 2,000 were on hand last weekend.

"It felt like we were at home because there were so many **Sioux** fans," UND senior Matt Frattin said.

"We kind of get fan support everywhere we go. Everywhere we go, we have fans."

Sophomore Corban Knight added:

"It was awesome seeing all the **Sioux** jerseys and fans in the stands last weekend. We're on the road, but it feels like home. You go to places like that and you realize we do have the best fans in college hockey. A lot goes back to the tradition the **Sioux** have. People graduate and move on from here, but they are still **Sioux** for life."

Series pivotal to Pairwise Rankings Nonconference games are almost equally as important as league games in the Pairwise Rankings-the formula used to select the 16-team NCAA tournament field in March.

Because there are so few nonconference games each season, it raises the level of importance.

UND currently sits at 1-2-1 in nonconference play after getting swept at Maine in October. Only two games against non-WCHA teams remain after this weekend - a home series against Robert Morris University (Pa.) in January - which means this weekend's games will strongly factor into UND's positioning come the end of the season.

"We know what nonconference means," Hakstol said.

"Nonconference is so important.

This is an outstanding hockey team that we're playing against.

They are a very complete team. They are good in all areas. I think we're going to look back on this and know it was a key series.

Certainly, going into it, I think it's a key series. Not only that, it's a fun challenge to play against the top team in the CCHA."

Another top team Notre Dame (9-3-1, 7-2-1 Central Collegiate Hockey Association) currently sits atop its league's standings and ranks No. 11 in the country.

It's yet another marquee matchup for the **Sioux**, who will now play a sixth consecutive series against a team ranked in the top 13 nationally.

Previous top-13 opponents include Maine, Denver, Minnesota-Duluth, Wisconsin and Nebraska-Omaha. The **Sioux** are 5-5 during the stretch, losing twice at Maine and sweeping the Badgers in Madison.

According to the KRACH rating system, UND has played by far the most difficult schedule in the country to this point.

"We've been playing go" and teams all the way along," Hakstol said.

"We've done a great job in some areas on some nights. We've been a little bit less than that on other nights. I'm happy with the progress we're making.

We're winning games against good teams. This weekend might be our biggest challenge yet.

Notre Dame is a good team, they are playing extremely well. It's the next step in our season. It's an important test."

Briefly This is UND's first trip to Grand Forks since 1999, when they split with the **Sioux** UND played the Fighting Irish last season in Chicago. The teams skated to a tie This weekend's games are the Subway Holiday Classic.

UND is 10-5-1 in the Subway Holiday Classic

UND junior forward Brett Hextall is without a point in the last seven games - the longest stretch of his career.

Reach **Schlossman** at (701) 780-1129; (800) 477-6572, ext. 129; or send email to bschlossman@gfherald.com

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Record Number: 9995841

#7

January 27, 2011

Representative RaeAnn Kelsch
State Capital
Bismarck, ND

Dear RaeAnn,

Thank you for the opportunity to appear before the House Education Committee. As I said in the opening of my remarks, when Jan and I attended the State of the State session to proudly be with our new house member grandson and our state senator son-in-law, I heard about the bills being introduced pertaining to the Fighting Sioux name and logo.

This speaks to the North Dakota citizen interest in this issue and how much this name and logo is a part of the history of our state.

When I was asked to appear before the committee by my Sioux Indian friends from Spirit Lake and Standing Rock I agreed to do so. They have my respect and I know their deep feelings about losing an identity which they believe to be very important for their people.

I chose to speak to the history of the name for UND Athletic teams but mostly on how, in the aftermath, of the NCAA – North Dakota settlement the wishes of the majority of the North Dakota Sioux Indian citizens are being minimized.

Time did not allow me to recount many important happenings but I do wish to mention one. A couple of years ago on entering the lobby of the REA basketball facility I noticed a group of young people. I went over and introduced myself and found out they were the members of the Spirit Lake – Four Winds boys basketball team with their coach. I asked if they had seen the big REA. They had not! At half time we toured the big Ralph. A couple of them had cameras. To make a long story short they were thrilled to have their pictures taken with a Fighting Sioux logo. They were proud this beautiful facility prominently displayed their name. As we walked back to watch the rest of the basketball game I couldn't help but notice a pride and enthusiasm.

It is very important for all young people to have a feeling of self-worth on which to build a life of meaning and purpose.

This seems to be missed by those who are attempting to take this away and by those who have unfortunately given up the fight and in some instances are giving in to misguided political correctness.

The Fighting Irish, the Vikings: Why would anyone think the Fighting Sioux are not equally cherished, respected, and important.

The Sioux Indian citizens who are leading the effort understand this and recognize to be isolated and forgotten will only do harm.

Thank you for doing something very important for the Sioux Indian citizens and for North Dakota.

Thank you also for your unselfish dedication to public service.

With warm regard,

Earl Strinden

P.S. RaeAnn – Will you please share this letter with the members of your committee.

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Remembrances of Ralph Engelstad

By Earl Strinden
CEO Emeritus
UND Alumni Association and UND Foundation



This picture of Ralph Engelstad and Earl Strinden was taken at a UND Alumni-Imperial Palace weekend which was an annual event for many years. In his remembrance, Earl mentions UND President Emeritus, Tom Clifford and Reg Morelli, a UND hockey All-American. Tom and Reg were also close friends of Ralphs and with Earl, involved in the hockey facility gift.

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After Ralph Engelstad's death, Dave Vorland, then the Director of University Relations, asked Earl Strinden , long time CEO of the UND Alumni Association and UND Foundation, to write his remembrances of Ralph.

Remembrances of Ralph Engelstad

By Earl Strinden
CEO Emeritus
UND Alumni Association and UND Foundation

Some many years ago in a letter, Chester Fritz, a noted entrepreneur with North Dakota and UND roots, wrote, "I didn't get from Buxton, North Dakota, to Beijing and to Rome by being a 'shrinking violet'." Ralph Engelstad who, in my opinion, has the honored position as UND's most successful entrepreneur, didn't get from Grand Forks to his outstanding success in the highly competitive free enterprise environment by lacking in vision, self-confidence, work ethic, mental toughness, courage, intelligence, determination and strength of character.

A Las Vegas columnist by the name of John Smith, on December 1, 2002, wrote, "Ralph Engelstad was one of the most enigmatic, interesting and misunderstood men to ever set foot in Las Vegas."

I enjoyed knowing Ralph for over 40 years. When Dave Vorland asked me to write about my remembrances of Ralph Engelstad, I gladly accepted, because too few had the opportunity to know this very private man.

Ralph was a consummate workaholic. He didn't golf, fish, play cards or spend time socializing. Frequently, I would phone his office on a weekend. Ralph would pick up the phone. Conversations were brief and to the point. Letters I received from him were brief, usually a few lines, but always with a friendly greeting. To Ralph, time was precious. He did not tolerate waste, whether it be time or resources. Idle chit chat was never his style. When he was sent a report from Grand Forks by overnight delivery, he informed the sender he could save a couple of dollars by using a different carrier.

Ralph thrived in the arena of competition. This was his life; this is what he enjoyed. A few months ago, he suggested he was going to divest of all his enterprises

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and lie on the beach and watch the clouds float by. We never believed Ralph could handle being idle for more than half a day.

Ralph was in control of his business and property enterprises. He described himself as being "hands on." This was an understatement. Tom Clifford and I visited with Ralph in his office on many occasions. The phone calls were coming in and the fax machine was on full speed and decisions were being made quickly. Ralph had a vintage 10-key adding machine on his desk. Every time we were there, several feet of used adding machine paper had rolled on to the floor. Obviously, Ralph's staff was using the most current computers. Ralph, however, when discussing a financial matter, would pull out his hand entry ledger book. He had a remarkable memory. This was a very intelligent man.

Ralph started out in construction and this is what he really liked. His knowledge and vision for construction projects was uncommon. In the early 1970s, Jan and I accompanied a UND football charter to Las Vegas where the Fighting Sioux played the University of Nevada Las Vegas team. Ralph met us at the plane and gave us a tour of Las Vegas, including a rather run down motel on the strip called the Flamingo Capri. Ralph had the willingness, vision and the courage to take a risk in securing an option on a private airport property called the Thunderbird. Sometime later he sold this property to the legendary Howard Hughes. From this revenue, along with his Flamingo Capri motel property, came the Las Vegas Imperial Palace which is today the second largest sole-proprietorship hotel in the world.

Ralph built the grandest and largest residence on Grand Cayman Island, but he spent virtually no time there. On a couple of occasions, I drove with him to the construction site of a major NASCAR race track he was building with his friend and partner Bill Bennett. When completed, the race track accommodated 108,000 spectators and provided parking for 65,000 vehicles. Tom Clifford and I were there for the first race. Ralph was too busy to watch the race. Shortly after the project was completed, it was sold. I suspect for Ralph it was the challenge of the investment, construction and management and the satisfaction of success which was his interest. I doubt if he ever took time to be a spectator at the track he built.

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Ralph didn't care about high society. The large conference room at the Imperial Palace was full for his 60th birthday party and most everyone was dressed in open shirts or t-shirts and jeans style apparel. These were Ralph's kind of people.

Ed Crispell, the general manager of the Imperial Palace for over 25 years, in a eulogy, told of being invited to lunch when he was being recruited by Ralph. He soon came to realize lunch with Ralph was the drive-through of a McDonald's or Wendy's. We can relate to this. When Ralph flew into Albany, New York, to watch the Fighting Sioux in the hockey national championship game, we went out to eat with Ralph at a Wendy's close by the arena.

I once asked Ralph if he had a person on his staff assigned to government liaison. He quickly gave me his opinion on politicians and in a language which would make any boot camp Marine DI proud. Unfortunately, when he was embroiled in the embarrassing spoof Hitler birthday party put on by some of his young employees, there were no elected leaders in Nevada to come to his assistance. Make no mistake about Ralph, he was a patriotic American. He was a supporter of veterans' organizations and he was honored by the veterans. A color guard from one of the veterans' organizations paid their respects at his burial.

Ralph had an interest in history, especially the history of World War II. More than one reporter has written about a rumored secret Nazi room which they describe as some sort of shrine. This is nonsense! Ralph gave UND alumnus and respected journalist Chuck Johnson and me a tour of this collection. Most every public museum would be proud to have this collection in their possession and on display. I read a letter he received from a leader of the largest Jewish organization in our nation asking if he would donate his World War II collection to their museum. A few years ago, I received a phone call from Ralph saying he wished to donate his collection of General Patton's papers to the UND Foundation. These papers are in the Special Collections of the Chester Fritz Library.

O'Reilly, on the FOX network, presents himself as being in the "no spin" zone. Ralph, blunt and straight talking, was always in a "no spin" zone. For many years, he refused to talk to reporters. He, at times, would respond in writing to their written questions. I am sure the negative publicity about him, much of it very personal, bothered

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him, but he didn't spend any time attempting to correct the misinformation or change the image which had been shaped by those in the media. A few years ago, he made *Forbes* magazine as one of the 500 richest American citizens. When I congratulated him on this positive article, he made it known he did not want to receive this publicity. I noticed in subsequent *Forbes* wealthiest American listings, he was no longer on the list even though he deserved to be listed. Obviously, he refused to respond to their contact.

Ralph was a demanding employer, but he was fair, honest and had a great loyalty to those who gained his trust and confidence. He never forgot his teammates from his days on the UND hockey team and those who helped him along the way. He needed a loan to start Engelstad Construction Company in Grand Forks in the 1950s. He received a loan from the Valley Bank. Its president at the time was Al Holmquist. Some years later, he gave Al Holmquist a Cadillac as a thank you to Al for having faith in him by giving him a $2,500 loan. As long as the Valley Bank existed, he kept a balance in the bank and Al's successor, John Cook, was a close and trusted friend to the very time of Ralph's death. He had a great loyalty to his employees. When the tragedy of September 11 occurred, business dropped off dramatically in Las Vegas and most all of the hotels and casinos were laying off staff in significant numbers. There was one exception. I received a copy of an article from the major Las Vegas newspaper saying the exception was the Imperial Palace. Ralph Engelstad was keeping on all 2,600 employees and with their full fringe benefits. Almost 10 years ago, he opened the first medical center in a hotel for his employees. I should add, I believe he was the only non-union major hotel/casino operation in Las Vegas.

A tough individual without question, but there was also a soft side to Ralph which he kept private. Jan and I were visiting with him in his office on Valentine's Day a few years ago. He took his phone calls by speaker phone and a call came in, obviously from an elderly female. She called to wish Ralph a happy Valentine's Day and to thank him for all he was doing for her. After the very pleasant phone conversation, Ralph told us it was Joe Louis' widow on the phone. He said she was left destitute. The obvious was that Ralph was giving her financial assistance. Ed Crispell told about Ralph and Betty bringing lonely, elderly individuals from the nursing homes in Las Vegas for holiday dinners. In 1991, he received the prestigious National Employer of the Year award from

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the President's Committee on Employment of People with Disabilities. He employed as many as 50 Nevada prisoners on the restoring of his collection of antique automobiles. This not only provided income, but training and skills for these individuals to bring them back into productive and law-abiding lives when they finished their prison terms. Some months ago, Ralph read about the shortfall in the fundraising drive in North Dakota to have a statue of Sakakawea in our nation's capitol. He contacted me to find out the amount needed, and sent a check to complete this project.

He received other awards, including Employer of the Year by the Southwest Business Industry and Rehabilitation Association and Humanitarian of the Year award from the International Gaming and Business Exposition. Within the past year, he gifted almost 3,000 wheelchairs to be given out free to physically handicapped individuals in North Dakota.

It was Ralph's idea to build a new hockey facility. Tom Clifford, Reg Morelli and I met with Ralph in early November of 1998. At this time he told us of his plans for the $100 million contribution. Over the years, we never pressured Ralph for a gift. We let him know when he was ready we would be there to provide assistance in accomplishing his charitable goals for UND. The obvious is we stayed in close contact with him. The University of North Dakota was important to Ralph and we wanted him to always know he was important to the University of North Dakota. Ralph believed the lessons learned in athletic competition had served him well. He believed his hockey-playing experience at UND added to his enjoyment and his success, and he wanted the University of North Dakota to have the finest hockey facility in the world. Most importantly, he intended for this to be a successful enterprise, bringing revenues for the benefit of the University of North Dakota and never for this facility to be a financial drain on UND, taking away funds from teaching and research.

UND benefited greatly from Ralph's intelligence, vision and knowledge about construction and management. Ralph knew how to gain financial success. The quality of the facility, its design for efficiency and energy saving and the accelerated construction came about in large part by Ralph's ideas, knowledge and experience.

Ralph always wanted his gifts to be positive for UND. When the Athletic Department needed to raise funds to give the national championship team members a

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memento, I was asked to approach Ralph about this project. He was willing to give financial assistance, but only if we had proof the gifts to the national championship team members would be in compliance with the NCAA rules.

How deep was Ralph's feelings about the University of North Dakota? It was about 25 years ago when I visited with Ralph about having the Imperial Palace replace the Camelback Inn for the annual gathering for UND alumni. Ralph quickly agreed and for all of these years, Ralph and Betty hosted a complimentary marvelous buffet for the Saturday night party. As many as 350 alumni would be in attendance, coming from all corners of the nation.

A few years ago, he asked for a copy of the University budget. I contacted then UND vice president for finance Lyle Beiswenger and he provided me a copy of the complete budget which we sent to Ralph. I didn't hear anything more about this from him. One day, during a visit, I asked him why he wanted this information. He said he was just curious to see if he could support the entire University. At the same time, Ralph reacted negatively to what he thought was "piling on" or attempts to take advantage of him. Early in the stages of the planning for the Ralph Engelstad Arena, a decision needed to be made about whether the facility would have a stand-alone heating system or be connected to UND's lignite-fired steam plant. Ralph wanted to know the cost of extending the steam line from the UND medical school to the facility on the Bronson property. I asked UND Plant Services to secure this estimate. Their reply was an estimate of about $700,000. I sent this on to Ralph. A fax came back almost immediately saying the cost of extending the line should only be about half of what UND had quoted. When the bids came in, the cost was about $370,000. I know the folks at Plant Services did not intend to give faulty numbers. I, however, cautioned them when working with Ralph, have the accurate figures. Ralph paid attention.

I am sure many have wondered why Ralph felt so strongly about UND being the Fighting Sioux and with a respectful logo. When he wrote this, he meant it, "Tradition is that gentle fabric woven through time and experience which generates meaning, character and identity to one and all. The Fighting Sioux logo, the Fighting Sioux uniforms, the aura of the Fighting Sioux tradition and the spirit of being a Fighting Sioux are of lasting value and immeasurable significance to our past, present and future."

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Ralph had little time for those who indulge in political correctness. He looked on this as a waste of time, talent and resources. Would Ralph Engelstad have fit into the culture of a higher education campus? Of course not. Would those in academia thrive and survive in Ralph's world? With a very few exceptions, the answer is a definite no. In this great nation, there is room for different philosophies and ideas. We, however, must never forget the important role of entrepreneurs, those hard-driving, hard-working, goal-setting individuals who, by taking risks, create jobs and opportunities for so many others. I have had the pleasure and honor to know a number of outstanding entrepreneurs. The late Ken Hyslop was a friend. He became the president and CEO of Massey Harris, a major farm implement manufacturing company with international distribution. Earlier in his career, prior to World War I, Ken was the European manager for the Ford Motor Company. Ken knew Henry Ford on a personal basis. As I reflect on what Ken Hyslop told me about Henry Ford, I see similar character traits with our own Ralph Engelstad and other outstanding entrepreneurs I have known. The strength of our nation will be greatly diminished if we no longer have these kinds of individuals.

In this day and age of a society with overblown attention to celebrities, I have experienced some of these high profile individuals to be best liked by those who know them least. Isn't the real measure of an individual to be liked and respected by those who know him or her best. Ralph Engelstad was liked and respected by those who knew him best. Ralph believed in and lived by two mottos he frequently expressed, "The harder I work, the luckier I get," and "No dream comes true until you wake up and go to work." Ralph Engelstad was a complex and private man. I do not pretend to know everything about this man, but I do know there was much goodness in him and I proudly claimed him as a friend.

Earl S. Strinden
1084 Oxbow Court
Grand Forks, ND 58203
701-775-9166
estrinden1@aol.com

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Available upon request

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INTRODUCTION TO THIS RESEARCH

TEMPEST IN A TEAPOT

UNIVERSITY OF NORTH DAKOTA USE OF THE SIOUX NAME AND INDIAN HEAD LOGO

Most, if not all, the distinct minority of people opposed to the University of North Dakota usage of the Sioux name and Indian head logo emphasize and associate them as an athletic "mascot" of UND teams. However, UND has no "mascot" but did adopt, with honor and pride, the historical proper name "Sioux Indian," which pertains to "Dakota Tribe." See American College Encyclopedia Dictionary.

The Dakota Territory was a former United States Territory, which was divided into and given the names of the states of North Dakota and South Dakota in 1889 by the United States Congress.

"Dakota" means a "Sioux Indian" and means North Dakota or South Dakota.

"Sioux" means "The Dakota tribe people of the Siouan linguistic family as distinguished from the Assiniboin tribe of the Dakota division of Siouan-speaking North American Indians."

During this era, immigrants from Europe and elsewhere settled in this Midwest area, as well as throughout the United States. In establishing and naming governmental entities, such as cities, counties, states, schools, rivers, units and departments of government, American Indian names were commonly given to these entities in huge numbers all over the United States and Canada. And these governmental American Indian names (including Sioux) remain today without controversy.

Available upon request

#9

GORDON CALDIS

1632 Belmont Road
Grand Forks, ND 58201

April 24, 2008

Dear Board Members and Staff:

In a recent newspaper article in the Grand Forks Herald, the Attorney General cited that at that point the NCAA proposed amendment is the major factor influencing him and the State Board of Higher Education to settle the lawsuit in October. He said Thursday (March 6, 2008) "that the recent NCAA vote vindicates that decision."

"In my estimation, we were going to win the lawsuit," Stenehjem said, "but this amendment would have mooted that. We would have won the lawsuit in December, 2007, and this was enacted January 12, 2008. So it would have been a short-lived victory."

This writer strongly disagrees that the UND favorable case would be "mooted" by the "Amendments." The Caldis booklet and other materials in your hands set forth the other several causes of action which collectively can win the case. The "Amendments" were a diversion by the NCAA, primarily for negotiation of the "Settlement."

It is my preference to let you read the words contained in the amendments in order to see it for what it actually is, a subterfuge. There are two amendments involved.

Verbatim amendment: underlined words. See attached Exhibit I. "[the Executive Committee shall have the responsibility to] (e) act on behalf of the Association by adopting and implementing policies to resolve core issues and other Association-wide matters;"

In conjunction with the above proposed amendment, the NCAA provided a "rationale." See attached exhibit, in which it was emphasized by the underlined sentence, "The amendment does not change the duties and responsibilities of the Executive Committee. Neither does the amendment expand the Executive Committee's authority or power."

A companion amendment to Administration of NCAA Championships was also introduced to include the Executive Committee, and which also included the same "rationale" as stated above. See attached Exhibit II.

Please observe in these NCAA amendments there are no references to Native American nicknames, mascots and imagery.

Also, please be reminded, in the NCAA Constitution, there are no references to Native American nicknames, mascots and imagery.

VOTE TO PRESERVE

FIGHTING SIOUX NAME AND LOGO

All case law precedents approve use of
American Indian names and logos for years
Wisconsin - Illinois – Massachusetts

Federal Court Trademarks Case, Washington Redskins

Six Trademarks – Washington, D.C. Courts

"Stare Decisis"

(It's been decided in the courts)

Fighting Sioux logo is copyrighted – Federal Law Protected

and under Federal Law

Petition the Court

Gordon Caldis, Attorney
1632 Belmont Road
Grand Forks, ND 58201
Phone Home: 701-775-7467

#9 HB1263

March 7th, 2011

Mr Chairman and members of the senate hearing committee.

My name is Bill "Okute Sica" Le Caine. I'm first generation off the Sioux reservation. I'm a Lakota Sioux and proud of it. Okute Sica is my Sioux name which means "hard to kill or knock down". I'm a distant relative of Sitting Bull through marriage. I was born and raised on the Lakota Sioux Wood Mountain reservation in Wood Mountain, Saskatchewan, 18 miles north of the USA border between Montana and Saskatchewan. This is where Sitting Bull ran, to escape the army after defeating General Custer in the battle of the little big horn in 1876. My mother took me off the reservation at the age of 4 and we lived on skid row, above a liquor store, restaurant and a mission. It was a 2 story hotel or flat with a hand sign and the finger pointing upstairs. Rooms were 25 cents a night, no refrigerator, a hot plate and one bathroom to service the 20 to 30 rooms. I lived there until the government decided that she was an unfit mother and took me from her. I know she did her best to support me, but not to be. She had the courage to leave the friendly borders of the reservation and try for a better life. From there I went to live in a children shelter where I met for the first time, 3 other sisters. In about a year the shelter was closed by the government and my sisters went one way and I another to live in foster homes.

I've been married 50 years to my wonderful wife and have 3 children, all college graduates. My daughter was a president of a fortune 500 company and now heads up our family business. I retired from the banking and finance industry.

I'm also a member of the Cheyenne River Sioux reservation in SD because of my great grand father Black Moon, who fought with Sitting Bull. My grandfather John O'kute Sica was the chief of my tribe and also a writer and historian. A German publishing company just printed a book with all his writings of past history and what might happen in the future. I only hope that my writings of the present can say that, good people who do good things can have a profound impact on history. And on a nation of downtrodden people that has not had many good things to reflect on. And that my writings about the future will say what an uplifting occasion this hearing will be for all Native Americans. Let's think about the future and not get stuck in the "now and immediate" time warp.

After playing Junior hockey for the Regina Pats, I was offered 6 hockey scholarships and chose UND. I played 14 years as a professional including the Pittsburgh Penquins in the National Hockey league.

I grew up with the hurtful inuendos, the slurs, the outright contensious and hateful remarks. Kids are mean and so are adults and sports fans. Did this cause me to suffer pain? YES. Did it cause me adversity? NO. I endured all of this. CHARACTER IS NOT BORN, IT'S DEVELOPED.

Having grown up in the 'WHITE MAN'S WORLD" I was ridiculed and abused on a regular basis as a child and continued into my adult life. I learned quickly that respect is

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earned, not given. It made me a better and stronger person. It made me a better father. I had to look at the bigger picture. Yes, I had tough times in my life regarding my Native American ancestry. I started boxing at a young age and continued for many years because when you're young and an orphan, there is no one there to help you defend yourself. A small but important fact as I look back on the big picture. This was my part of growing up in the white mans world and just a piece of the puzzle.

My legacy in life is not going to be my physical accomplishments, it's going to be my family. And I can say that my children are all on the asset side of the ledger sheet of life. And that is because of the education and guidance that they received from my wife and I. But it all started with the opportunity to attend the University of North Dakota and gain an education and life lessons.

Most alumni with whom I've spoken with, did not attend UND for the Fighting Sioux name or logo. But they grew to love and honor the name and logo for what it and the university represents. I get letters from all over, people I never met, over asking me the $64000 question, WHY, and how can we help!! Just travelling here I met people from Atlanta, Iowa. ND, SD and Minnesota. They cannot understand why the controversy.

Having attended UND made me very aware of how much good they are doing, now and in the future for all Native Americans. The Cheyenne River Sioux Reservation in South Dakota of which I'm a member were shocked, but pleasantly surprised when I explained to them how many NA programs and scholarships were available to all NA's. In addition to the new NA student center, they have built a world class hockey and sports complex that is one of the finest in the world. It honors the "Sioux Nation" and all it stands for.

How good is that!! How fortunate as a nation, that a renowned university of higher learning, would think enough of a nation, to name it's teams " The Fighting Sioux" forever!! WHAT AN HONOR!! Let's not kick a gift horse in the mouth.

The Native American delegation from Standing Rock in July of 1969 came to the university and conducted a tribal pipe ceremony, our most sacred, and gave our "Word" that the name could be used until the sun doesn't shine and the rivers don't run—That means FOREVER.

Aljoe Agard, tribal chairman, Chief Bernard Standing Crow, Dr. George Archer, then president of UND, Chief White Buffalo Man, grandson of Sittin Bull and medicine man , Dr Richard Pittman and the whole Sioux delegation that were in attendance, would not be hipocritical and renege on such a momentous agreement. WE GAVE OUR WORD AND OUR WORD IS OUR HONOR. We CANNOT be the responsible party for breaking this sacred treaty. It CANNOT happen on our watch. We have to have a clear conscious, now and forever.

I was shocked and appalled when 4 years ago my wife and I were asked by then President Kupchella to come to UND to have dinner with him and his wife at their home, to discuss the name and logo and view the new Native American student center. I later

found out that the management personnel were against the name and logo. Nothing at that time was it ever mentioned to me or my advice or opinion requested.

"REAL LIFE" steps in after you've made plans, and we are challenged every day. We have to be accountable to ourselves and stand up for what is right for all Native Americans.

I travel extensively for our business in Indian Country. I attend the largest Native American Conventions in the USA such as the NIGA, the National Indian Gaming Association and RES. In attendance are tribal leaders' tribal council members, their business leaders and associates. Most tribes are represented. And I ask the question regarding the Fighting Sioux Name and Logo. Is it abusive and derogatory? Either they don't care or they have better things to accomplish and worry about. But most say that it's a ridiculous situation, that should never have been contested in the first place. Their view was expressed by many natives from many tribes across the nation, the S. Utes from Colorado, the Lac Coutre Reilles from Wisconsin, The Navajo Nation from Arizona, the Tohono Odum tribe from New Mexico, the Chippewas from Michigan, many of the 23 tribes from Oklahoma, just to mention a few. They feel it does honor the Sioux Nation and all NA's. And that was also echoed unanimously on my reservation in Canada. Even our arch rival in hockey, the University of Denver's faculty, coaches and alumni agree and wished my luck in hopes of retaining the name and logo.

I try to do many things for Native Americans across the nation. When I think of the POVERTY on most reservations, IT MAKES ME SICK!! For example, a county on the Pine Ridge reservation in SD is the Poorest county in all of the United States and the statistics are horrendous for alcoholism, drugs, divorce, suicides, diabetes etc. Last October I ran in the Marine Corp marathon in Washington DC. I ran for our company and a team headed by Billy Mills a Lakota Sioux from Pine Ridge, who won the Olympic gold medal in the 10'000 meter race in Tokyo, Japan in 1964. I ran to raise money for running water, food and shelter for the Pine Ridge and Rosebud Ridge reservations---- the BARE AND BASIC ESSENTIALS of everyday life that most people take for granted. This should not be happening in the richest country in the world. And that's why I say we have to look at the big picture. MANY things have to happen in the large scope of events happening in Indian Country to connect the dots and help the Naïve American Nation back to some sort of normality. And that's why passing this House Bill 1263 is such a big part of the overall picture.

The name and logo was great and acceptable for many years. Suddenly in the past few years it's become very contentious. WHY, I ask the question. Are we becoming too POLITICALLY CORRECT, or is it because of the DISGRUNTELED FEW.

History and hindsight has taught us many lessons, some if we could, we would change. We have to look at the big picture of history.

Many nations, worldwide raise money for monuments so we don't forget things that have happened in the past.

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My wife and I met a writer and his wife about 4 years ago on a cruise and they were from Chicago. He was Jewish and wrote books about the genocides that happened in various parts of the world and to his own people. He also raised money for synagogues so that people would not forget the holocaust. I asked him if he included in his writings the genocide perpetrated upon our Native Americans by our own government. He was embarrassed to tell me that he had forgotten that very important part of American history and assured me it would be in his next book.

HOW SOON WE FORGET. Less than 135 years have gone by since the battle of the Little Big Horn, a BLINK in the time of the universe HOW SOON WE FORGET!! The "Fighting Sioux " name, logo and programs that UND has for Native American's, should serve as a reminder of that part of history and that WE WILL NEVER FORGET!!!

And yes my sisters went on to do great things because they we afforded the opportunity of an education. And I know when I go back home to my reservation in Canada, I can see and feel the wonder of the people there, that if given the opportunity, what they could have achieved if they had gotten off the reservation.

And yes Native Americans know our future is not in casinos or hotels. That is a band aid solution. It's in education so we can get our honor, swagger and self esteem back. That is why the retention of the "Fighting Sioux" name and logo is so important, to regain the respect and dignity that we so rightfully deserve, now and into the future.

This journey is just one piece of the puzzle for NA's to start connecting the dots. In every deliberation we must consider the impact of our decision on the 7th generation, where we, in the present, will leave this world a better place for them!!! Retention of the "Fighting Sioux" name and logo will help and play a big part in our cause for the "7th generation".

The silent majority is now getting to voice it's opinion and be heard. That's what a democratic society is all about.

In summation, I would like to say that I'm proud to have worn the " Fighting Sioux" sweater and logo, played for the University of North Dakota, and represented them for all they stand for, pride, honor, courage, dignity. And I can say that everything I've accomplished today as an athlete, a father and a business person, I owe my wife, to hockey and the University of North Dakota.

The eyes of the nation are watching. I ask you, let's do the "RIGHT AND HONORABLE " thing and pass house bill 1263. Thank you.

#10 HB1263

Jody Hodgson, March 7, 2011 – Support for House Bill #1263

Good morning Mr. Chairman and members of the Senate Education Committee, my name is Jody Hodgson and I am the General Manager at the Ralph Engelstad Arena in Grand Forks. I am here today to speak in support of House Bill #1263.

I support House Bill #1263, because I strongly support the Fighting Sioux name and logo, and feel strongly that this legislation provides an opportunity to save one of our state's most prized traditions and one of our state's most recognizable symbols. We live in North Dakota, a state named after our Sioux friends, and among others, our state proudly bears the nicknames of, "The Sioux State" and "The Land of the Dakotas", with both names recognizing the Sioux or Dakota people of our state.

I strongly support the Fighting Sioux name and logo for the following reasons:

I believe the NCAA made their decision to place UND on the list of schools to be sanctioned based on false, misleading, and inaccurate information.

I don't believe there is a direct causal relationship between any act of racism, insensitivity, or discrimination and the Fighting Sioux name and logo. The Fighting Sioux name and logo is not the source of these issues, nor will elimination of the name and logo eliminate these issues. The Fighting Sioux name and logo is an artificial argument in any of these discussions.

I don't believe the name and logo dehumanizes or objectifies a group of people. I believe this is a very personal judgment and a very personal evaluation. To date, the only group of Native American people in the State of North Dakota given an opportunity to vote on this issue voted by almost 70% in favor of the name and logo at Spirit Lake.

I believe that a significant majority of North Dakotans, including both Native Americans, and non-Native Americans, strongly support the name and logo.

I believe the people of Spirit Lake have spoken loudly and clearly. In a tribal referendum, almost 70% of tribal members voted to support the name and logo. The Spirit Lake Tribal Council then passed a tribal resolution confirming "perpetual" support for the name and logo, thus complying with the terms Settlement Agreement.

I believe the civil rights of the Standing Rock citizens were infringed upon when they were denied the right to vote on this issue. More than 1,000 Standing Rock citizens signed a petition asking for a tribal wide vote. According to the Standing Rock Sioux Tribe's own in-house attorney, the resolution that was passed to stop a vote from happening was a resolution that illegally infringed upon the civil rights of the Standing Rock citizens.

I believe that these extenuating circumstances at Standing Rock need to be considered when one evaluates why Standing Rock was unable to provide the support necessary requested, on or before the deadlines outlined in the Settlement Agreement. This is an extremely complex

situation and one must recognize that an illegal roadblock was thrown in front of name and logo supporters at Standing Rock.

I believe there is a tremendous amount of "issue fatigue" that exists, both on campus, and off campus, but don't misinterpret this issue fatigue for genuine or real opposition to the name and logo. Contrary to media reports, the people of Grand Forks County do care. In 2009, a random survey of eligible voters showed that only 16% of the population wanted the name and logo to be changed. That means 84% of citizens supported the name and logo in the county most directly impacted by this situation on a daily basis.

I believe retaining the name and logo is the right thing to do. I am not naïve to the fact that there are folks who have a different opinion on this matter than I do, and I respect the fact that many intelligent, caring people have come to a different conclusion than I have, but I think it is time for this legislative body to stand up to this misguided wave of political correctness and stand up for what is right. In simple terms, it's time to cut through the rhetoric and the doomsday projections and stand up for what it is right. The Fighting Sioux name and logo are proud and honored traditions in the State of North Dakota and they're worth fighting for.

More specifically, I strongly support House Bill #1263 for the following reasons:

I believe the legislature is the highest level of government in North Dakota and I believe the constitution clearly states that all colleges, universities, and other educational institutions shall remain under the absolute and exclusive control of the State. This legislation is the vehicle of the people who fund state institutions and have not yet been given a voice in this discussion. Due to its' significance to all North Dakotans, the voice of the people deserves to be heard on this issue.

I don't believe the doomsday projections that the name and logo may cause UND to lose its' spot in the Big Sky Conference, or that UND won't be able to find schools to schedule, or that the transition to Division I will be compromised, or that UND's accreditation will be put at risk if the name and logo is retained. All of these statements are intended to scare you into opposing this legislation and are analogous to REA closing its doors for the upcoming WCHA playoff series because we're afraid the roof may come down during the game. Is it possible, yeah I guess it's possible, is it probable, not in this lifetime.

The sanctions proposed by the NCAA are limited to two areas: uniforms at NCAA Championship events and NCAA Championship event hosting. Will the NCAA modify its' policy if this legislation passes – maybe. No one on either side of the issue can tell you definitively what the NCAA will do or how they will react if this legislation passes. Would the creation of new law in North Dakota provide an opportunity for the NCAA to reconsider their current position? What if we were able to retain the name and logo and the NCAA subsequently agreed to modify their position on sanctions? Aren't these opportunities worth pursuing? With an issue of this magnitude, don't we owe it to all involved to explore this opportunity?

For one, I believe the NCAA may change their position and may change the proposed sanctions against UND after learning of the historical significance and importance of this identification to the citizens of our state, including our Sioux citizens. They're not looking for a fight, they don't want another long legal battle, and they want this issue to be resolved. If you create a new law, I believe the NCAA will alter their current position.

There is no requirement or provision that would require UND or the State to sue the NCAA in House Bill #1263. The bill does not require anyone to file suit. There is language stating that the AG should "consider" further litigation, but there is no requirement to do so. No one, including the NCAA, wants another legal battle. There is no need for another legal battle and passing of this legislation does not automatically create one.

The organization that I work for, the Ralph Engelstad Arena, does not intend, nor plan, to deface the more than $100 million investment that Mr. Engelstad provided to the State of North Dakota. We will stand up for what we believe to be right, and we will stand up for the beliefs of our now deceased donor, regardless of the consequences. We will not sacrifice our principles in order to avoid threatened NCAA sanctions. In summary, there are no incremental damages that can be thrust upon UND athletic programs that might utilize our facility for an NCAA Championship event, regardless of whether or not the name and logo is retired.

It is not too late to save the name and logo. To this point, nothing has been done that cannot be undone or rewound. This is a self-determination issue and it is time for the silent majority in support of the name and logo to have their opinion heard.

In closing, I urge you to support House Bill #1263 and I urge you to stand up for the citizens of North Dakota against this ill-conceived wave of political correctness. The name and logo argument is an artificial argument. Abolishment of the name and logo is not going to make anyone's life better. Some may believe it is going to make their job or their career easier, but it won't make anyone's life better. A wise man once told me – if you have issues, then you probably have a real job, and it is your job to manage these issues.

Abolishment of the name and logo is not going to solve the problems of racism, discrimination, or intolerance. These are real issues that need to be resolved, but getting rid of the Fighting Sioux name and logo is not the way to do it.

I urge you to do the right thing and I urge you to support House Bill #1263.

Thank you.

#11

MARLAN HAAKENSON 258-4845

BOARD OF EDUC. — YOU ARE NOT ELECTED / YOU ARE ONLY APPOINTED.

YOU ARE NOT REPRESENTATIVE OF THE DESIRES OF A MAJORITY OF N. DAKOTANS, INCLUDING THE MEMBERS OF THE TRIBES.

THE N. DAK LEGISLATURE DOES HAVE CONTROL OVER YOU, AND THEY ARE ELECTED.

THE HOUSE HAS THE AUTHORITY TO IMPEACH YOU, AND THE SENATE RULES ON THAT, AND YOU ARE GONE. NEW BOARD OF EDUC. MEMBERS HAVE TO BE CONFIRMED BY THE SENATE. THIS IS IN THE N. DAK. CONSTITUTION.

SENATORS, PLEASE LISTEN TO THE MAJORITY. INCLUDING THE 1,000 WHO PETITIONED FOR A VOTE @ STANDING ROCK. THAT BEARS MUCH MORE WEIGHT, THAN A TRIBAL COUNCIL, THAT WON'T EVEN ALLOW THEIR PEOPLE TO VOTE.

LONG LIVE THE FIGHTING SIOUX / FROM A N.D.S.U. GRAD.

#12

NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

Representative Lonny B. Winrich
District 18
606 South Fourth Street
Grand Forks, ND 58201-4714
lbwinrich@nd.gov

COMMITTEES:
Constitutional Revision
Finance and Taxation
Government and Veterans Affairs

Testimony of Rep. Lonny Winrich

on HB 1263

Chairman Freborg and members of the Senate Education Committee, for the record, I am Representative Lonny Winrich from District 18 in Grand Forks. I appear before you today to testify in opposition to HB 1263. My district does not include the University of North Dakota within its boundaries but many of my constituents are faculty, staff, or students at the university and I am a Professor Emeritus of Computer Science and consider myself to be a member of the university community. As such I have experienced the controversy over the Fighting Sioux nickname and the various logos that have accompanied it for 25 years. I believe it is time to respectfully retire the nickname and logo and end the divisiveness that has beset the campus and I strongly support the decision of the Board of Higher Education to do just that.

There are many reasons to pursue such a course at this time but I want to emphasize two. First of all continued use of the nickname and logo will harm athletics and student athletes at the university. As part of its transition to Division I athletic status, UND recently affiliated with the Big Sky Conference. It was huge step forward in that transition. The Big Sky Conference is highly respected nationally and a member that conference, Eastern Washington, won last year's national FCS title. As a member, UND will routinely compete with some of the best teams in the nation. In yesterday's Grand Forks Herald, on the front page of the Sports section, there appeared an article about an interview with the commissioner of the Big Sky Conference, Doug Fullerton. I have attached a copy of the article and I hope each of you will have the time to read the entire piece but I want to call your attention to one comment from the commissioner. This appears about half way into the article, "it's very difficult for me to understand why legislators would do this to an athletic program within their own state," Fullerton said.

The second reason I want to emphasize is that use of the nickname and logo have a detrimental effect on the academic programs of UND. The following is an excerpt from the 2004 Re-Accreditation Report on the University of North Dakota by the Commission of the North Central Association of Colleges and Schools.

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"It is the considered judgment of the visiting team that continued use of the Indianhead logo and the 'Fighting Sioux' nickname reduces the university's ability to accomplish its purposes and diminishes its educational effectiveness.

"Before and during the visit, team members studied the long history of this issue and learned of the deep campus divisions on the subject and the President's and the campus's deep commitment to assure that the use of logo and nickname were proper and respectful. At the outset, team members were prepared to conclude that the issue was not significant enough to be given attention in the team's report, did not wish to intrude into a campus matter, and were prepared to consider it closed by the decision of the State Board of Higher Education in December 2000. By the end of the visit, however, the team unanimously came to a different conclusion for compelling reasons. The issue was clearly not at rest. It continues to be raised by those who consider it a moral issue as well as by those who do not object to the symbols but who deplore what is happening to the campus. It is clear that it will simmer on, until it boils over again openly, while in the meantime diminishing collegiality and learning for many in the campus community. It will not go away.

"The team has the following comments to offer the institution and its board:

"This persistent controversy has a negative impact on the learning environment at the University of North Dakota. It adversely affects student participation in the classroom and the laboratory. It adversely affects student relationships in residence halls and in sports and other recreational activities. It encourages disrespectful treatment of some students by other students and by some faculty and staff. Team members also hear that it adversely affects student recruitment and retention. It is an issue which distracts students, faculty, staff, and administration from the very important business of higher education."

For these, and many other reasons that you will hear of as others testify, I urge you to recommend DO NOT PASS on HB 1263.

#13

Blog with Brad Schlossman
www.GrandForksHerald.com and click on UND Hockey
or www.areavoices.com/undhockey/

UND ATHLETICS

Growing concern from Big Sky

Big Sky Conference casts a watchful eye on Legislature's proposal to keep nickname

By Wayne Nelson
Herald Staff Writer

The Fighting Sioux nickname was never an issue for the Big Sky Conference when it accepted UND as a member four months ago.

The seemingly never-ending controversy surrounding the UND nickname and logo, however, has commanded more and more of the league's attention recently.

And that is causing more and more of a headache for a school that is preparing to join a solid Division I conference, one that has had success on the national level.

UND will join the Big Sky Conference in 2012, the same year the school's athletic programs become eligible for NCAA Division I postseason play.

A North Dakota Senate committee will hold a hearing on House Bill 1263 on Monday that requires UND to keep its Fighting Sioux nickname.

That bill passed the House last week 65-28 and if it passes the Senate, UND's athletic programs would be in a state of flux since the NCAA will penalize the school for continued use of the nickname and logo.

House Bill 1263, however, would require the state attorney general to considering filing a federal antitrust claim if the NCAA tries to penalize UND for using the nickname.

UND has been directed by the State Board of Higher Education to discontinue the use of the Fighting Sioux nickname and logo by Aug. 25, under terms of the 2007 legal settlement with the NCAA, which deemed the nickname and logo hostile and abusive.

The Big Sky Conference is watching the Legislature's proceedings. The league's concern is growing.

"From our standpoint, it's disappointing that this is coming up again," said Big Sky Conference commissioner Doug Fullerton. "The league feels strongly that the bill could be damaging to (UND's) athletic program.

UND's membership in the Big Sky, however, currently is not affected by what's happening in the Legislature, Fullerton said.


Fullerton

"UND remains an attractive member," Fullerton said.

However, he added a prolonged battle over the nickname won't help UND when it joins the league. And that also means that the Big Sky could suffer collateral damage because of the controversy.

"As an outsider, it's very difficult for me to understand why legislators would do this to an athletic program within their own state," Fullerton said.

If UND continues to use the nickname and logo, the school will not be allowed to host postseason competition when it becomes playoff eligible in 2012.

For instance, if UND earns a Division I FCS playoff berth in 2012, the school could not host a playoff game at the Alerus Center. Home teams usually have a big advantage in playoff games. When UND won its Division II national championship in 2001, the Sioux won three playoff games at home before playing in the

NICKNAME: See Page C2

#13

#13

Mankato 1: Tommy Grant had two goals and Chris Kamal sparkled in nets for the second straight night as Alaska-Anchorage beat Minn. St., Mankato on Saturday for a sweep of their Western Collegiate Hockey Association.

One night after making 35 saves in a 4-0 Seawolves (14-17-3, 11-15-2) shutout, Kamal made 31 stops and kept the Mavericks (14-16-6, 8-16-4) scoreless on six power-play chances.

Daniel Naslund and Sean Wiles added goals for UAA. Wiles' goal was a power-play tally at 14:13 of the third period. Wiles also had an assist.

Brett Peterson scored the only Mavericks goal late in the second period.

Phil Cook turned away 23 shots for Minnesota State, Mankato.

Wisconsin 3, Colorado College 1: Wisconsin got goals from Craig Smith, Patrick Johnson and Justin Schultz to beat Colorado College on Saturday and snap a seven-game winless streak in the Western Collegiate Hockey Association.

Smith's goal was short-handed at 1:57 of the second period, and Johnson's goal at 6:46 was the game-winner for the Badgers (20-14-4, 12-14-3). Wisconsin was 1-for-7 on the power play.

Archie Skalbeck scored the only goal of the game for the Tigers (19-16-3, 13-13-2), who beat Wisconsin 3-2 on Friday.

Scott Gudmandson had 33 saves for Wisconsin, including 14 in the third period.

Josh Thorimbert had 22 stops for Colorado College, whixh outshot the Badgers 34-25.

Denver 3, St. Cloud St. 2: Drew Shore snapped a 1-1 tie in the third period to help Denver beat St. Cloud State on Saturday to lock up the second seed in the Western Collegiate Hockey Association playoffs.

With the win, the Pioneers (21-10-5, 17-8-3) finished one point ahead of Nebraska-Omaha, behind only top-ranked North Dakota.

Jarrod Mermis opened the scoring for Denver midway through the first period. St. Cloud State's Kevin Gravel tied it with 47 seconds left in the second.

Shore broke the tie and Kyle Ostrow added a short-handed insurance goal early in the third.

Ben Hanowski pulled the Huskies with3-2 with less than three minutes to play.

Sam Brittain had 33 saves for Denver and Huskies goalie Mike Lee had 30 stops.

St. Cloud St. beat Denver 3-2 on Friday.

▲ Bemidji State's Emil Billberg skates ahead of Minnesota's Nick Bjugstad during the first period of Saturday's game.

NICKNAME/

Continued from Page C1

title game.

Eastern Washington, a Big Sky member, won last season's national title. The Eagles played three home games before downing Delaware in the national championship game.

"If you win the Big Sky, you have a chance at a national title," Fullerton said. "We like to drive our programs to that goal. We're trying to win games in the postseason."

If UND doe[illegible] the postseason in football, or other sports as a Big Sky member, continued use of the nickname and logo likely would be a topic for the national media to cover, something that the Big Sky believes could overshadow the accomplishments of the league programs.

UND also hasn't cleared its five-year transition to Division I.

The nickname controversy, Fullerton said, could possibly "set (UND) back in its transition."

The commissioner said the league simply doesn't want to become entangled in the controversy. Some of the league presidents, he said, also are monitoring the bill's progress through the Legislature. "They would just as soon have it go away," Fullerton said.

UND, however, is proceeding with the directive from the state Board of Higher Education to retire the nickname.

"We understand this is not the university's doing," Fullerton said.

The bottom line, he said, is the effect the legislation could have on UND's athletic program.

"It's hard for me to understand why someone would put (an athletic) program at risk," he said.

Nels[illegible]ts on sports. Reach him at (701) 7[illegible] (800) 477-6572, ext. 268; or send e-m[illegible]nelson@gfherald.com.

tant start for him to continue his readiness for our season. I thought it was real valuable and he did a good job."

The Sioux (26-8-3 overall, 21-6-1 WCHA) also saw captain Chay Genoway back in the lineup for the first time since late January. Genoway set up one of Nelson's goals while playing on the third pair with Dillon Simpson.

With the win, UND finished the season with 43 points — tying the best mark of any WCHA team in the last decade. They also won the WCHA by the largest margin in the last decade.

But with the playoffs on the horizon, UND continues to remain focused on the future.

"It's one game," Hakstol said. "It has been one game at a time for us. We wanted to worry about ourselves this weekend. We wanted to make sure we played hard and played the way we wanted to play for 60 minutes.

"Tonight wasn't a playoff game. Next week, the playoffs start."

Notes: The last time UND scored 11 in a game was Jan. 17, 2003 at Alaska Anchorage. . . The last time Michigan Tech gave up that many in a goal was Feb. 15, 2002 in Ralph Engelstad Arena. The Sioux beat the Huskies 12-2 that night. . . UND sophomore defenseman Andrew MacWilliam missed the game

Vermont 4, Mass.-Lowell 2

TOURNAMENTS

Atlantic Hockey Tournament

First Round

Sacred Heart 6, Bentley 3
Army 6, American Intl. 3
Canisius 6, Niagara 3

CCHA Tournament

First Round

Bowling Green 2, Northern Michigan 0

ECAC Tournament

First Round

Quinnipiac 4, Brown 0
Harvard 6, Clarkson 4
St. Lawrence 3, Princeton 2
Colgate 5, Rensselaer 2

End of regular season

UND 11, MICHIGAN TECH 2

First period – 1. UND, Brad Malone 12 (Matt Frattin 19, Evan Trupp 18) :23; 2. UND, Jason Gregoire 19 (Corban Knight 25, Brett Hextall 12) :49; 3. MTU, Patrick McCadden 4 (Tyler Gubb 2, Aaron Pietila 2) 1:23; 4. UND, Gregoire 20 (Knight 26) 2:32; 5. UND, Frattin 29 (Mario Lamoureux 10) 4:39; 6. UND, Hextall 9 (Gregoire 16, Frattin 20) 9:46 (pp); 7. UND, Trupp 16 (Malone 21, Knight 27). Penalties – Lamoureux, UND, hooking, 6:36; Rick Doriott, MTU, checking from behind, 7:43; Doriott, MTU, game misconduct, 7:43; Ryan Furne, MTU, cross-checking, 12:15; Pietila, MTU, goaltender interference, 16:39; Hextall, UND, cross-checking, 19:55

Second period – 8. UND, Gregoire 21 (Lamoureux 11) :59 (sh); 9. MTU, Carl Nielsen 1 7:58; 10. UND, Brock Nelson 6 (Chay Genoway 20, Hextall 13) 13:54 (pp); 11. UND, Nelson 7 (Brent Davidson 2, Lamoureux 12) 17:04 (pp). Penalties – Frattin, UND, tripping, 5:06; Alex MacLeod, MTU, tripping, 13:00; Furne, MTU, tripping, 16:23; Furne, MTU, unsportsmanlike conduct, 17:04; Furne, MTU, abuse of officials, 17:04; Furne, MTU, game misconduct, 17:04; Malone, UND, slashing, 17:53; Knight, UND, tripping, 19:03

Third period – 12. UND, Derek Rodwell 5 (Derek Forbort 14, Lamoureux 13) 11:05; 13. UND, Hextall 10 (Forbort 15, Joe Gleason 1) 17:42 (pp). Penalties – Daniel Sova, MTU, cross-checking, 4:17; Trupp, UND, hooking, 3:27; Evan Witt, MTU, cross-checking, 16:06; Pietila, MTU, elbowing, 16:34

Goalie saves – UND: Brad Eidsness 7-9-2 – 18; MTU: Josh Robinson 2-x-x – 2, Kevin Genoe 8-6-x – 14, Corson Cramer x-x-9 – 9

Penalties-minutes – UND 8-12, MTU 11-49

Power pl[illegible]D 5-7, MTU 0-5

Attenda[illegible]

Referee[illegible]rline and Brian Thul

TESTIMONY OF SEN. MAC SCHNEIDER (DISTRICT 42 – GRAND FORKS)
SENATE EDUCATION COMMITTEE
HOUSE BILL 1263

Mr. Chairman and members of the committee, my name is Mac Schneider and I represent District 42 in the North Dakota Senate. It is with a very heavy heart that I testify against House Bill 1263.

My district includes the University of North Dakota and all that comes with it: World-class educators, cutting-edge research, and some of the brightest young minds in our state. District 42 is also home to Ralph Engelstad Arena, Memorial Stadium, and – I am proud to say – a host of championship banners won by UND student athletes over the decades.

Not all that long ago, Mr. Chairman, I was one of those student athletes. I certainly will not claim to have been a star, and I will do my best to spare the members of this committee a long and nostalgic soliloquy. But I was lucky enough to play on some great teams. As a result, some of the most thrilling and memorable experiences in my life happened while I was wearing a Fighting Sioux football jersey.

We lifted the Nickel Trophy after beating the Bison in front of a packed crowd in my hometown of Fargo. I exchanged bear hugs with my teammates, parents, and the woman who would one day become my wife on a soggy field in Florence, Alabama after we won the national championship. And I also remember the very first game I was called on to play in as a starter. It was against the top-ranked team in the country at the time, and in the third quarter I broke my fibula and displaced my ankle. Lying in the back of my parents' minivan in the parking lot of Memorial Stadium that October day just before they took me to the hospital for x-rays and surgery the next morning, I heard that familiar voice announce over the public address system: "First down Fighting Sioux."

Mr. Chairman, people have different opinions regarding the nickname and logo. For me, I'm tremendously proud to say I played for the Sioux.

But the duty of the Senate in assessing House Bill 1263 is not to determine whether we like the name. It is not to "send a message" or ruminate over numerous scenarios under which this entire situation could have been avoided. The only consideration before us is this: Given the reality that we face, what is in the best interests of the University of North Dakota and, in particular, its student athletes?

There are consequences to passing House Bill 1263 – severe ones. I want this committee to remember that the negative impact of this bill will be born exclusively by the young men and women who wear the jersey. The committee is obviously aware of the NCAA's policy which sanctions the use of Native American names and imagery. Harshest amongst these sanctions

#14

is the prohibition on hosting NCAA championship events, and for the sake of time I will limit my remarks to this topic alone.

Mr. Chairman, our athletes compete to win championships at the University of North Dakota. That is the point. Having home field advantage is something that unquestionably increases the chances of winning a championship. If House Bill 1263 passes, however, UND will never again host a home football playoff game in the Alerus Center or a home playoff game in any other sport.

A few examples may help to demonstrate the tremendous competitive disadvantage our student athletes would be subjected to under this bill. Before winning the national championship in 2001, we had three home playoff games at an Alerus Center that was packed to the rafters with wildly screaming fans. Those fans were yelling at opposing offenses, not ours, and I am not sure that we would have been national champs if we had to go on the road for those three games.

More recently, Eastern Washington, a member of the Big Sky conference of which UND is now a part, played three home games before winning last year's Division I-AA football championship. Notably, one of those home games was against North Dakota State University, with the Eagles beating the Bison in overtime after marching 90 yards and converting two fourth downs in 2 minutes, 29 seconds to tie the game during regulation. I can virtually guarantee you that the result would have been different in the Fargodome.

Mr. Chairman, the thought of politicians taking away a competitive advantage – any competitive advantage – that is earned by our student athletes through their hard work and skill makes my stomach turn. Legislators should not be standing between our teams and a chance at a championship.

Yet, there are Legislators and fans who say that the majority of people want to keep this name. True enough, all things being equal. I count myself among them. But I also believe that a majority of Sioux fans and my constituents, when considering the reality of our situation, are not willing to sacrifice our student athletes' chances at future success for the sake of this legislation.

This misguided bill tests our loyalties. We should ask ourselves specifically what we are loyal to. Is it just to the proud name and logo on the jersey, and those things alone? Or is it to the student athletes who wear that jersey? To ask that question is to answer it, Mr. Chairman.

Thank you for your consideration.

#14

Charles W. Murphy
Chairman

Mike Faith
Vice Chairman

Adele M. White
Secretary

TRIBAL COUNCIL
(DISTRICTS)

Sharon Two Bears
Cannonball District

Henry Harrison
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Kenel District

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Bear Soldier District

Milton Brown Otter
Rock Creek District

Frank Jamerson Jr.
Running Antelope District

Samuel B. Harrison
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[redacted] COUNCIL
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Jesse "Jay" Taken Alive

Margaret M. Gates

Avis Little Eagle

Dave Archambault II

Joseph McNeil Jr.

Jesse McLaughlin

Dear House Education Committee,

Greetings from the Standing Rock Sioux Tribe (SRST). The long history related to the use of the Fighting Sioux name at the University of North Dakota (UND) has put all interested parties into a continuing state of drudgery. In 2007 UND entered into a settlement with the National Collegiate Athletic Association (NCAA) that required UND to drop the Fighting Sioux name if UND could not obtain permission from the Spirit Lake and Standing Rock Sioux Tribes to keep the name. The SRST has made its position known time and again that it does not approve of UND's use of the name.

In 2010, SRST Tribal members garnered 1,004 signatures for a petition that urged the SRST to support the use of the Fighting Sioux name. Likewise, other Tribal members gathered over 1,010 signatures for an opposite petition that urged the SRST to maintain its position against the use of the name. Both petitions were considered and given weight in a meeting of the SRST Tribal Council on June 17, 2010. At the conclusion of that meeting the SRST Tribal Council once again affirmed, by resolution, that it does not support the use of the name. Regardless of any opinion on this matter, I have the following concerns regarding the State Legislature's apparent attempts to prolong this highly divisive issue via HB 2208, HB 2257, and/or HB 2263:

1. The Standing Rock Sioux Tribe has not adopted policies and procedures to govern the certification of petitions of enrolled members;

2. Currently there are no provisions in the Constitution of the Standing Rock Sioux Tribe that provide for a referendum vote;

3. Whether the SRST supports or does not support UND'S use of the Fighting Sioux name is an internal matter and any prolonging of this divisive issue, that has been around since the 1960s, will result in additional wasted time and resources to a matter that likely will not go away.

In the interest of furthering the purpose of education in the State of North Dakota and in preventing the continued divisive in-fighting on our reservation created by the UND Fighting Sioux name, the SRST urges you to let UND abide by the mandates of the State Board of Higher Education and the Federal Court Settlement of 2007 and let the name retire with dignity.

Respectfully,

Mike Faith for

Charles W. Murphy, Chairman

#15

BLDG 1 NORTH STANDING ROCK AVE. • P.O.BOX D • FORT YATES, NORTH DAKOTA 58538
PHONE: 701-854-7201 or 701-854-8500 • FAX 701-854-7299

Testimony of David M. Gipp
3315 University Drive
Bismarck, ND 58504

Before the Senate Education Committee

Regarding HB 1263

62nd Legislative Assembly
State of North Dakota

March 7, 2011

Mr. Chairman, members of the Committee:

This testimony is offered in opposition to HB 1263, regarding the logo for the University of North Dakota on behalf of myself. For the record, please note that United Tribes of North Dakota, affiliated with United Tribes Technical College, of which I am President, and which is composed of all five of the federally recognized Indian tribes, passed a resolution several years ago opposing the continued use of the "Sioux" logo and nickname. Most Lakota and Dakota tribes in the Great Plains, including Dakota tribes in Minnesota, have passed resolutions of opposition.

So much has been said about the UND nickname issue that it seems unnecessary to pile-on with another opinion. But I respect the legislative process that you are going through regarding the bill that has now passed the House, and is before the Senate. Therefore, as a North Dakota citizen, a citizen of the Standing Rock Tribe, and a 1969 graduate of UND, I want to make several critical points about the proposed legislation:

1. Enacting a UND logo law could undermine UND's governance structure and ultimately its accreditation status with the Higher Learning Commission (HLC) of the North Central Association of Colleges and Schools. The HLC has previously noted the adverse effects of the logo controversy on education at UND, and emphasized its concern in the educational section of its report to the university. None of the university's many constituent groups, including Tribal students and Tribal people throughout North Dakota, want to see UND falter in its educational mission.

2. Enacting this legislation, if signed by the governor, would fundamentally violate North Dakota's constitution, (Article VIII, Section 6). Under the state constitution, the settlement with the National Collegiate Athletic Association is binding on the state, acting through its constitutionally created and duly appointed state board of higher education. The state supreme court stated as much last summer. There is no reason for the state to subject itself to further litigation, likely to be unsuccessful, on the logo issue.

3. The State Board of Higher Education has authorized an orderly process to change the logo, and opposes the present bill (HB 1263). They are sincerely trying

#16

to look out for the best interests of the University of North Dakota by opposing this legislation. I would hope that the members of this Committee will take that into account as they consider this bill.

4. Standing Rock's government has never permitted the use of the so called "Sioux" imagery and names. If individuals of the tribe interacted with UND officials in some kind of ceremony in the 1930s or later, they did so without the participation of the tribe's organized government. Those individuals acted of their own accord; they were not vested with authority by the tribal government. The official actions of the Standing Rock Tribe have been to reject the use of the logo and nickname, and that position has not changed.

As a delegate to the 1971 state Constitutional Convention, I certainly understand the challenges you face in making policy decisions for the state. I know you will act with respect and responsibility in disposing of this bill. I urge a DO NOT PASS recommendation on HB 1263.

#16

RESOLUTION NO. 356-92

WHEREAS. the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, and the recognizing governing body of the Tribe is known as the Standing Rock Sioux Tribal Council, and

WHEREAS, the racially insensitive events of October 24, 1992, at the Homecoming Parade, are not isolated events but, rather an example of what Native Students at UND must endure while attempting to gain an education at the University, and

WHEREAS, the University Administration has stated in the past that such actions, like the ones of October 24, 1992, will not be tolerated on campus, and

WHEREAS, the University's continued use of the 'Fighting Sioux' nickname places Native Students in the position of being mascots and subjects those students to such racially insensitive actions, and

WHEREAS, the University is sending a Dual Message to the students of UND,

NOW THEREFORE BE IT RESOLVED, the undersigned feel that the University of North Dakota should discontinue the use of the 'Fighting Sioux' nickname. The undersigned further believe that the President of the University has the authority to discontinue the use of that nickname.

CERTIFICATION

We, the undersigned Chairman and Secretary of the Tribal Council do hereby certify that the Standing Rock Sioux Tribal Council is composed of 17 members of whom 13, constituting a quorum were present at a meeting thereof, duly and regularly called, noticed, convened, and held on the 3rd day of December, 1992, and the following resolution was duly adopted by the affirmative vote of 9 members, with 4 members not voting and with 1 opposing. The Chairman's vote is not required except in case of a tie.

DATES THIS 3rd **DAY OF** December, **1992**

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

ATTEST: Lucille Harrison for
Elaine McLaughlin, Secretary
Standing Rock Sioux Tribe

OFFICIAL SEAL

#17

MOTION NO. 27 IS CONTINUED.

JAMERSON, J.	YES	TWO BEARS, A.	YES
KEEPSEAGLE, J.	YES	WHITE MOUNTAIN, SR., J.	N.V.

VOTE: YES - 10 NO - 0 NOT VOTING - 4

MOTION CARRIED. 3 - EXCUSED

#28. MOTION WAS MADE BY ALBERT TWO BEARS, SECONDED BY PAT MCLAUGHLIN, TO APPROVE OF THE ECONOMICS COMMITTEE REPORTS DATED FOR NOVEMBER 16, 23, 1992 AND DECEMBER 2, 3, 1992.

ROLL CALL VOTE: MURPHY, C. - NOT VOTING

AGARD, A. (CHAIRING)	N.V.	MCLAUGHLIN, E.	YES
BILLINGSLEY, K.	E.	MCLAUGHLIN, P.	YES
CLAYMORE, S.	YES	MENTZ, T.	YES
FAITH, JR., M.	YES	RED BEAR, K.	E.
GIPP, A.	YES	STRONG HEART, J.	E.
HARRISON, L.	N.V.	TAKEN ALIVE, J.	YES
JAMERSON, J.	YES	TWO BEARS, A.	YES
KEEPSEAGLE, J.	YES	WHITE MOUNTAIN, SR., J.	N.V.

VOTE: YES - 10 NO - 0 NOT VOTING - 4

MOTION CARRIED. 3 - EXCUSED

H.E.W COMMITTEE - Luella Harrison reporting
December 3, 1992 (SPECIAL MEETING)

#29. MOTION WAS MADE BY PAT MCLAUGHLIN, SECONDED BY JAY TAKEN ALIVE, TO APPROVE TO SUPPORT, BY RESOLUTION, THAT UND SHOULD DISCONTINUE THE USE OF THE "FIGHTING SIOUX".

ROLL CALL VOTE: MURPHY, C. - NOT VOTING

AGARD, A.	YES	MCLAUGHLIN, E.	YES
BILLINGSLEY, K.	E.	MCLAUGHLIN, P.	YES
CLAYMORE, S.	YES	MENTZ, T.	YES
FAITH, JR., M.	YES	RED BEAR, K.	E.
GIPP, A.	NO	STRONG HEART, J.	E.
HARRISON, L.	YES	TAKEN ALIVE, J.	YES
JAMERSON, J.	N.V.	TWO BEARS, A.	N.V.
KEEPSEAGLE, J.	YES	WHITE MOUNTAIN, SR., J.	N.V.

VOTE: YES - 9 NO - 1 NOT VOTING - 4

MOTION CARRIED. 3 - EXCUSED

#30. MOTION WAS MADE BY PAT MCLAUGHLIN, SECONDED BY SAM CLAYMORE, TO APPROVE OF GENERAL BULLETIN NO. 43-92. IN REFERENCE TO THE OKLAHOMA TAX COMMISSION V. SAC AND FOX NATION.

RESOLUTION NO. 078-98

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Article 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribe had issued Resolution No. 356-92 to demand that the University of north Dakota discontinue the use of the name and mascot of the "Fighting Sioux"; and

WHEREAS, the University Administration has stated in the past that such actions, like the racially insensitive ones of October 24, 1992, will not be tolerated on campus; and

WHEREAS, the University's continued use of the 'Fighting Sioux" nickname places Native American students in the position of being mascots and subjects those students to such racially insensitive actions; and

WHEREAS, the University is sending a Dual Message to the students of UND, by attempting to provide a quality education for its students, but subjects int indigenous students, namely those from the Lakota/Dakota Peoples of North America, to continued racial actions, by not changing its "Sioux" and "fighting Sioux" nicknames; and

NOW THEREFORE BE IT RESOLVED, the undersigned Standing Rock Sioux Tribal Council hereby reaffirms the Resolution of December 3, 1992, specifically that the University of North Dakota should discontinue the use of the "Fighting Sioux" nickname.

BE IT FURTHER RESOLVED, that the foregoing resolution shall be effective on this date and shall remain in full force an effect thereafter.

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [17] members, of whom 16 constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened and held on the 11th day of FEBRUARY, 1998, and that the foregoing resolution was duly adopted by the affirmative vote of 10 members, with 0 opposing, and with 6 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT IN CASE OF A TIE.

Dated this 11th day of FEBRUARY, 1998.

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

ATTEST:

Elaine McLaughlin, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

#104. MOTION WAS MADE BY JOE STRONG HEART, SECONDED BY PALMER DEFENDER, TO APPROVE TO PURCHASE LAND IN THE AMOUNT OF $517.00 WITH THE SRST LAND PURCHASING FUNDS FROM THAT PORTION OF THE CRAZY BEAR ALLOTMENT SR-2052-E, LYLE LAFROMBOISE ESTATE, BY RESOLUTION.

ROLL CALL VOTE: MURPHY, C. - EXCUSED

ARCHAMBAULT, D.		N.V.	KEEPSEAGLE, J.	N.V.
BAILEY, V.		YES	LONG CHASE, F.	YES
BEAR RIBS, D.		N.V.	MCLAUGHLIN, E.	YES
BROWN OTTER, M.		YES	SEE WALKER, R.	YES
CORDOVA, R.		YES	STRONG HEART, J.	YES
DEFENDER, P.		YES	TAKEN ALIVE, J.	YES
GATES, R.		YES	TWO BEARS, S.	N.V.
IRON, T.	(Chairing)	N.V.	WHITE, R.	N.V.

VOTE: YES - 10 NO - 0 NOT VOTING - 6

MOTION CARRIED. 1 - EXCUSED

#105. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY FARRON LONG CHASE, TO APPROVE OF THE RESOLUTION: **NOW THEREFORE BE IT RESOLVED**, THAT THE STANDING ROCK SIOUX TRIBAL COUNCIL HEREBY REAFFIRMS THE RESOLUTION OF DECEMBER 3, 1992, SPECIFICALLY THAT THE UNIVERSITY OF NORTH DAKOTA SHOULD DISCONTINUE THE USE OF THE **"FIGHTING SIOUX"** NICKNAME.

ROLL CALL VOTE: MURPHY, C. - EXCUSED

ARCHAMBAULT, D.		N.V.	KEEPSEAGLE, J.	N.V.
BAILEY, V.		YES	LONG CHASE, F.	YES
BEAR RIBS, D.		N.V.	MCLAUGHLIN, E.	YES
BROWN OTTER, M.		YES	SEE WALKER, R.	YES
CORDOVA, R.		YES	STRONG HEART, J.	YES
DEFENDER, P.		YES	TAKEN ALIVE, J.	YES
GATES, R.		YES	TWO BEARS, S.	N.V.
IRON, T.	(Chairing)	N.V.	WHITE, R.	N.V.

VOTE: YES - 10 NO - 0 NOT VOTING - 6
MOTION CARRIED. 1 - EXCUSED

#59. MOTION WAS MADE BY DEAN BEAR RIBS, SECONDED BY RANDY WHITE, TO APPROVE FOR ART JOCHIM TO OFFICIALLY USE THE TRIBAL EQUIPMENT TO MOVE FEMA TRAILERS.

AMENDED TO: To be use only for this project and be returned upon completion of the project.

ROLL CALL VOTE: MURPHY, C. - EXCUSED

ARCHAMBAULT, D.	E.	KEEPSEAGLE, J.	YES
BAILEY, V.	E.	LONG CHASE, F.	YES
BEAR RIBS, D.	YES	MCLAUGHLIN, E.	NO
BROWN OTTER, D.	YES	SEE WALKER, R.	NO
CORDOVA, R.	NO	STRONG HEART, J.	NO
DEFENDER, P.	YES	TAKEN ALIVE, J.	YES
GATES, R.	E.	TWO BEARS, S.	NO
IRON, T. [CHAIRING]	N.V.	WHITE, R.	YES

VOTE: YES - 7 NO - 5 NOT VOTING - 1

MOTION CARRIED. 4 - EXCUSED

#60. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY DEAN BEAR RIBS, TO APPROVE THAT THE STANDING ROCK SIOUX TRIBAL COUNCIL APPROVES OF SUBMISSION OF LEGISLATION TO THE NORTH DAKOTA STATE GOVERNMENT OPPOSING THE USE OF AMERICAN INDIAN MASCOTS AND MONIKERS BY UNIVERSITY'S AND INSTITUTIONS OF HIGHER EDUCATION IN NORTH DAKOTA SUCH LEGISLATION WILL BE CONSISTENT WITH PREVIOUS ACTIONS TAKEN BY THE STANDING ROCK TRIBAL COUNCIL.

ROLL CALL VOTE: MURPHY, C. - EXCUSED

ARCHAMBAULT, D.	E.	KEEPSEAGLE, J.	YES
BAILEY, V.	E.	LONG CHASE, F.	YES
BEAR RIBS, D.	YES	MCLAUGHLIN, E.	YES
BROWN OTTER, D.	YES	SEE WALKER, R.	YES
CORDOVA, R.	YES	STRONG HEART, J.	YES
DEFENDER, P.	YES	TAKEN ALIVE, J.	YES
GATES, R.	E.	TWO BEARS, S.	YES
IRON, T. [CHAIRING]	N.V.	WHITE, R.	YES

VOTE: YES - 12 NO - 0 NOT VOTING - 1

MOTION CARRIED. 4 - EXCUSED

RESOLUTION NO. 438-05

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribe passed motions and resolutions in 1992 and 1998 against the use of the ***"Fighting Sioux"*** nickname by the University of North Dakota, and

WHEREAS, other Sioux Tribes have consistently opposed the use of the ***"Fighting Sioux"*** nickname by the University of North Dakota (see www.und.edu/org/bridges/index2.html); and

WHEREAS, the University of North Dakota has appropriated the nickname ***"Fighting Sioux"*** without consulting or seeking the permission of Sioux Tribes; and

WHEREAS, Native American students and alumni of the University of North Dakota must endure professional, social and academic hardships due to the ***"Fighting Sioux"*** nickname; and

WHEREAS, the University's continued use of the ***"Fighting Sioux"*** nickname places Native American students and alumni in the position of being mascots and subjects these individuals to racially insensitive actions; and

WHEREAS, the University of North Dakota professes to support Native American issues;

NOW THEREFORE BE IT RESOLVED, the Standing Rock Sioux Tribe supports the recent decision by the National Collegiate Athletic Association to bar the use of Native American Tribal names in post-season games by colleges and universities. We the undersigned feel that the University of North Dakota should discontinue the use of the ***"Fighting Sioux"*** nickname; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [17] of whom 14 constituting a quorum, were present at a meeting thereof, duly and regularly, called, noticed, convened and held on the 15th day of **SEPTEMBER, 2005,** and that the foregoing resolution was duly adopted by the affirmative vote of 12 members, with 0 opposing, and with 2 not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT, IN CASE OF TIE.**

DATED THIS 15th DAY OF SEPTEMBER, 2005.

ATTEST:

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

Sharon Two Bears, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

Meeting Date: 09-15-05
Motion No. 100

#94. MOTION WAS MADE BY JESSE MCLAUGHLIN, SECONDED BY RANDY WHITE, TO APPROVE TO CONCURR WITH THE REQUEST FROM LOIS TWO BEARS – TRIBAL HEALTH ADMINISTRATION TO SCHEDULE THE YOUTH LEADERSHIP/SUICIDE PREVENTION TRAINING ON SEPTEMBER 19-20, 2005 AND A GATHERING OF NATIVE AMERICANS PROGRAM AT PRAIRIE KNIGHTS CASINO ON SEPTEMBER 21-23, 2005 AT NO COST TO THE PROGRAM.

ROLL CALL VOTE: MURPHY, C. – EXCUSED

BAILEY, V.		YES	MCLAUGHLIN, J.	YES
BROWN OTTER, M.		A.	MENTZ, A.	YES
CADOTTE, M.		YES	TAKEN ALIVE, J.	YES
CLAYMORE, M.		N.V.	TAKES THE GUN, D.	N.V.
FOOL BEAR, A.		YES	TWO BEARS, S.	YES
IRON, T.	**(Chairing)**	N.V.	WHITE, R.	YES
LITTLE EAGLE, A.		YES	WHITE BULL, F.	YES
LOPEZ, M.		YES	WHITE EAGLE,, C.	A.

VOTE: YES – 11 NO – 0 NOT VOTING – 3

MOTION CARRIED. 1 – EXCUSED 2 – ABSENT

#95. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY ALMA MENTZ, TO APPROVE TO REAFFIRM THE POSITION OF THE S.R.S.T. REGARDING THE USE OF THE FIGHTING SIOUX NICKNAME BY THE UNIVERSITY OF NORTH DAKOTA (U.N.D.) WHICH IS TO QUOTE: "TO ELIMINATE AND STOP THE USE OF THE FIGHTING SIOUX NICKNAME AND CHARACTER TODAY, FURTHER MORE THAT THE S.R.S.T. DOES NOT CONSENT TO THE USE OF THE FIGHTING SIOUX NICKNAME, MASCOT, AND CHARACTER", BY **RESOLUTION NO. 438-05.**

ROLL CALL VOTE: MURPHY, C. – EXCUSED

BAILEY, V.		YES	MCLAUGHLIN, J.	YES
BROWN OTTER, M.		A.	MENTZ, A.	YES
CADOTTE, M.		YES	TAKEN ALIVE, J.	YES
CLAYMORE, M.		YES	TAKES THE GUN, D.	N.V.
FOOL BEAR, A.		YES	TWO BEARS, S.	YES
IRON, T.	**(Chairing)**	N.V.	WHITE, R.	YES
LITTLE EAGLE, A.		YES	WHITE BULL, F.	YES

MOTION NO. 95 IS CONTINUED.

LOPEZ, M.	YES	WHITE EAGLE,, C.	A.
VOTE:	YES – 12	NO – 0	NOT VOTING – 2
MOTION CARRIED.	1 – EXCUSED		2 – ABSENT

H.E.W. COMMITTEE – Adele White reporting.
September 1, 2005

#96. MOTION WAS MADE BY VERNA BAILEY, SECONDED BY JESSE TAKEN ALIVE, TO APPROVE TO AUTHORIZE SUBMISSION FOR A TRIBAL EMERGENCY MEDICAL ASSISTANCE (T.E.M.A.) GRANT TO THE ABERDEEN AREA BUREAU OF INDIAN AFFAIRS OFFICE.

ROLL CALL VOTE: MURPHY, C. – EXCUSED

BAILEY, V.	YES	MCLAUGHLIN, J.	YES
BROWN OTTER, M.	A.	MENTZ, A.	YES
CADOTTE, M.	YES	TAKEN ALIVE, J.	YES
CLAYMORE, M.	N.V.	TAKES THE GUN, D.	N.V.
FOOL BEAR, A.	N.V.	TWO BEARS, S.	YES
IRON, T. **(Chairing)**	N.V.	WHITE, R.	YES
LITTLE EAGLE, A.	YES	WHITE BULL, F.	YES
LOPEZ, M.	N.V.	WHITE EAGLE,, C.	A.
VOTE:	YES – 9	NO – 0	NOT VOTING – 5
MOTION CARRIED.	1 – EXCUSED		2 – ABSENT

#97. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY ALMA MENTZ, TO APPROVE OF A CONSULTANT AGREEMENT BETWEEN THE H.E.W. PROGRAM MANAGER AND THE ABERDEEN AREA TRIBAL CHAIRMAN'S HEALTH BOARD (A.A.T.C.H.B) FOR TRIBAL INSTITUTIONAL REVIEW BOARD (I.R.B.) TRAINING.

ROLL CALL VOTE: MURPHY, C. – EXCUSED

BAILEY, V.	YES	MCLAUGHLIN, J.	YES
BROWN OTTER, M.	A.	MENTZ, A.	YES

RESOLUTION NO. 562-07

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, §§ 1[a], 1[c], and 1[h], is empowered to negotiate with Federal, State and local governments and others on behalf of the Tribe, and to authorize or direct subordinate boards, committees and Tribal Officials, to administer the affairs of the Tribe and to administer the affairs of the Tribe and to carry out the directives of the Tribal Council; and

WHEREAS, the University of North Dakota [hereafter "UND"], signed a settlement agreement with the NCAA late last month, ending a year-long legal battle over a 2005 NCAA mandate that barred the nickname's continued use in postseason play; and

WHEREAS, that settlement requires the university to retire its nickname in three years if the school cannot win support from the Tribal Councils of both the Standing Rock and Spirit Lake reservations; and

WHEREAS, the Standing Rock Sioux Tribe [hereafter "SRST"], was not consulted during negotiation of UND-NCAA settlement; and

WHEREAS, because the SRST was not consulted concerning the said settlement, it is the recommendation of the Tribal Council's Health, Education and Welfare Committee that the Tribal Council maintain its position that the SRST opposes the use of the UND "Fighting Sioux" nickname and logo; and

WHEREAS, the SRST rejects the notion that the Tribal Council will change the Tribe's position concerning the use of UND "Fighting Sioux" nickname and logo in the next three years and rejects the possibility that UND can "win support" of the SRST on this issue;

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribal Council hereby states definitively that the SRST opposes the use of the UND "Fight Sioux" nickname and logo and rejects the notion that UND can "win support" of the SRST on this issue; and

BE IT FURTHER RESOLVED, that the Tribal Chairman is further authorized and directed to advise UND and the NCAA of this, the Tribal Council's ultimate response regarding the said issue; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council, hereby certify that the Tribal Council is composed of seventeen [17] members of whom 11 constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened and held on the 9th day of NOVEMBER, 2007, and that the foregoing resolution was duly adopted by the affirmative vote of 8 members, and 1 opposing, and with 2 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.

DATED THIS 9th DAY OF NOVEMBER, 2007.

for Ron His Horse Is Thunder, Chairman
Standing Rock Sioux Tribe

ATTEST:

Geraldine Agard, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

Meeting Date: 11-09-2007
Motion No. 61

#61. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY DAVE ARCHAMBAULT, TO APPROVE TO REAFFIRM OUR POSITIONS IN OPPOSITION OF THE U.N.D. LOGO NICKNAME AND TO REJECT THE MOST RECENT FEDERAL COURT DECISION, **BY RESOLUTION NO. 562- 07 .**

AMEND: TO STATE "FEDERAL COURT SETTLEMENT."

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

WHITE MOUNTAIN, J.	NO	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATES, M.	YES
WHITE BULL, F.	E.	MURPHY, C.	YES
HARRISON, H.	YES	MCLAUGHLIN, J.	E.
BIRD, R.	E.	MCNEIL, J.	E.
JAMERSON, F.	E	TAKEN ALIVE, J.	YES
BROWN OTTER, M.	E.	LITTLE EAGLE, A.	YES
STRONG HEART, J.	YES	AGARD, G.	N.V.

VOTE: YES – 8 NO – 1 NOT VOTING – 2

MOTION CARRIED. 6 – EXCUSED

#62. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY MARGARET GATES, TO APPROVE OF THE H.E.W. COMMITTEE MINUTES FOR OCTOBER 22, 23, 25, 2007 AND NOVEMBER 9, 2007.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

WHITE MOUNTAIN, J.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATES, M.	YES
WHITE BULL, F.	E.	MURPHY, C.	YES
HARRISON, H.	YES	MCLAUGHLIN, J.	E.
BIRD, R.	E.	MCNEIL, J.	E.
JAMERSON, F.	E.	TAKEN ALIVE, J.	YES
BROWN OTTER, M.	E.	LITTLE EAGLE, A.	YES
STRONG HEART, J.	YES	AGARD, G.	YES

VOTE: YES – 10 NO – 0 NOT VOTING – 1

MOTION CARRIED. 6 – EXCUSED

RESOLUTION NO. 208-08

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, [48 stat. 984], with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribe Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, §§ 1[a], 1[c], and 1[h], is empowered to negotiate with Federal State and local governments and others on behalf of the Tribe, and to authorize or direct subordinate boards, committees and Tribal Officials, to administer the affairs of thee Tribe and to carry out the directives of the Tribal Council; and

WHEREAS, for a number of years the nickname bestowed on Athletic teams at the University of North Dakota [hereafter *"UND"*], i.e., the *"Fighting Sioux,"* and the logo it is used with have been a divisive issue. The Standing Rock Sioux Tribe and other Sioux Tribes, including the Cheyenne River Sioux and Rosebud Sioux Tribe, acting through their Tribal Council, have passed resolutions opposing UND's nickname and logo; and

WHEREAS, the Dakota, Lakota and Nakota Tribes opposing the use of the UND nickname and logo have set forth a variety of reasons for their resistence to the nickname and logo, including: the misappropriation of sacred spiritual images; the practices of non-Indians at sporting events; the reduction of complex Tribal, cultural and linguistic issues to a Hollywood stereotype; the attribution of violent images to Indian people by identifying them as "fighting;" and because Indian women, men and children become invisible when their cultures are represented only be historical images of male warriors; and

WHEREAS, more recently a group of American Indian students at UND filed discrimination complaint with UND's affirmative action office because the Gamma Phi Beta Sorority held a party in November during which students dressed up in American Indian costumes and slathered their faces and bodies with red makeup. Photos from the party show a female students wearing *"Indian Maiden"* dresses, stitched up the side with fringe at the bottom, and feather headdresses. Some male students are naked in the photos except for underwear and brown t-shirts wrapped around their waists as makeshift loincloths and red makeup smeared across their faces and chests. Several photos show one for the scantily clad male students with one had raised and a solemn expression on his face, seemingly imitating a stereotypical Indian pose; and

WHEREAS, the actions of those at Gamma Phi Beta Sorority part last November appear to be based on fundamental ignorance at best and out-and-out racism at

worst: and

WHEREAS, UND, in a settlement arising out of litigation with the National Collegiate Athletic Association [hereafter *"NCAA"*], has agreed to give up the name "Fighting Sioux" within three [3] years unless the Spirit Lake Nation and the Standing Rock Sioux Tribe support the name. The Standing Rock Sioux Tribe has already passed a resolution against the name: and

WHEREAS, the Standing Rock Sioux Tribal Constitution, Article III, § 12 mandates that: *"[a] ll members of the Tribal Council and all other Tribally elected officers shall act in accordance with a Code of Ethic."* So, Council Representatives and all other Tribally elected officers to carry out their duties consistent with the *"faith and diligent discharge of duties and responsibilities for and in the best interest of the Standing Rock Sioux Tribe."* SRST Constitution, Article III, § 12a.: and

WHEREAS, as noted above, UND's settlement with the NCAA requires UND to obtain support for the use of the *"Fight Sioux"* nickname within three [3] years unless the Spirit Lake Nation and the Standing Rock Sioux Tribe support UND's use of the nickname. Accordingly, the Tribe views UND's call for a referendum vote on this issue as a modern version of the Long Knives' *"divide and conquer tactics:"* and

WHEREAS, recently, some Tribal members have expressed their belief that the Standing Rock Sioux Tribe should hold a referendum on the UND nickname issue. It is clear that the sole beneficiary of such a referendum would be UND while the SRST would bear the entire financial burden of a referendum vote pursuant to the SRST Constitution Article III § 12[b]: and

WHEREAS, the SRST has expended substantial time and resources in arriving at its current position on this issue stance and b upholding its position the SRST, the government of the SRST seeks to promote the general welfare of its members, including mental, emotional and spiritual welfare pursuant to SRST Constitution Article IV, §§ 1[c] and 1[o]: and

WHEREAS, the Tribal Council is vested with the authority to regulate its own procedure under the Tribal Constitution Article IV, § 1[f]. The Tribal Council hereby proposes a moratorium on a referendum vote on the UND nickname issue for the foregoing reasons:

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribe hereby authorizes and directs that from the date of this Resolution is adopted by the Tribal Council, and certified, there is a moratorium on a referendum vote on the UND nickname issue: and

BE IT FURTHER RESOLVED, that the Tribal Chairman is further authorized and directed

to communicate with UND Chancellor Goetz and advise him of the moratorium established through this Resolution: and

BE IT FINALLY RESOLVED, that the Tribal Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council do hereby certify that the Tribal Council is composed of [17] members of whom 13 constituting an quorum, were present at a meeting, thereof, duly are regularly called, noticed, convened and held on the 8th day of MAY, 2008, and that the foregoing resolution was adopted by the affirmative vote of 7 members, with 5 opposing, and with 1 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT IN CASE OF A TIE.

DATED THIS 8th DAY OF MAY, 2008.

ATTEST:

for Ron His Horse is Thunder, Chairman
Standing Rock Sioux Tribe

Geraldine Agard, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

Meeting Date: 05-08-2008
Motion # 33

MOTION #31 IS CONTINUED.

JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES – 12 NO – 0 NOT VOTING – 1

MOTION CARRIED. 4 – EXCUSED

#32. MOTION WAS MADE BY HENRY HARRISON, SECONDED BY GERALDINE AGARD, TO APPROVE TO ALLOCATE $4,000.00 FROM THE FY-2008 CASINO FUNDS TO THE PARDON BOARD, BY RESOLUTION **[NO. 207-08]**.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, JR., R	YES	AGARD, G	YES
BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATE, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	N.V.
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES – 11 NO – 0 NOT VOTING – 2

MOTION CARRIED. 4 – EXCUSED

#33. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY AVIS LITTLE EAGLE, TO APPROVE TO ESTABLISH A MORATORIUM ON THE REFERENDUM VOTE TO THE U.N.D. LOGO ISSUE, BY RESOLUTION **[NO. 208-08]**.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, JR., R	NO	AGARD, G	NO
BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	NO	GATE, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.

MOTION #33 IS CONTINUED.

STRONG HEART, SR., J.	NO	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	NO
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES – 7 NO – 5 NOT VOTING – 1

MOTION CARRIED. 4 – EXCUSED

#34. MOTION WAS MADE BY RICHARD BIRD, JR., SECONDED BY MILTON BROWN OTTER, TO APPROVE OF H.E.W. COMMITTEE REPORTS FOR APRIL 7, 21, 2008 AND MAY 5,7, 2008.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, JR., R	YES	AGARD, G	YES
BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATE, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES – 12 NO – 0 NOT VOTING – 1

MOTION CARRIED. 4 – EXCUSED

#35. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY HENRY HARRISON, TO APPROVE TO AMEND THE AGENDA TO ADD AN ICWA ISSUE [RE: Valerie Hill].

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, JR., R	YES	AGARD, G	YES
BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATE, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	NO
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	NO
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

~~MOTION NO. 49 IS CONTINUED.~~

HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	E.	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	NO

VOTE: YES – 8 NO – 4 NOT VOTING – 1

MOTION CARRIED. 4 – EXCUSED

#50. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY CHARLES MURPHY, TO APPROVE TO PUT THE ISSUE OF "THE FIGHTING SIOUX" LOGO ON THE BALLET COME ELECTION.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	E.	AGARD, G.	N.V.
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	E.
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	E.	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	NO

VOTE: YES – 5 NO – 6 NOT VOTING – 2

MOTION DID NOT CARRY. 4 – EXCUSED

#51. MOTION WAS MADE BY FRANK WHITE BULL, SECONDED BY JOSEPH MCNEIL, TO TABLE MOTION NO. 50.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	E.	AGARD, G.	N.V.
BROWN OTTER, M.	YES	ARCHAMBAULT, D.	E.
CORDOVA, R.	NO	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	YES
JAMERSON, F.	E.	MCLAUGHLIN, J.	NO

REGULAR TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: August 11, 2009 **PAGE: 1**

#1. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY MILTON BROWN OTTER, TO APPROVE OF THE AGENDA FOR AUGUST 11, 2009.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	YES	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	YES
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	YES

VOTE: YES – 11 NO – 4 NOT VOTING – 1
MOTION CARRIED. 1 – EXCUSED

#2. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY JOSEPH MCNEIL, TO AMEND THE MAIN MOTION TO INCLUDE THE UND LOGO.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	YES	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	YES
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	NO

VOTE: YES – 9 NO – 6 NOT VOTING – 1
MOTION CARRIED. 1 – EXCUSED

H.E.W. COMMITTEE – Adele White reporting.
July 20, 2009

#3. MOTION WAS MADE BY CHARLES MURPHY, SECONDED BY JESSE MCLAUGHLIN, TO APPROVE TO INCLUDE THE BIRD HORSE FAMILY TO THE NEW GRAND RIVER WATERLINE EXTENSION THAT IS BEING CONSTRUCTED IN THE WAKPALA DISTRICT.

#20. MOTION WAS MADE BY JOSEPH MCNEIL, SECONDED BY FRANK WHITE BULL, TO APPROVE TO ADD ELDERLY NEEDS PROGRAM FOR $500,000.00 TO CASINO REVENUE PRIOR COMMITMENTS, **BY RESOLUTION NO. 513-09.**

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	NO	AGARD, G.	YES
BROWN OTTER, M.	YES	ARCHAMBAULT, D.	NO
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, F.	YES	MCLAUGHLIN, J.	N.V.
STRONG HEART, J.	YES	MCNEIL, J.	YES
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	YES

VOTE: YES – 12 NO – 2 NOT VOTING – 2

MOTION CARRIED. 1 – EXCUSED

#21. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY JOSEPH MCNEIL, TO APPROVE TO MOVE THE UND LOGO UP ON THE AGENDA.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	NO	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	YES
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	YES
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	YES

VOTE: YES – 10 NO – 5 NOT VOTING – 1

MOTION CARRIED. 1 – EXCUSED

#22. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY ROBERT CORDOVA, TO **RESCIND RESOLUTION NO. 208-08,** PASSED BY THE

MOTION NO. 22 IS CONTINUED.

TRIBAL COUNCIL ON MAY 8, 2008 THAT PUT A MORATORIUM ON THE UND LOGO.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	NO	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	NO
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	NO

VOTE: YES – 7 NO – 8 NOT VOTING – 1

MOTION DID NOT CARRY. 1 – EXCUSED

#23. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY JESSE TAKEN ALIVE, TO CALL FOR QUESTION ON MOTION NO. 22.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	YES	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	YES
CORDOVA, R.	NO	GATES, M.	E.
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	YES
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	YES

VOTE: YES – 13 NO – 2 NOT VOTING – 1

MOTION CARRIED. 1 – EXCUSED

JUDICIAL COMMITTEE – Cheryl Long Feather reporting.
July 21, 2009

MOTION #69 IS CONTINUED.

STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	YES
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES - 14 NO - 0 NOT VOTING - 1

MOTION CARRIED. 2 - EXCUSED

#70. MOTION WAS MADE BY RICHARD BIRD, JR., SECONDED BY ROBERT CORDOVA, TO AMEND THE AGENDA TO ADD ON THE UND LOGO ISSUE.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON - NOT VOTING

BIRD, JR., R.	NO	AGARD, G.	NO
BROWN OTTER, M.	EX.	ARCHAMBAULT, JR., D.	NO
CORDOVA, R.	YES	GATES, M.	NO
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, JR., F.	N.V.	MCLAUGHLIN, J.	YES
STRONG HEART, SR., J.	NO	MCNEIL, JR., J.	NO
WHITE BULL, F.	N.V.	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	NO

VOTE: YES - 3 NO - 9 NOT VOTING - 3

MOTION DID NOT CARRY. 2 - EXCUSED

#71. MOTION WAS MADE BY AVIS LITTLE EAGLE, SECONDED BY JOSEPH MCNEIL, JR., TO AMEND THE AGENDA TO ADD ON THE RESOLUTION REQUESTING BIA TO MONITOR THE SEPTEMBER 30, 2009 GENERAL ELECTION.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON - NOT VOTING

BIRD, JR., R.	NO	AGARD, G.	YES
BROWN OTTER, M.	EX.	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATES, M.	NO
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	YES
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES - 12 NO - 2 NOT VOTING - 1
MOTION CARRIED. 2 - EXCUSED

TRIBAL COUNCIL
(AT LARGE)

Jesse "Jay" Taken Alive

Margaret M. Gates

Vacant

Dave Archambault II

Joseph McNeil Jr.

Jesse McLaughlin

Charles W. Murphy
Chairman

Mike Faith
Vice Chairman

Adele M. White
Secretary

TRIBAL COUNCIL
(DISTRICTS)

Sharon Two Bears
Cannonball District

Henry Harrison
Long Soldier District

Duane Claymore
Wakpala District

Kerby St. John
Kenel District

Errol "Doug" Crow Ghost
Bear Soldier District

Milton Brown Otter
Rock Creek District

Frank Jamerson Jr.
Running Antelope District

Samuel "Ben" Harrison
Porcupine District

MEMORANDUM

April 6, 2010

TO: Archie Fool Bear

FROM: Susan White Eagle/Recording Clerk SWE

SUBJECT: Excerpt from Regular Tribal Council meeting held on April 6, 2010.

EXCERPT **EXCERPT** **EXCERPT**

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOSEPH MCNEIL, JR., TO APPROVE DUE TO THE RECENT DEVELOPMENTS REGARDING THE UND LOGO ISSUE THE S.R. SIOUX TRIBAL COUNCIL WILL RESUME DISCUSSING THE MATTER ONCE THE N.D. STATE BOARD OF HIGHER EDUCATION MAKES IT'S FINAL DECISION ON THE RETIREMENT OF THE UND LOGO AND NICKNAME.

ROLL CALL VOTE: MURPHY, CHARLES - NOT VOTING

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CLAYMORE, D.	NO	FAITH, JR., M.	NO
CROW GHOST, E.	E.	GATES, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
HARRISON, B.	YES	MCLAUGHLIN, J.	E.
JAMERSON, JR., F.	NO	MCNEIL, JR., J.	YES
ST. JOHN, K.	NO	TAKEN ALIVE, J.	YES
TWO BEARS, S.	NO	WHITE, A.	NO

VOTE: YES - 8 NO - 6 NOT VOTING - 1

MOTION CARRIED 2 - EXCUSED

Should you have any questions please do not hesitate to contact me at 854-8577.
pc: file

Charles W. Murphy
Chairman

TRIBAL COUNCIL
(DISTRICTS)

Sharon Two Bears
Cannonball District

Henry Harrison
Long Soldier District

Duane Claymore
Wakpala District

Kerby St. John
Kenel District

Errol "Doug" Crow Ghost
Bear Soldier District

Milton Brown Otter
Rock Creek District

Frank Jamerson Jr.
Running Antelope District

Samuel "Ben" Harrison
Porcupine District

TRIBAL COUNCIL
(AT LARGE)

Jesse "Jay" Taken Alive

Margaret M. Gates

Vacant

Dave Archambault II

Joseph McNeil Jr.

Jesse McLaughlin

Mike Faith
Vice Chairman

Adele M. White
Secretary

MEMORANDUM

MAY 4, 2010

TO: Jesse Taken Alive/H.E.W. member

FROM: Susan White Eagle/Recording Clerk SWE

SUBJECT: Excerpt from Regular Tribal Council meeting held on May 4, 2010.

EXCERPT **EXCERPT** **EXCERPT**

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOSEPH MCNEIL, JR., TO APPROVE TO REAFFIRM MOTION NO. 2 OF APRIL 6, 2010 TRIBAL COUNCIL MEETING.

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOSEPH MCNEIL, JR., TO APPROVE DUE TO THE RECENT DEVELOPMENTS REGARDING THE UND LOGO ISSUE THE S.R. SIOUX TRIBAL COUNCIL WILL RESUME DISCUSSING THE MATTER ONCE THE N.D. STATE BOARD OF HIGHER EDUCATION MAKES IT'S FINAL DECISION ON THE RETIREMENT OF THE UND LOGO AND NICKNAME.

ROLL CALL VOTE: MURPHY, CHARLES - EXCUSED

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.		YES
CLAYMORE, D.	NO	FAITH, JR., M.	**[Chairing]**	N.V.
CROW GHOST, E.	YES	GATES, M.		NO
HARRISON, H.	YES	LITTLE EAGLE, A.		E.
HARRISON, B.	YES	MCLAUGHLIN, J.		NO
JAMERSON, JR., F.	NO	MCNEIL, JR., J.		YES
ST. JOHN, K.	NO	TAKEN ALIVE, J.		YES
TWO BEARS, S.	NO	WHITE, A.		NO

VOTE: YES - 7 NO - 7 NOT VOTING - 1

Due to a tie vote the Chairman's vote is required, he voted "YES", the vote is as follows.

VOTE: YES - 8 NO - 7 NOT VOTING - 0
MOTION CARRIED 2 - EXCUSED

Should you have any questions please do not hesitate to contact me at 854-8577.

TRIBAL COUNCIL
(AT LARGE)
Jesse "Jay" Taken Alive
Margaret M. Gates
Avis Little Eagle
Dave Archambault II
Joseph McNeil Jr.
Jesse McLaughlin

Charles W. Murphy
Chairman

Mike Faith
Vice Chairman

Adele M. White
Secretary

TRIBAL COUNCIL
(DISTRICTS)
Sharon Two Bears
Cannonball District
Henry Harrison
Long Soldier District
Duane Claymore
Wakpala District
Kerby St. John
Kenel District
Errol D. Crow Ghost
Bear Soldier District
Milton Brown Otter
Rock Creek District
Frank Jamerson Jr.
Running Antelope District
Samuel B. Harrison
Porcupine District

MEMORANDUM

TO: **ALL TRIBAL COUNCIL MEMBERS, ALL PROGRAM DIRECTORS SRST**

FROM: **CHARLES W. MURPHY, CHAIRMAN SRST**

DATE: **June 14, 2010**

RE: **SPECIALTRIBAL COUNCIL MEETING.**

Please be advised that a Special Tribal Council meeting is scheduled for June 17, 2010, regarding the referendum vote. The meeting will begin at 10:00 a.m. and will be held in the Tribal Council Chambers.

If you should have any questions, please contact my office. Thank you.

BLDG 1 NORTH STANDING ROCK AVE. • P.O.BOX D • FORT YATES, NORTH DAKOTA 58538
PHONE: 701-854-7201 or 701-854-8500 • FAX 701-854-7299

SPECIAL TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: June 17, 2010 **PAGE: 1**

#1. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY MILTON BROWN OTTER, TO APPROVE OF THE AGENDA FOR JUNE 17, 2010.

ROLL CALL VOTE: MURPHY, C. – NOT VOTING

BROWN OTTER, M.	NO	ARCHAMBAULT, JR., D.	E.
CLAYMORE, D.	YES	FAITH, JR., M.	YES
CROW GHOST, E.	YES	GATES, M.	NO
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	NO
JAMERSON, F.	YES	MCNEIL, J.	NO
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	YES	WHITE, A.	YES

VOTE: YES – 10 NO – 4 NOT VOTING – 1
MOTION CARRIED. 2 – EXCUSED

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOE MCNEIL, TO APPROVE THAT IT SHALL BE THE FINAL DECISION OF THE STANDING ROCK SIOUX TRIBE THAT THE UND LOGO AND NICKNAME IS RETIRED AND FURTHER DISCUSSION IS NOT NECESSARY AND WILL NOT BE CONDUCTED AS THERE ARE MANY ISSUES OF PRIORITY THAT NEED TIMELY ATTENTION.

AMENDED: "BY RESOLUTION".

ROLL CALL VOTE: MURPHY, C. – NOT VOTING

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	E.
CLAYMORE, D.	YES	FAITH, JR., M.	NO
CROW GHOST, E.	YES	GATES, M.	YES
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	NO
JAMERSON, F.	NO	MCNEIL, J.	YES
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	NO	WHITE, A.	YES

VOTE: YES – 10 NO – 4 NOT VOTING – 1
MOTION CARRIED. 2 – EXCUSED

#3. MOTION WAS MADE BY JOE MCNEIL, SECONDED BY MILTON BROWN OTTER, TO ADJOURN THE SPECIAL TRIBAL COUNCIL MEETING AT 10:45 A.M. CENTRAL TIME.

ROLL CALL VOTE: MURPHY, C. – NOT VOTING

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	E.
CLAYMORE, D.	YES	FAITH, JR., M.	YES
CROW GHOST, E.	YES	GATES, M.	YES
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	YES
JAMERSON, F.	YES	MCNEIL, J.	YES
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	YES	WHITE, A.	YES

VOTE: YES – 14 NO – 0 NOT VOTING – 1

MOTION CARRIED. 2 – EXCUSED

RESOLUTION NO. 408-10

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, §§ 1[a], 1[c], and 1[h], is empowered to negotiate with Federal, State and local government and others on behalf of the Tribe, and to authorize or direct subordinate boards, committee and Tribal Officials, to administer the affairs of the Tribe and to carry out the directives of the Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, in a duly and regularly called, noticed and convened meeting hon the 17th day of June, 2010, to determine a course of action in the ongoing Fighting Sioux controversy, acted to reaffirm all the governing body's earlier actions to end the use of the Fighting Sioux Nickname and Logo; and

WHEREAS, the Standing Rock Sioux Tribe recognizes the duly enacted positions of its six [6] Governing Districts that have acted to support an end to the use of the Fighting Sioux name by the University of North Dakota; and

WHEREAS, the Standing Rock Sioux Tribe recognizes that off reservation influences, including the Ralph Englestad Arena, have proven to be disruptive and divisive to our people, are not necessary and will not be tolerated within our homelands; and

WHEREAS, the Standing Rock Sioux Tribe hereby supports the position and action of the North Dakota State Board of Higher Education to retire the Fighting Sioux Nickname and Logo; and

WHEREAS, the Standing Rock Sioux Tribe recognizes the importance of ensuring the safe and effective transition from the Fighting Sioux Nickname and Logo at the University of North Dakota and the State at large and hereby supports any such related efforts; and

WHEREAS, the Standing Rock Sioux Tribe has not adopted policies and procedures to govern the certification of the petitions of enrolled members, both petitions submitted to the Chairman of the Standing Rock Sioux Tribe are not applicable;

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribe hereby reiterates that this decision is the Final Decision of the governing body of the Standing Rock Sioux Tribe, that officially authorized copies of the foregoing Resolution will be forwarded to the North Dakota State Board of Higher Education, the Chancellor of the North Dakota University System, the University of North Dakota, North Dakota Governor's Office, National Collegiate Athletic Association, and the Honorable Lawrence Janke of the Federal District Court in Grand Forks, North Dakota presiding over the related settlement forthwith; and

BE IT FURTHER RESOLVED, that the Standing Rock Sioux Tribal Council hereby approves that it shall be final decision of the Standing Rock Sioux Tribe, that the Fighting Sioux Nickname and Logo is retired and further discussion is not necessary and will not be conducted, as there are many issues of priority that need timely attention; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of **[17]** member, of whom **15**, constituting a quorum, were present at a meeting duly and regularly, called, noticed, convened and held on the **17th** day of **JUNE, 2010,** and that the foregoing resolution was duly adopted by the affirmative vote of **10** members, with **4** and with **1** not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.**

DATED THIS 17th DAY OF JUNE, 2010.

ATTEST:

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

Adele M. White, Secretary
Standing Rock Sioux Tribe

[OFFICIAL TRIBAL SEAL]

Meeting Date: 06-17-2010
Motion No.: 02

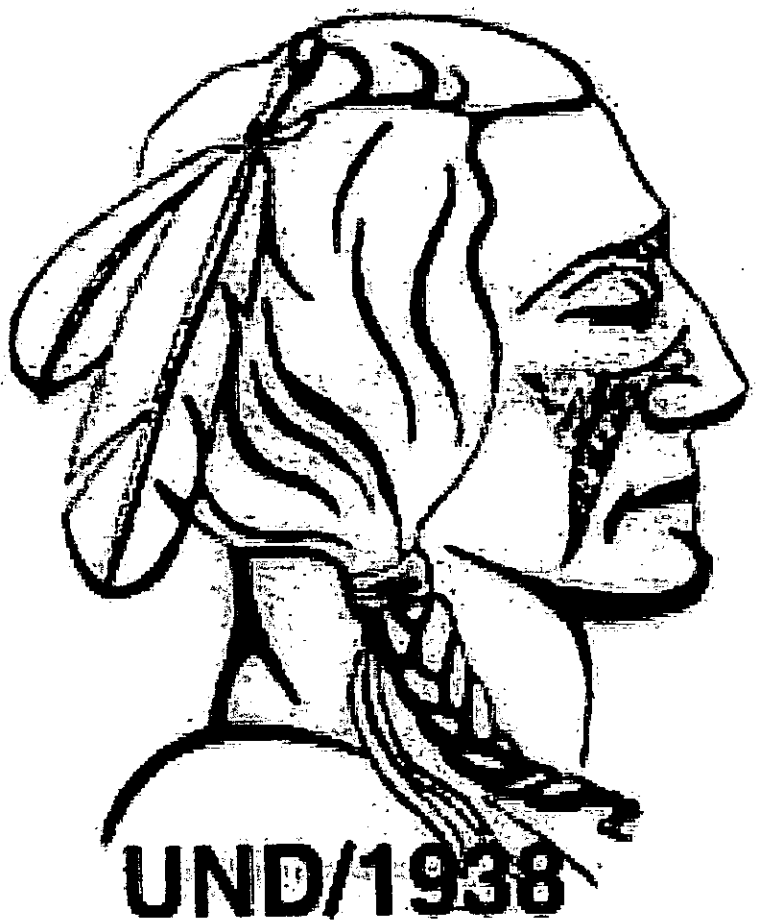
The UND "Fighting Sioux"

Presented by UND graduates from Standing Rock

81 #18

The University of North Dakota Flickertails

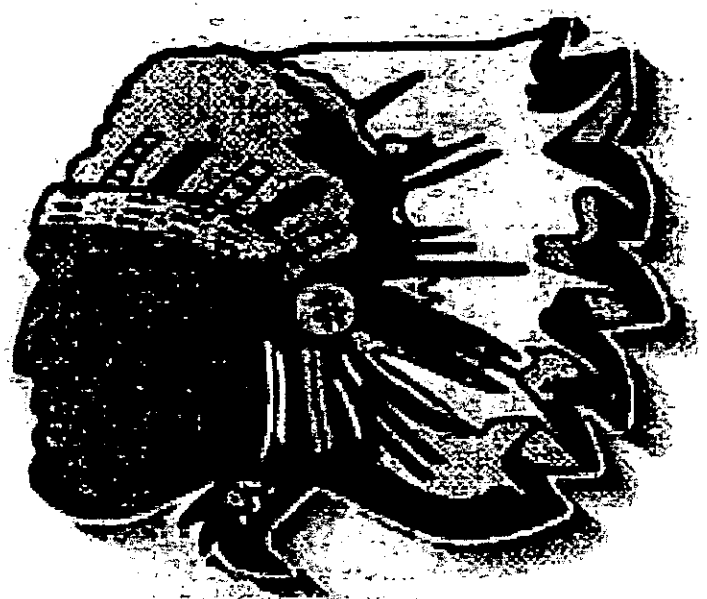
- In 1930 the University of North Dakota changed its athletic name from the "Flickertails" to the "Fighting Sioux" with no input nor blessing from Dakota/Lakota people.



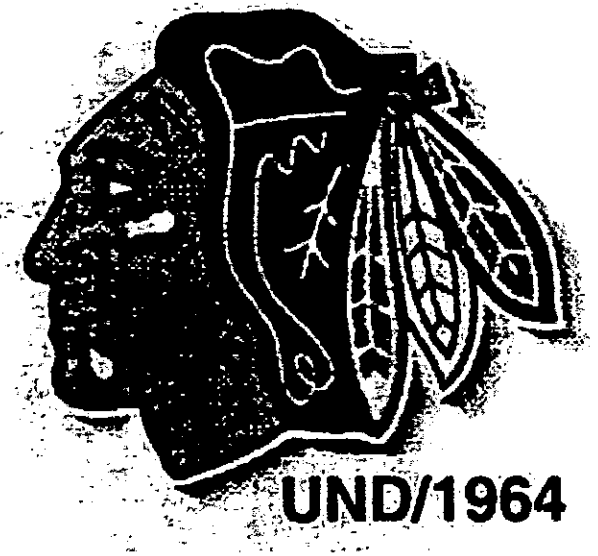
A Rivalry Is Born



- It was thought that the Sioux was a better name than Flickertails to exterminate the Bison of North Dakota State University.



UND/1950s



UND/1964



UND/1960s



UND/2000

University of North Dakota Indian Association is formed



UND/1960/70s

- In 1969 the Indian Association is formed.
- Sammy Sioux is a well-known cartoon that portrays the Sioux.
- The Indian Association asks that UND stop using it.
- In 1971 Sammy Sioux is retired. UND starts an Indian Studies Department.

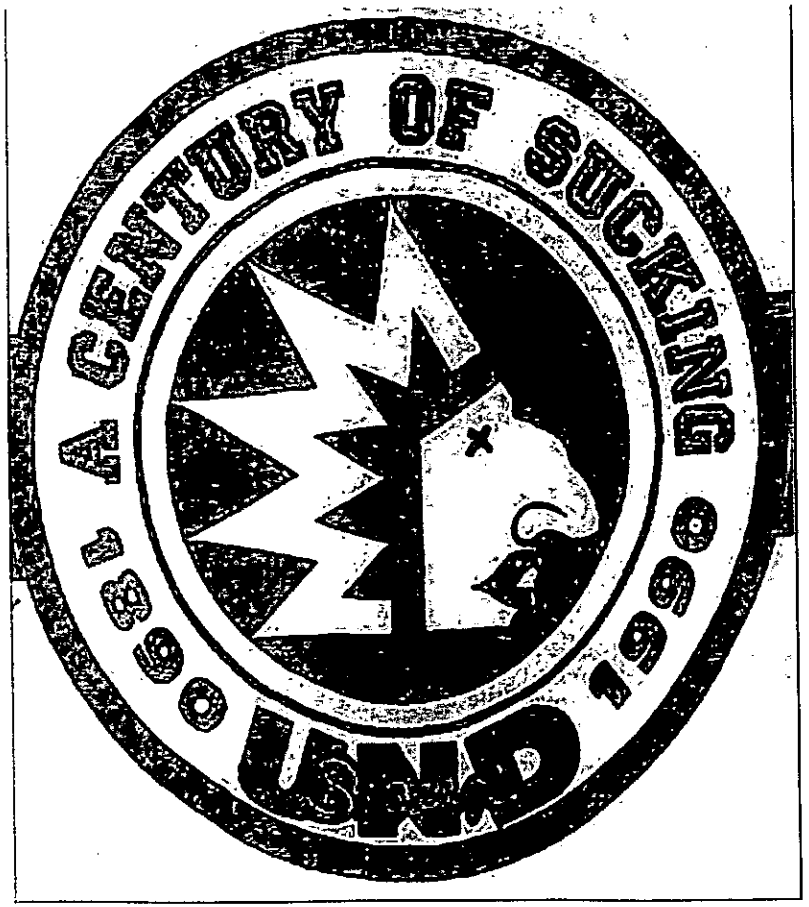
1972 King Kold Winter Festival

During homecoming week several fraternities create ice sculptures. One Greek house exhibits a sculpture of a topless Native woman pointing to her bare breasts, saying, "Lick 'Em Sioux." A Native student takes an ax and demolishes the sculpture. A near riot breaks out with Native students and the Greek houses as they physically fight each other. The Native student is arrested. UND President posts his bond and at the request of AIM, the charges are dropped.

1992 UND Homecoming Parade

- A float of grade-school native children and women dressed in their regalia are mocked by UND fraternities. They are told, "Squaws go back to the reservation where you belong" as well as telling the children they "look funny." A nearby float with a band plays the "tomahawk chop" theme.
- It becomes widely publicized. Standing Rock Sioux Tribe calls for the end of the UND nickname.
- SOAR (Students Organized Against Racism formed)
- UND criticizes the fraternity and apologize.

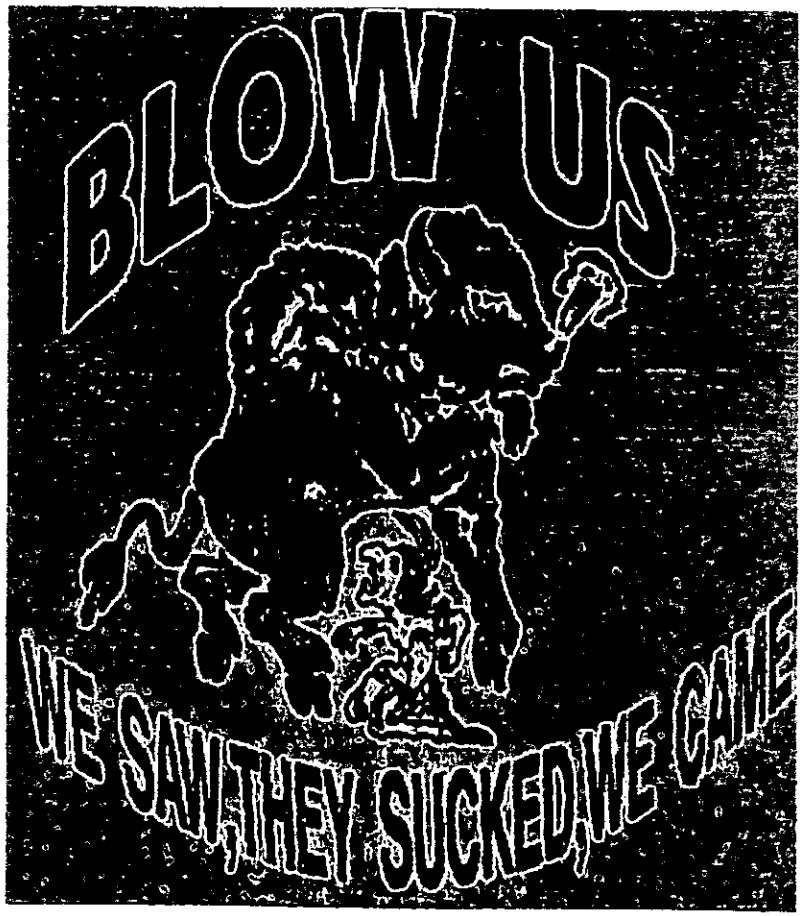
1996



In 1996 Native Student from Standing Rock receives hate mail.

- UNDIA continually asks to stop the use of nickname.
- SOAR becomes Building Roads Into Diverse Groups Empowering Students (BRIDGES).

Grand Forks Herald 1997

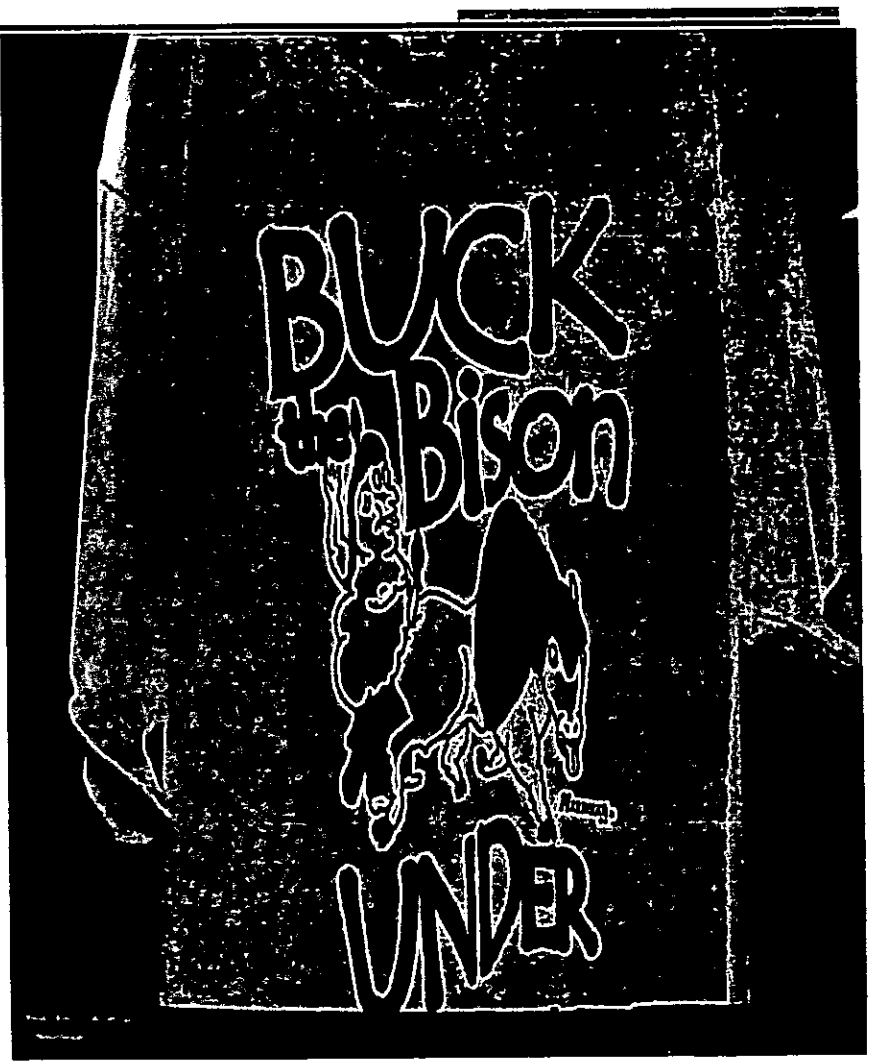


- "One banner read "Eat s _ _ _ Sioux!" Easton said he must of heard the chants of "F_ _ _ _ the Sioux! And "Sioux s_ _ _!" When the game was won, a new cheer was born in the NDSU section: "F_ _ _ their women!"

- Source: Grand Forks Herald

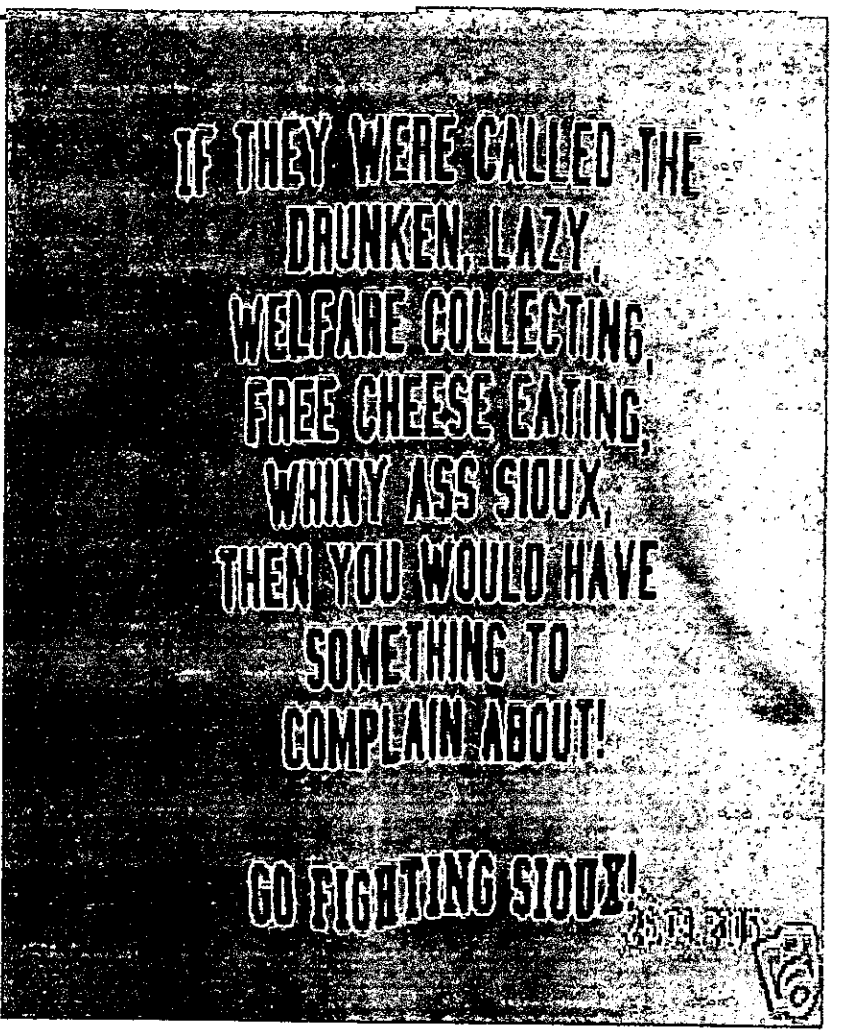
1997

- Cheyenne River Sioux Tribe calls for end of name use
- National Affairs Commission calls for end of name use
- Civil Rights Committee calls for end of name use



1998

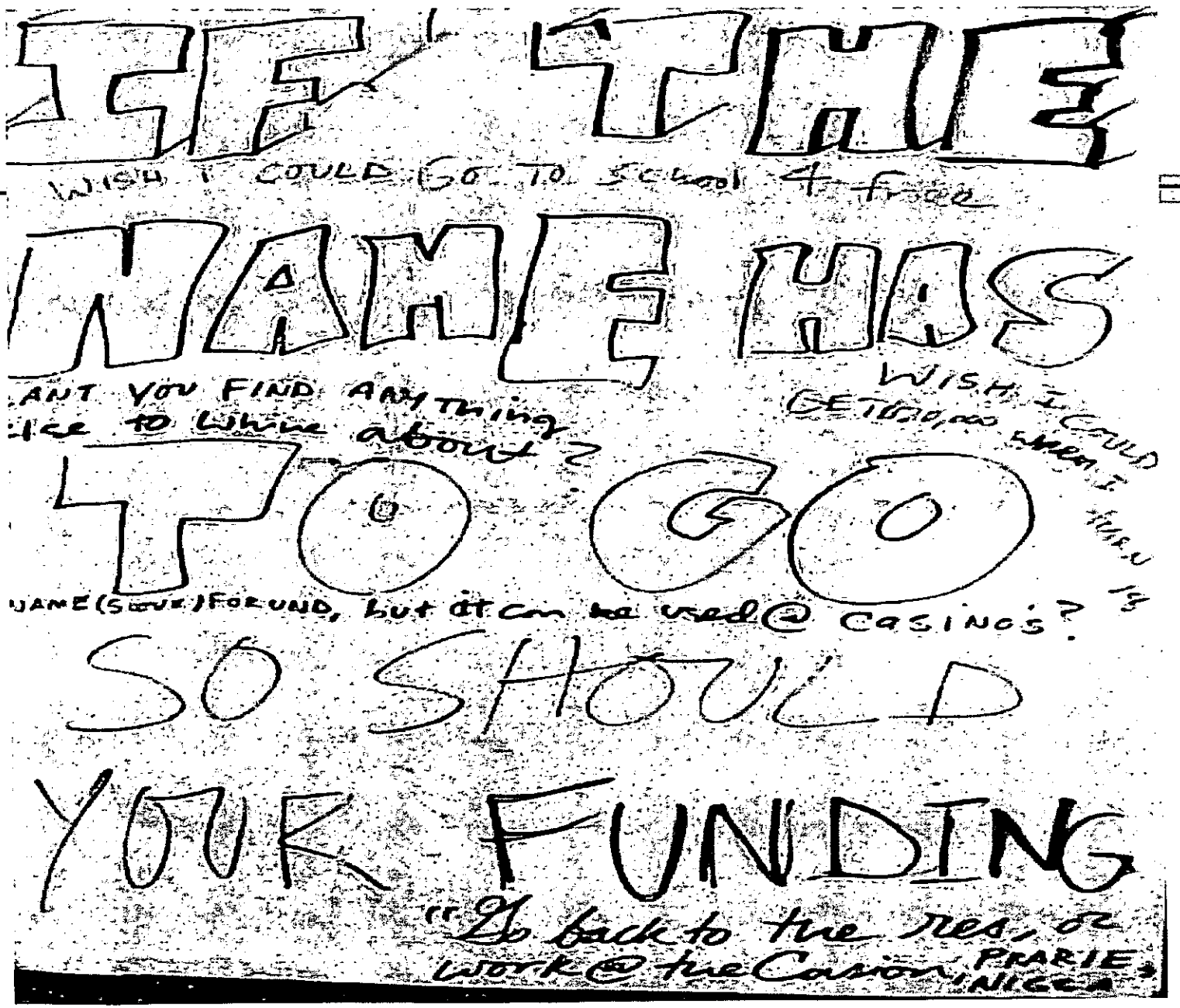
- National Congress of American Indians calls for end of name use
- Governor's Interstate Indian Council calls for end of name use
- National Association for the Advancement of Colored People (NAACP) calls for end of name use

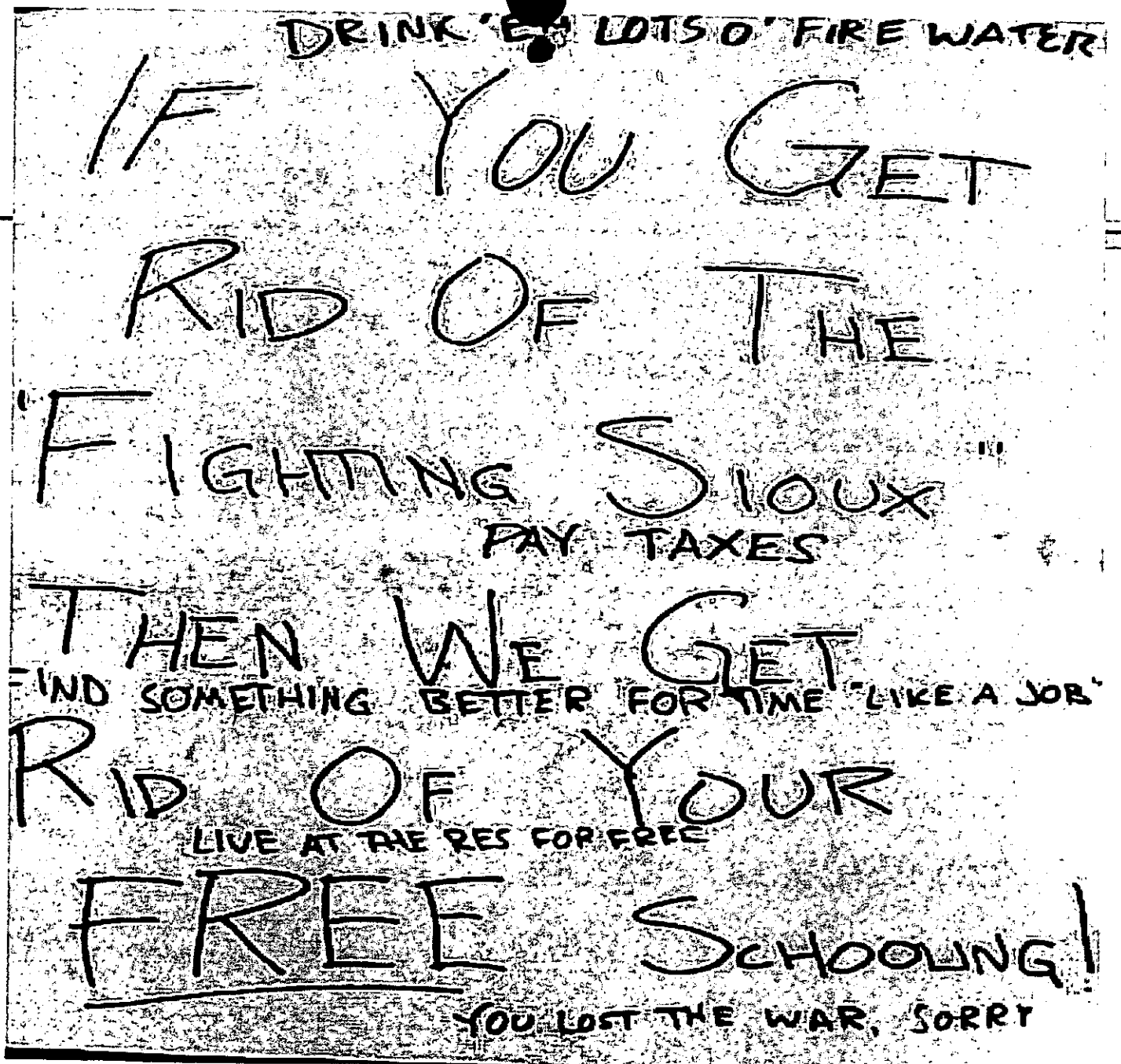


Turning the Tide in 1999

- UND Student Senate passes resolution to discontinue use of "Fighting Sioux." Student body president vetoes resolution.
- Similar resolution brought before N.D. House of Representatives, receives a "do not pass" vote.
- UND ROTC Battalion drops use of "Fighting Sioux."
- UND Multicultural Awareness Committee (MAC) calls for end of name use
- Eight tribes call for end of name use: Spirit Lake Nation, Crow Creek Sioux Tribe, Rosebud Sioux Tribe, Sisseton/Wahpeton Sioux Tribe, Turtle Mountain Band of Chippewa, Yankton Sioux Tribe, Oglala Sioux Tribe and Three Affiliated Tribes

During this time the following posters appear on the doors to the Indian Studies Department at UND


GET THAT
WISH I COULD GO TO School 4 free
NAME HAS
ANT YOU FIND ANYTHING
ICE TO WRITE about?
WISH I COULD
GET 1000,00 WHEN I TURN 18
TO GO
NAME(S OUT)FOUND, but it can be used @ CASINOS?
SO SHOULD
YOUR FUNDING
"Go back to the res, or
work @ the Casion, PRAIRIE
NIGGA


DRINK 'EM LOTS O' FIRE WATER
IF YOU GET
RID OF THE
FIGHTING SIOUX
PAY TAXES
THEN WE GET
FIND SOMETHING BETTER FOR TIME LIKE A JOB
RID OF YOUR
LIVE AT THE RES FOR FREE
FREE SCHOOLING!
YOU LOST THE WAR, SORRY

21 Indian Programs at UND ask President Kupchella to retire name

- Native American Programs
- Indians Into Medicine (INMED)
- Recruitment of American Indians Into Nursing (RAIN)
- Indians Into Psychology Doctoral Education
- Minority Access to Research Careers
- A'ho gun
- Science, Engineering and Math Technical Center
- Native Media Center
- Indian Studies Program
- National Resource Center on Native American Aging

- Upward Bound
- Multicultural Scholars Into Dietetics Program
- Fort Berthold Community College and Turtle Mountain Community College Teacher Training Project
- Family and Domestic Violence Training Project
- Prairielands Addiction Technology Transition Center and Center of Excellence in Native American Substance Abuse Native American Law Project
- Northern Plains Tribal Judicial Training Institute
- The Tribal Environmental Law Project
- Northern Plains Indian Law Center

UND President retires name…almost

- Under pressure, UND President Kupchella decides to suspend use of new logo for sports teams indefinitely. He states, "I see no choice but to respect the request of Sioux tribes that we quit using their name, because to do otherwise would be to put the university and its president in an untenable position."

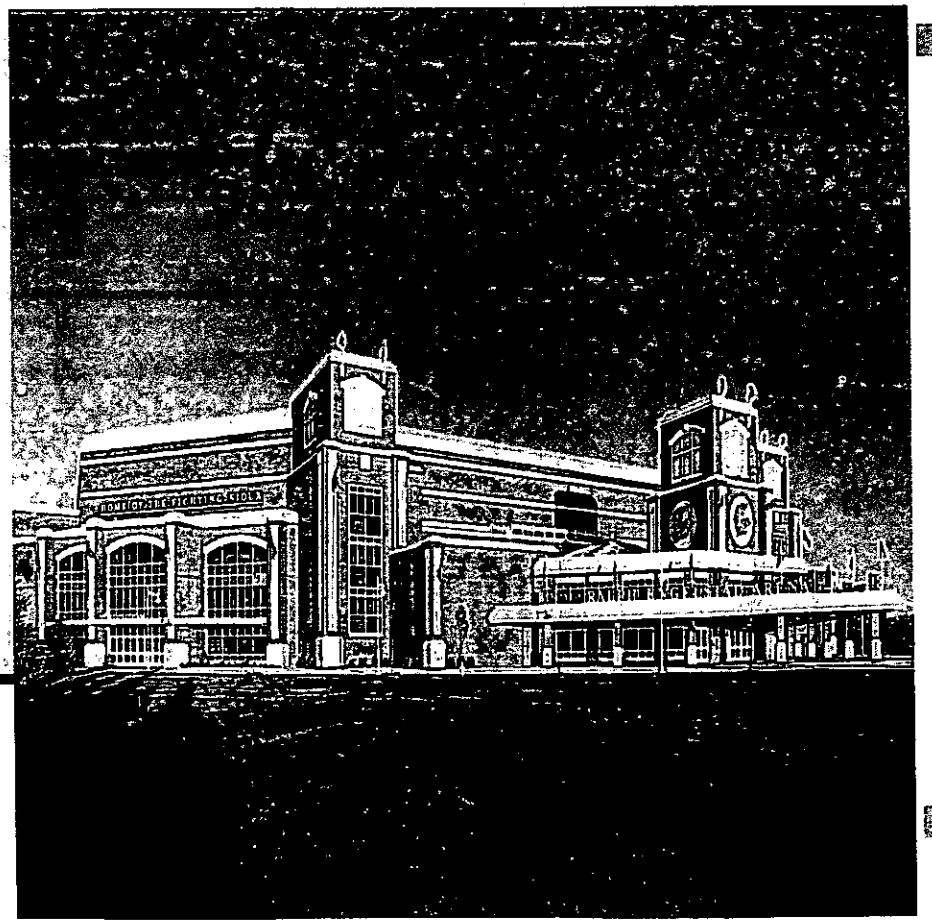
- President Kupchella in an e-mail message to William Isaacson, the state board chairman, December 16, 2000

North Dakota State Board of Higher Education



- The N.D. State Board of Higher Education preempts President Kupchella and unilaterally declares that UND will keep the "Fighting Sioux" nickname.

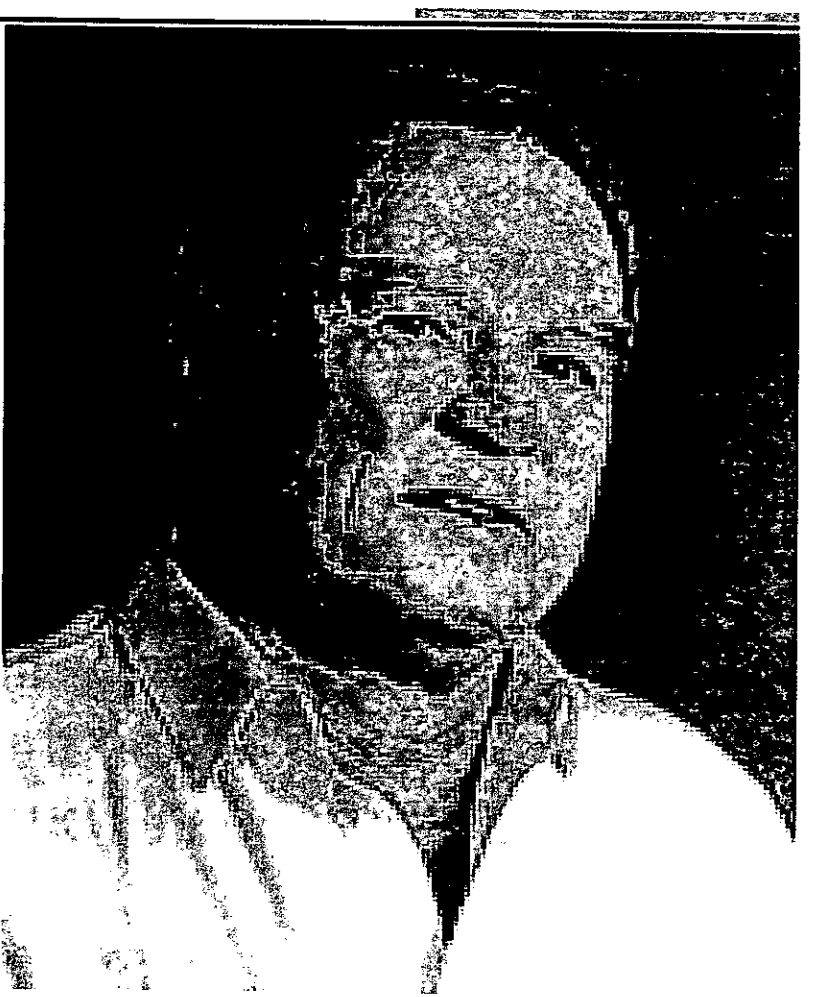
Ralph Engelstad—UND Alumnus donates $100 million to UND



- A letter from late 2000 surfaces in which Ralph Engelstad threatened to pull his $100 million "donation" should the nickname be changed, most likely prompting the State Board's rash mandate in December 2000
- A new Engelstad Arena nears completion

Ralph Engelstad

- UND Alumnus who played hockey for UND
- Became the owner of Imperial Palace Casinos in Las Vegas and Biloxi
- Donated millions to UND and their hockey arenas built in his name



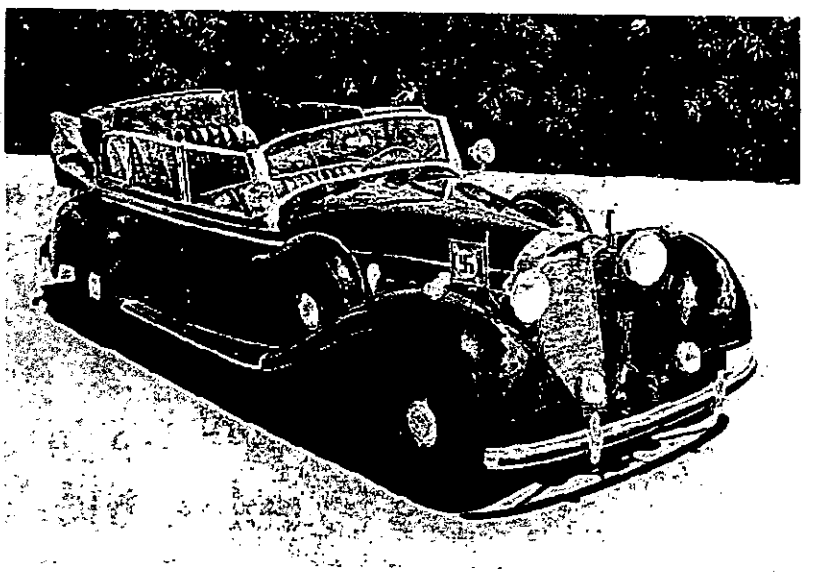
"To Adolf from Ralphie"

- Avid collector of nazi memorabilia including a collection of cars by German nazi leaders that were stored in a private room at one of his casinos.
- He had two paintings: one of himself dressed in a nazi uniform that read, "To Adolf from Ralphie, 1939" and one of Hitler that read, "To Ralphie from Adolf."
- In 1986 and 1988 Ralph Englestad held Nazi-themed parties celebrating Hitler's birthday. There was a swastika cake and the bartenders wore shirts that read, "European Tour 1939-1945"

source: New York Times, April 3, 1989

$1.5 Million Dollar Fine

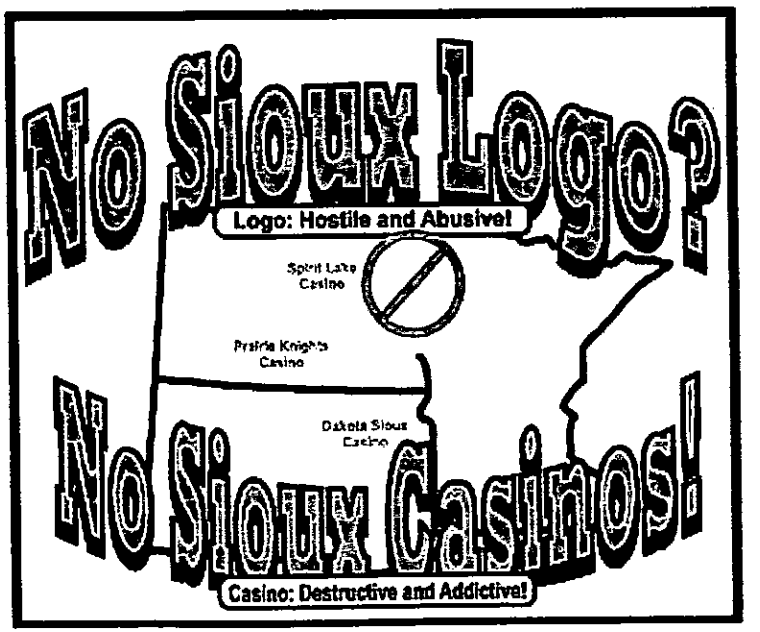
- Ralph Engelstad paid a $1.5 million dollar fine to the Nevada Gaming Commission in 1989, the second highest fine ever-- "for actions that damaged the reputation and image of Nevada's gaming industry."



Meanwhile…

- In 2006 the NDSBHE gives three years to the Sioux Tribes of North Dakota: Spirit Lake and Standing Rock to think about it.
- At the end of three years UND will begin a process to retire the name





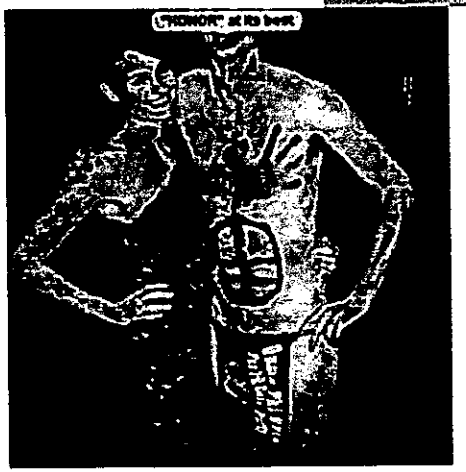
Tribal Member vs. Tribal Member



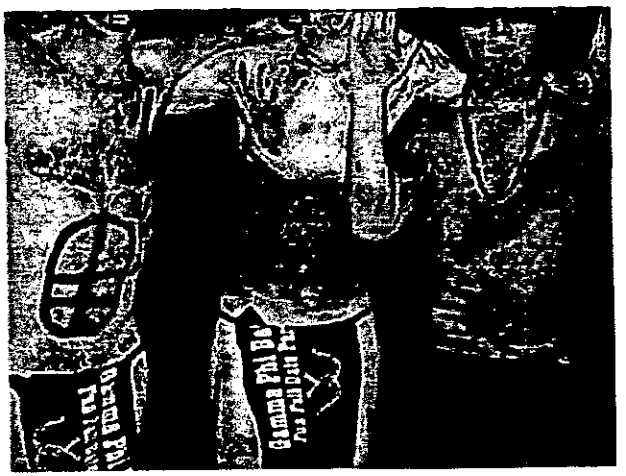
- Within this time frame the Ralph Engelstad Arena has hired tribal members to act as ambassadors to try and win your support.
- They say that everything is fine at UND.
- Meanwhile, it's business as usual…

UND Gamma Phi Party November 2007

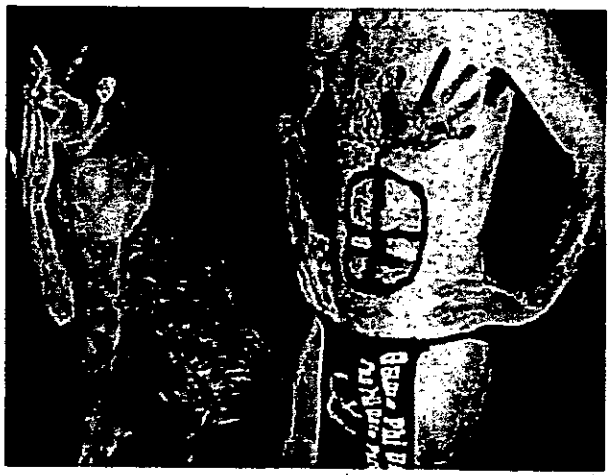








Sorority Version of Cultural Awareness





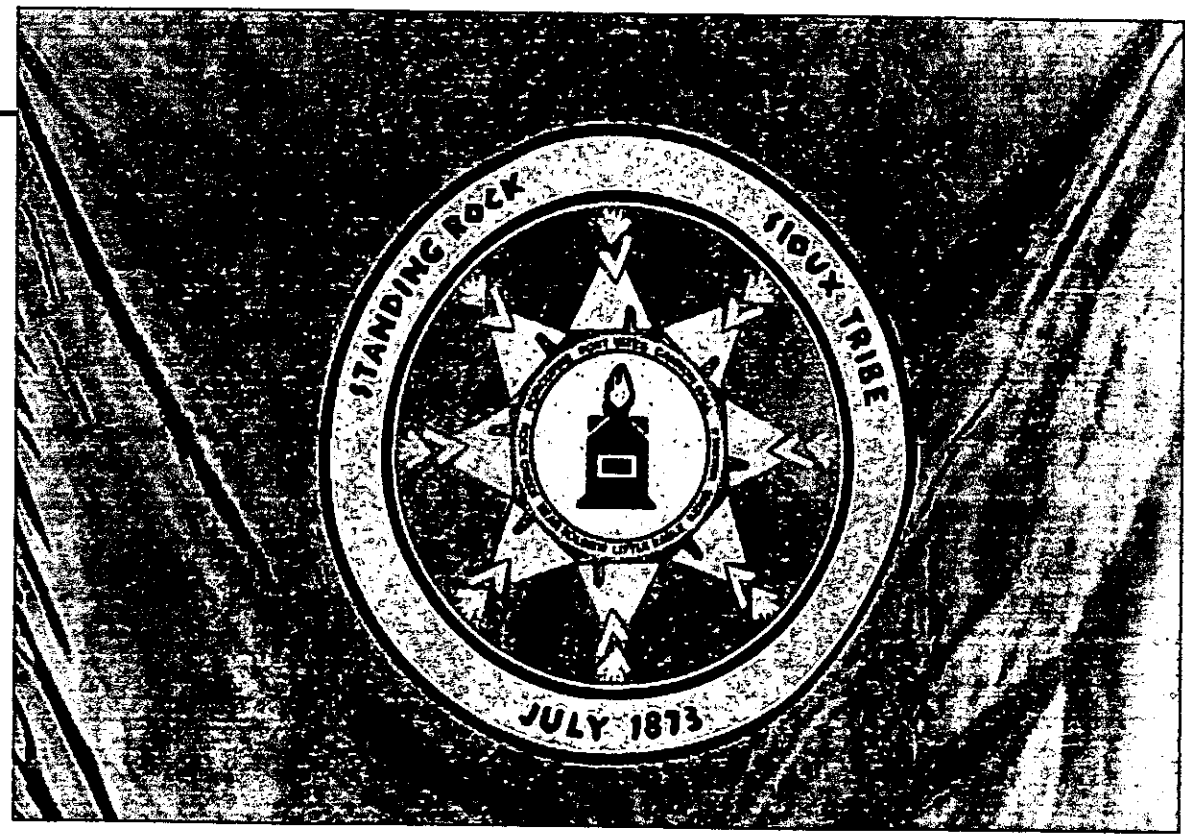




Education Not Money

- UND is a premier higher learning institute with a commitment to Indian education
- Despite these obstacles we received our degrees and strive to make our Nation stronger
- This is our experience during our tenure at UND and we want to share with you

Standing Rock UND Alumni Support



Waste'Win Young, Chase Iron Eyes, Petra Reyna, LaDonna Brave Bull, Miles Allard (TMC), Dr. David Gipp, Janet Alkire-Thomas, Valerian Three Irons, Ira Taken Alive, Dr. Gerald Gipp, Gail Condon, Sacheen White Tail-Cross, Sheri Bearking-Baker, Cliff Walking Elk, Dr. Biron Baker (MHA), Forrest Cross (MHA), Keith Fredericks (MHA)

RESOLUTION NO. 408-10

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, §§ 1[a], 1[c], and 1[h], is empowered to negotiate with Federal, State and local government and others on behalf of the Tribe, and to authorize or direct subordinate boards, committee and Tribal Officials, to administer the affairs of the Tribe and to carry out the directives of the Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, in a duly and regularly called, noticed and convened meeting hon the 17th day of June, 2010, to determine a course of action in the ongoing Fighting Sioux controversy, acted to reaffirm all the governing body's earlier actions to end the use of the Fighting Sioux Nickname and Logo; and

WHEREAS, the Standing Rock Sioux Tribe recognizes the duly enacted positions of its six [6] Governing Districts that have acted to support an end to the use of the Fighting Sioux name by the University of North Dakota; and

WHEREAS, the Standing Rock Sioux Tribe recognizes that off reservation influences, including the Ralph Englestad Arena, have proven to be disruptive and divisive to our people, are not necessary and will not be tolerated within our homelands; and

WHEREAS, the Standing Rock Sioux Tribe hereby supports the position and action of the North Dakota State Board of Higher Education to retire the Fighting Sioux Nickname and Logo; and

WHEREAS, the Standing Rock Sioux Tribe recognizes the importance of ensuring the safe and effective transition from the Fighting Sioux Nickname and Logo at the University of North Dakota and the State at large and hereby supports any such related efforts; and

WHEREAS, the Standing Rock Sioux Tribe has not adopted policies and procedures to govern the certification of the petitions of enrolled members, both petitions submitted to the Chairman of the Standing Rock Sioux Tribe are not applicable;

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribe hereby reiterates that this decision is the Final Decision of the governing body of the Standing Rock Sioux Tribe, that officially authorized copies of the foregoing Resolution will be forwarded to the North Dakota State Board of Higher Education, the Chancellor of the North Dakota University System, the University of North Dakota, North Dakota Governor's Office, National Collegiate Athletic Association, and the Honorable Lawrence Janke of the Federal District Court in Grand Forks, North Dakota presiding over the related settlement forthwith; and

BE IT FURTHER RESOLVED, that the Standing Rock Sioux Tribal Council hereby approves that it shall be final decision of the Standing Rock Sioux Tribe, that the Fighting Sioux Nickname and Logo is retired and further discussion is not necessary and will not be conducted, as there are many issues of priority that need timely attention; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [17] member, of whom 15, constituting a quorum, were present at a meeting duly and regularly, called, noticed, convened and held on the 17th day of JUNE, 2010, and that the foregoing resolution was duly adopted by the affirmative vote of 10 members, with 4 and with 1 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.

DATED THIS 17th DAY OF JUNE, 2010.

ATTEST:

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

Adele M. White, Secretary
Standing Rock Sioux Tribe

[OFFICIAL TRIBAL SEAL]

Meeting Date: 06-17-2010
Motion No.: 02

SPECIAL TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: June 17, 2010 **PAGE: 1**

#1. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY MILTON BROWN OTTER, TO APPROVE OF THE AGENDA FOR JUNE 17, 2010.

ROLL CALL VOTE: MURPHY, C. – NOT VOTING

BROWN OTTER, M.	NO	ARCHAMBAULT, JR., D. E.	
CLAYMORE, D.	YES	FAITH, JR., M.	YES
CROW GHOST, E.	YES	GATES, M.	NO
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	NO
JAMERSON, F.	YES	MCNEIL, J.	NO
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	YES	WHITE, A.	YES

VOTE: YES – 10 NO – 4 NOT VOTING – 1
MOTION CARRIED. 2 – EXCUSED

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOE MCNEIL, TO APPROVE THAT IT SHALL BE THE FINAL DECISION OF THE STANDING ROCK SIOUX TRIBE THAT THE UND LOGO AND NICKNAME IS RETIRED AND FURTHER DISCUSSION IS NOT NECESSARY AND WILL NOT BE CONDUCTED AS THERE ARE MANY ISSUES OF PRIORITY THAT NEED TIMELY ATTENTION.

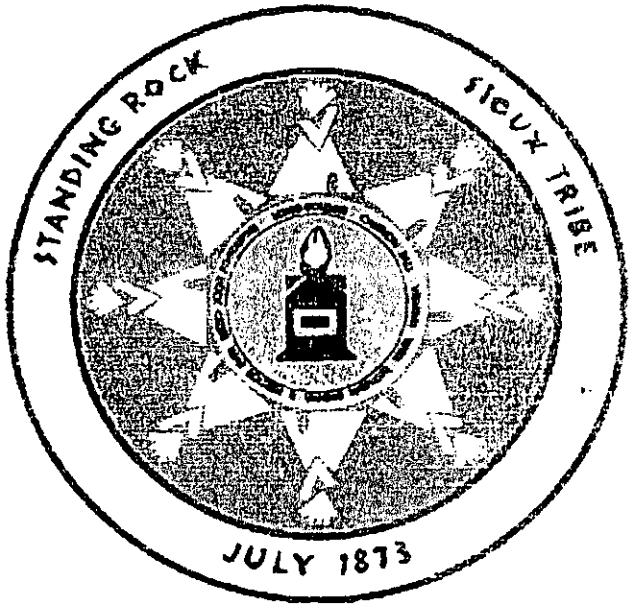
AMENDED: "BY RESOLUTION".

ROLL CALL VOTE: MURPHY, C. – NOT VOTING

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D. E.	
CLAYMORE, D.	YES	FAITH, JR., M.	NO
CROW GHOST, E.	YES	GATES, M.	YES
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	NO
JAMERSON, F.	NO	MCNEIL, J.	YES
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	NO	WHITE, A.	YES

VOTE: YES – 10 NO – 4 NOT VOTING – 1
MOTION CARRIED. 2 – EXCUSED

A REPORT ON THE UND MASCOT ISSUE



JESSE TAKEN ALIVE
COUNCILMAN AT LARGE

#19

1 Recent Developments
July-September 2005

2 Images of Discrimination
UND's "Fighting Sioux"
A Visual History

3 Dr. Angela LaRoque Study
Psychological Distress Between
American Indian and Majority
Culture College Students

4 Kupchella Letters – Dr. Charles
Kupchella, President, UND

5 Resolutions and letters
opposing the Use of the
"Fighting Sioux" Nickname &
Logo

6

7

8

A-1

RESOLUTION NO. 438-05

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribe passed motions and resolutions in 1992 and 1998 against the use of the ***"Fighting Sioux"*** nickname by the University of North Dakota, and

WHEREAS, other Sioux Tribes have consistently opposed the use of the ***"Fighting Sioux"*** nickname by the University of North Dakota (see www.und.edu/org/bridges/index2.html); and

WHEREAS, the University of North Dakota has appropriated the nickname ***"Fighting Sioux"*** without consulting or seeking the permission of Sioux Tribes; and

WHEREAS, Native American students and alumni of the University of North Dakota must endure professional, social and academic hardships due to the ***"Fighting Sioux"*** nickname; and

WHEREAS, the University's continued use of the ***"Fighting Sioux"*** nickname places Native American students and alumni in the position of being mascots and subjects these individuals to racially insensitive actions; and

WHEREAS, the University of North Dakota professes to support Native American issues;

NOW THEREFORE BE IT RESOLVED, the Standing Rock Sioux Tribe supports the recent decision by the National Collegiate Athletic Association to bar the use of Native American Tribal names in post-season games by colleges and universities. We the undersigned feel that the University of North Dakota should discontinue the use of the ***"Fighting Sioux"*** nickname; and

A-2

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [17] of whom 14 constituting a quorum, were present at a meeting thereof, duly and regularly, called, noticed, convened and held on the 15th day of **SEPTEMBER, 2005,** and that the foregoing resolution was duly adopted by the affirmative vote of 12 members, with 0 opposing, and with 2 not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT, IN CASE OF TIE.**

DATED THIS 15th DAY OF SEPTEMBER, 2005.

ATTEST:

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

Verna Bailey
for Sharon Two Bears, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

Meeting Date: 09-15-05
Motion No. 100

B-1

UNITED TRIBES TECHNICAL COLLEGE
3315 UNIVERSITY DRIVE
BISMARCK, NORTH DAKOTA 58504 • PHONE 701-255-3285 • FAX 701-530-0605

September 9, 2005

NCAA Executive Subcommittee on Gender and Diversity
NCAA Executive Committee
Attn: Myles Brand, President
National Collegiate Athletic Association
P.O. Box 6222
Indianapolis, Indiana 46206-6222

Recently passed Resolution of the
United Tribes of North Dakota

Dear Mr. Brand:

The Board of Directors of United Tribes of North Dakota, which has on its board the Chairperson and one other Tribal member from each of the five (5) Federally recognized tribes with a presence in North Dakota yesterday passed a resolution supporting the NCAA's action to ban the use of "hostile and abusive" logos, nicknames and mascots at NCAA sponsored tournaments and opposing the University of North Dakota's appeal of that rule change, and urging the North Dakota tribes, the University, the North Dakota Board of Higher Education and the NCAA to begin formal consultations about this issue.

The United Tribes Board of Directors has stated that the Tribes themselves must be consulted before further actions on this issue take place by any party. We urge you to assist us in making those consultations a reality.

Thanks again to your organization for taking a much needed affirmative stand on this issue. To reach me, please contact me at the telephone number on the above letterhead. My e-mail address is dmgipp@aol.com.

Sincerely,

David M. Gipp
President
United Tribes Technical College

B·2

UNITED TRIBES OF NORTH DAKOTA
RESOLUTION

Title: Urging formal consultation between North Dakota Tribes, UND, ND Board of Higher Education and NCAA regarding use of "Sioux" logo and nickname, and support for National Collegiate Athletic Association (NCAA) action banning display of "hostile and abusive" nicknames, logos and mascots at NCAA sanctioned tournaments.

INTERTRIBAL SUMMIT IX RESOLUTION NO. 05-06

WHEREAS, United Tribes of North Dakota ("United Tribes") is an association of the five federally recognized Tribes located in North Dakota, each of which has a government-to-government relationship with the United States established by Treaty, including the Three Affiliated Tribes, the Sisseton Wahpeton Sioux Tribe, the Standing Rock Sioux Tribe, the Spirit Lake Tribe and the Turtle Mountain Band of Chippewa, with a Board of Directors composed of the Chairman and one council member from each member Tribe; and

WHEREAS, United Tribes exists to assist in furthering the common goals of the North Dakota Indian Tribes and Nations; and

WHEREAS, From September 6-8, 2005, the Tribal Chairmen and the Tribal Council members from the five Indian Nations that are members of United Tribes of North Dakota, along with other Tribal leaders from the upper Great Plains, have been meeting at the Ninth Annual Intertribal Summit discussing issues of great importance to the Indian Tribal Nations of North Dakota and their members; and

WHEREAS, The vast majority of the Tribal Nations of the Great Plains are indigenous peoples who called themselves Lakota, Dakota or Nakota, a word meaning "friend or ally", who non-Indians call collectively the Sioux people; and

WHEREAS, The name "Sioux" is derived from a French word which is pejorative in nature and which is offensive to the Tribal Nations who are comprised of people of Lakota, Dakota and Nakota ancestry; and

WHEREAS, The University of North Dakota, a state supported university located in Grand Forks, North Dakota, and which has developed or which sponsors many excellent educational programs for Native Americans, has continued to use the name "Sioux" or "Fighting Sioux" for its athletic teams and has adopted a caricature of a Native person as its logo used by both the University and its athletic teams; and

WHEREAS, In the United States, Native Americans are the only race or ethnic group where pejorative words describing Native Americans are used as the nickname for athletic teams of institutions of higher learning and who are, as an ethnic group, portrayed as caricatures in logos, symbols, mascots and in other ways by those institutions; and

WHEREAS, Many colleges, universities, high schools and other institutions with names offensive to the indigenous peoples of the United States have changed their school nickname, mascots and logos out of sensitivity to the desires of Native Americans to be free of such stereotypes and to be able to live without fear of such stereotypes being used against them; and

WHEREAS, The continued use of the "Sioux" nickname by the University of North Dakota allows an atmosphere of hostility to exist on the campus towards Native Americans who attend the University of North Dakota, and has resulted in numerous ugly incidents, including beatings, vandalism, death threats and other incidents directed towards Native American students and others who have advocated for a change in the nickname; and

WHEREAS, Many Tribal Nations from around the United States have requested that the University of North Dakota change its nickname from "Sioux" to some other name as quickly as possible our of simple respect and sensitivity to the concerns and desires of Native Americans everywhere, especially including the Lakota, Dakota and Nakota peoples, to be free of negative images and stereotypes which are perpetuated by the use of pejorative nicknames by educational institutions; and

WHEREAS, During the most recent accreditation visit by the North Central Association of Colleges and Schools, the visiting team made a number of comments to try to persuade the University of North Dakota to begin the process of changing its logo and nickname, including stating that "continued use of the Indianhead logo and the "Fighting Sioux" nickname reduces the university's ability to accomplish its purposes and diminishes its educational effectiveness", yet despite those statements, the University has refused to take appropriate action; and

WHEREAS, The National Collegiate Athletic Association has studied the issue of American Indian logos, nicknames and mascots for at least four years, requesting its member colleges and universities who have continued to use logos, mascots or nicknames associated with Native Americans to conduct a self-study of the effect of their continued use of these Native American related names and symbols on the college or university and its students, faculty and surrounding community; and

WHEREAS, The University of North Dakota, which has a long term lease for a $100 million hockey facility decorated extensively with the logo, nickname and other images relating to the "Sioux" logo and nickname donated by a former alumnus only on condition that the nickname and logo of the University not be changed, and the North Dakota Board of Higher Education, have refused to consider changing the nickname;

WHEREAS, The University of North Dakota has insisted in the self-study done for the NCAA that the effect of the nickname on the students, faculty and community of Grand

Forks in which UND is located is minimal and that the school is "honoring" the warrior spirit of the Lakota, Dakota and Nakota peoples of the region by using the logo and the nickname "Fighting Sioux"; and

WHEREAS, A Minority Report was sent to the NCAA on behalf of the majority of the Indian programs that operate at UND and many others, including a majority of the faculty at UND and many students who have long protested the continued use of the "Sioux" logo and nickname, requesting that the NCAA take appropriate action against member colleges and universities that continue to use nicknames and logos that are stereotypes of the indigenous peoples of the United States, and the report pointed out the actual and numerous negative impacts and racially motivated incidents against students and the negative impact on the University's mission caused by the continuing use of the "Sioux" logo and nickname by UND; and

WHEREAS, On Friday, August 5, 2005, the NCAA issued a rule that banned the use of "hostile and abusive" nicknames, logos, mascots and other representations, including depictions of Native Americans, by member NCAA schools at NCAA sanctioned tournaments, listing 18 institutions that have used and continue to use these logos, nicknames and mascots in their athletic programs; and

WHEREAS, The University of North Dakota has appealed the NCAA rule change, saying, among other things, that it believes it is honoring the Lakota, Dakota and Nakota indigenous peoples of the Great Plains by using the "Sioux" logo and nickname, despite the repeated requests of the majority of the Dakota, Lakota and Nakota Tribal Nations and many other intertribal institutions such as the National Congress of American Indians, the National Indian Education Association, the Great Plains Tribal Chairman's Association and many others to stop the use of Indian nicknames, mascots and logos; and

WHEREAS, United Tribes of North Dakota is requiring and expects formal consultation and negotiation to take place between the North Dakota Tribal Nations, the North Dakota Board of Higher Education, the University of North Dakota and the NCAA to take place to discuss the use of the "Sioux" logo and nickname before any further action is taken by any of these parties.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of United Tribes of North Dakota does hereby support the NCAA's decision to ban the use of "hostile and abusive" nicknames, logos and mascots by member colleges and universities of the NCAA in NCAA sanctioned tournaments and urges the NCAA to deny the appeal of UND that seeks permission to continue to use its logo and nickname at such NCAA sanctioned events; and

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board of Directors of United Tribes of North Dakota requires and expects formal consultation and negotiation to take place between the North Dakota Tribal Nations, the North Dakota Board

of Higher Education, the University of North Dakota and the National Collegiate Athletic Association regarding the use of the "Sioux" logo and nickname before any further action is taken by any of these parties and to consider how to change the nickname of the University of North Dakota to a name not offensive to any ethnic group as soon as is practicable; and

NOW THEREFORE BE IT FURTHER RESOLVED that the Board of Directors of United Tribes of North Dakota hereby requests that regardless of if, or when, the UND nickname is changed, the North Dakota Board of Higher Education and the President of the University of North Dakota take all necessary steps as soon as possible to reduce racial tensions and to make those persons accountable who exacerbate racial tensions against Native American students and others on the campus of the University of North Dakota; and

NOW THEREFORE BE IT FINALLY RESOLVED, that this resolution, supporting the NCAA action; supporting further consultation with UND, the North Dakota Board of Higher Education and the NCAA regarding the use of the "Sioux" nickname and logo; and to make those persons accountable who exacerbate racial tensions against Native American students and others, shall stay in effect until otherwise modified or rescinded by the Board of Directors of United Tribes of North Dakota.

CERTIFICATION

As Chairman of the Board of Directors of United Tribes of North Dakota, I hereby certify that the foregoing resolution was duly passed at a meeting of the United Tribes of North Dakota Board of Directors at which a quorum was present, held on the 8th day of September, 2005, in Bismarck, North Dakota, on a voice vote with all Board members present and no recorded opposition.

Charles W. Murphy
Chairman, Board of Directors
United Tribes of North Dakota

ATTEST:

Tex G. Hall
Secretary, Board of Directors
United Tribes of North Dakota

C-1

UNITED TRIBES TECHNICAL COLLEGE
3315 UNIVERSITY DRIVE
BISMARCK, NORTH DAKOTA 58504 • PHONE 701-255-3285 • FAX 701-530-0605

September 5, 2005

NCAA Executive Subcommittee on Gender and Diversity
NCAA Executive Committee
Attn: Myles Brand, President
National Collegiate Athletic Association
P.O. Box 6222
Indianapolis, Indiana 46206-6222

Re: Appeal of University of North Dakota regarding NCAA rule banning use of "hostile and abusive" mascots, logos and nicknames at NCAA sanctioned post-season athletic tournaments

Dear Mr. Brand:

As a Native American of Lakota ancestry, a graduate of the University of North Dakota, and as the President of the Board of the Indians into Medicine Program (InMed) at the University of North Dakota and President of United Tribes Technical College, I am writing you to oppose the appeal of the University of North Dakota (UND) to overturn the ban on use of the "Sioux" logo and nickname in post-season tournaments sanctioned by the National Conference of Athletic Associations (NCAA) as adopted by the Executive Committee of your organization and announced on Friday, August 5, 2005. I have previously written on July 11, 2005 about this issue and I am attaching another copy of that letter, which sets forth my basic argument opposing the use of Indian themed mascots, nicknames, logos and paraphernalia in sports activities.

First, I must note that the situation involving UND is not at all similar to that of Florida State, Central Michigan or the University of Utah, all of which have sought and gained permission from local Tribal Nations for the continued use of their nicknames, mascots and logos. I realize that your organization has exempted these institutions from your ban on "hostile and abusive" nicknames, logos and mascots in post-season NCAA tournaments, **but permission to use the "Sioux" nickname and logo has not been obtained by UND from any local Dakota or Lakota Tribal Nations. Neither can any other Tribal Nation nor any group of non-Indians speak for the Dakota and Lakota peoples.** The NCAA should also note that recently, on August 30, 2005, at a general council of the Spirit Lake Tribe (which, by the way, changed its name from "Devil's Lake Sioux Tribe to its present name approximately fifteen years ago), the Tribe rejected the previous resolution sent to you by UND, thus opposing the use of the "Sioux" nickname and logo.

As Mr. Osceola of the Seminole Tribe of Florida put it recently, non-Indians have for many years determined who we are as Indians and what we should do. He is right, the University of North Dakota, as a primarily non-Indian institution, has no right to determine what "honors" us or what our "traditions" ought to be. What really makes the continued use of the "Fighting Sioux" nickname and logo "hostile and abusive" is that it is done against the collective will of the Lakota and Dakota peoples, and nothing President Charles Kupchella says in his appeal letter can change that fact.

President Kupchella, both in his letter and in public appearances, such as on the ESPN television show "Outside the Lines", on Sunday, August 4, 2005, uses several entirely disingenuous arguments to try to show that the use of "Sioux" nickname and logo by UND is not "hostile and abusive," as that term is used by the NCAA. His principal argument appears to be that he believes the existence of Indian programs at the University of North Dakota is an indication that the "Sioux" nickname is not "hostile and abusive." This is hardly the case.

First, to put it simply and frankly, the programs that benefit American Indians at the University of North Dakota exist **despite** the "Sioux" nickname and logo, not because of it. These programs are in no manner whatsoever connected with the continued use of the "Sioux" nickname and logo. Many, if not most, of the programs that are provided to assist Native Americans who attend UND, such as the "Indians into Medicine" program of which I am President of the Board of Directors, are funded by the Federal government.[1] They exist largely because Native Americans have worked with Federal officials to develop federal legislation and funding for these programs, and not because of any action on the part of UND.

These programs are at UND because it is a good university and because many Native Americans are in attendance there. But because of the "nickname" issue, Native American students at UND who work and who participate in these programs often have to run a gauntlet of racial stereotyping and tensions while studying and working there. Many Native Americans try to avoid the nickname issue altogether, but once identified as Native American, are forced to respond because of the polarization created by the issue. Some of these incidents and the racial tensions at UND were documented in Leigh Jeanotte's Minority Report submitted to your organization earlier this year in response to the University's "self-study." These racial tensions and incidents are unacceptable and continued use of the "Sioux" logo and nickname are to blame.

President Kupchella tries mightily in his letter to state what the University is doing to combat racial tensions, and I applaud him for those efforts. He also notes that complaints about the use of the "Sioux" nickname to other civil rights bodies have been largely

[1] As an example, the "InMed" program at UND, as it is known, is part of the Indian Health Care Improvement Act, a federal law regarding health care for Indian peoples, and is Federally funded. The purpose of the program is to assist in recruiting and retaining Indian students in the medical professions. It is located at UND because of UND's medical school, one of the best in the region, and was created at the urging of tribal leaders and other tribal members.

unsuccessful. But the fact remains that these racial tensions continue to exist on campus, particularly among students, and the logo and nickname issue help exacerbate those tensions. That alone ought to be enough for the NCAA to stand by its decision banning the continued use of UND's present nickname and logo in NCAA sanctioned tournaments.

This point was strongly made by the North Central Association of Colleges and Schools (NCA) in its recent accreditation report on UND. NCA's report, granting UND ten years continuing accreditation, placed a strongly worded discussion about the continued use of the "Sioux" nickname and logo, not in its evaluation of diversity issues on campus, but in its discussion of the academic quality of the institution. NCA said: **"It is the considered judgment of the visiting team that the continued use of the Indianhead logo and the 'Fighting Sioux' nickname reduces the university's ability to accomplish its purpose and diminishes its educational mission."** That statement alone ought to be enough reason for UND to change the nickname and accept the NCAA's decision. It also supports the notion that the use of the "Sioux" nickname and logo is "hostile and abusive." The complete set of statements made by the NCA, which also accredits the institution of which I am President, United Tribes Technical College, is attached.

The action of the NCAA to ban the use of the logo and nickname in athletic tournaments sanctioned by the NCAA of course does not ban the use of the nickname by UND, as the NCA suggested should be done. In that respect, UND's appeal again misses the point, by claiming that the NCAA's action does more than simply ban the use of the logo and nickname at NCAA sanctioned tournaments. But NCAA's action certainly supports the long overdue discussion of how to reduce racial tension at UND and to begin the process of changing the name in an honorable way, a process the NCA report states should be commenced as soon as possible.

It is also important to note that nearly all of the faculty and staff who are part of the programs that benefit Native Americans at UND are fundamentally opposed to the continued use of the "Sioux" nickname and logo, as is the vast majority of all other faculty members at UND. These individuals are closest to the students at UND and see the kind of tension created by the logo issue. Again, the NCAA's action is a start to a more positive dialogue and should be upheld.

President Kupchella offers that the Indianhead logo was designed by a Native American artist and goes on at length to describe the symbolism of the logo and the colors. But the President fails to point out that the artist is not Lakota, or Dakota, but Chippewa, and that these symbolic interpretations have never been agreed to by any Lakota or Dakota Tribal Nation. This is in stark contrast to the involvement of the Seminoles of Florida in every aspect of the use of the Seminole mascot at Florida State athletic contests.

In a further argument repeated on ESPN's show "Outside the Lines", President Kupchella argues that the use of the "Sioux" nickname logo has always been done in a respectful manner. This is said despite the fact that the logo and the "Sioux" nickname have often

appeared in demeaning and morally degrading images put on t-shirts, flyers, and other materials used by opposing schools in athletic competitions. The derogatory and obscene slogans have denigrated Native Americans; for years there was a mascot called "Sammy Sioux" that was a demeaning caricature of Native Americans. Many of these incidents and negative portrayals happen even now despite the video mentioned by President Kupchella, which apparently is shown before games and urges fans to treat the logo and nickname with respect.

President Kupchella's letter also details other specious arguments, refuted by the NCAA itself, concerning the use of historical peoples such as the "Vikings" or the use by the University of Notre Dame of the slogan the "Fighting Irish." The NCAA has done the right thing by being sensitive to the concerns of Native Americans. We are a living people and we are demeaned by being stereotyped as "Fighting Sioux."

The fact remains that the "Sioux" nickname and logo is not the name we call ourselves, it is not our "tradition," and we are not "honored" by its continued use. As I said in my previous letter, no other ethnic group in the United States would ever permit themselves to be characterized by names that are considered an epithet. Native Americans are not mascots, slogans, nicknames or caricatures. We deserve respect as a distinct, living, vibrant, multi-faceted culture. Rather than respect, continued use of the "Fighting Sioux" nickname promotes stereotyping, no matter how many videos and disclaimers are issued by the University of North Dakota.

I strongly urge the NCAA to keep its ban of the use of the "Fighting Sioux" nickname and logo in NCAA sanctioned tournaments. Should you want to contact me, my address and telephone number are listed on the letterhead above.

Sincerely yours,

David M. Gipp
President
United Tribes Technical College

cc: North Dakota Tribal Chairmen
University of North Dakota

Attachment

SECTIONS FROM THE NCA REPORT:

ASSURANCE SECTION

Criterion Four, "The institution can continue to accomplish its purposes and strengthen its educational effectiveness."

Salient Evidence of Fulfillment of Criterion

2. Evidence that demonstrates the criterion needs institutional attention:

d. It is the considered judgment of the visiting team that continued use of the Indianhead logo and the "Fighting Sioux" nickname reduces the university's ability to accomplish its purposes and diminishes its educational effectiveness.

Before and during the visit, team members studied the long history of this issue and learned of the deep campus divisions on the subject and of the President's and the campus's deep commitment to assure that the use of logo and nickname were proper and respectful. At the outset, team members were prepared to conclude that the issue was not significant enough to be given attention in the team's report, did not wish to intrude into a campus matter, and were prepared to consider it closed by the decision of the State Board of Higher Education in December 2000. By the end of the visit, however, the team unanimously came to a different conclusion for compelling reasons. The issue was clearly not at rest. It continues to be raised by those who consider it a moral issue as well as by those who do not object to the symbols but who deplore what is happening to the campus. It is clear that it will simmer on, until it boils over again openly, while in the meantime diminishing collegiality and learning for many in the campus community. It will not go away.

The team has the following comments to offer the institution and its board:

i. This persistent controversy has a negative impact on the learning environment at the University of North Dakota. It adversely affects student participation in the classroom and the laboratory. It adversely affects student relationships in residence halls and in sports and other recreational activities. It encourages disrespectful treatment of some students by other students and by some faculty and staff. Team members also hear that it adversely affects student recruitment and retention. It is an issue which distracts students, faculty, staff, and administration from the very important business of higher education.

ii. Continued use of the logo is manifestly inconsistent with the university's goal of being the foremost university in the nation in the programs it offers for and about American Indians, a goal as important to the state and university as it is to those served by it.

iii. It is particularly awkward for an American university, which endeavors to teach and model respect for others and sensitivity to their perspectives, to widely and prominently employ a logo and nickname that a substantial number of American Indians and their organizations have said and continue to say is offensive and demeaning.

iv. Times change. Values and practices change. As the nation has moved over the last century to de-legitimize and reduce discrimination against minorities, it has become less tolerant of the use of stereotypes and language regarded as offensive by minorities and many others. There was a reason to change the nickname from Flickertails in 1930. There is reason to change the nickname from "Fighting Sioux" today. If UND continues on course, it will be increasingly out of step with the times.

v. In the short run, there is no win-win resolution to this controversy. In the long run, if use of the logo and nickname were discontinued, everyone would win. In the long run, if use of the logo and nickname is not discontinued, everyone loses.

vi. Ultimately, the University of North Dakota is too good an institution, and its leadership is too important to the State of North Dakota, to let this issue continue to weaken its performance and impede its full development. The state board should revisit its earlier decision and direct the campus to develop and implement an orderly plan for discontinuing use of the Indianhead logo and the "Fighting Sioux" nickname.

ADVANCEMENT SECTION

REPORT OF A COMPREHENSIVE EVALUATION VISIT

II. CONSULTATIONS OF THE TEAM

B. Athletic Teams' Logo and Nickname

The team strongly recommends appropriate action by the State Board of Higher Education to support the campus unequivocally in providing honorable retirement for the "Fighting Sioux" nickname and logo and appropriate replacements. The team also recommends that, with such support, UND strenuously seek to achieve resolution and reconciliation throughout campus and state constituencies regarding the logo and nickname. The team encountered such strong disagreement and negative feelings among students, faculty, staff, and regional community about the "Fighting Sioux" name and logo in its interactions throughout the visit that it strongly believes resolution of the matter is necessary to move the campus forward. The controversy clearly has a negative impact on the campus climate for majority and minority students, faculty, and staff. The negative consequences cast a shadow on the considerable institutional efforts and successes to advance excellence through diversity in the learning environment.

There is clear evidence that there are strong views on both sides of the issue, and neither point of view seems to be content with the current University system decision about the logo and nickname. While these are critical matters, it may be the case that these

positions are also symptomatic of basic social issues in our society. The controversy did not begin with the name and the logo and it will not be resolved through administrative fiat.

A long time member of the University community stated the belief that there needs to be a reconciliation between the Indian and White communities in order to begin to build bridges of understanding among all in the majority and minority communities in the University and regional communities. A proposal to begin the reconciliation process might begin by requesting the State Board to invest trust in the institution to bring together people of good will on both sides of the issue to begin a dialog to address the historic basis for their feelings.

The basic premise would be that the citizens and the Board would agree to live with whatever outcome resulted from a thoughtful, considerate, and compassionate exploration of the issues in a spirit of reconciliation similar to the South African Reconciliation Process. All would have to agree that there may be no perfect solution and that the solution is a continual process of introspection, trust, and compromise to create an inclusive community that understands and appreciates the historic continuity of the symbols in the seal of the University of North Dakota and how they relate to the cultures that inhabited the territory at the founding of the institution. The process would be arduous but should not be interminable. Both sides would have to agree at the outset that in the final analysis all would have to reconcile.

D-1

UNITED TRIBES TECHNICAL COLLEGE
3315 UNIVERSITY DRIVE
BISMARCK, NORTH DAKOTA 58504 • PHONE 701-255-3285 • FAX 701-530-0605

August 25, 2005

The National Collegiate Athletic Association
700 W. Washington Street
P.O. Box 6222
Indianapolis, Indiana 46206-6222

Committee Members, Myles Brand, Bernard Franklin and NCAA;

I am writing this letter on behalf of the United Tribes Technical College Board of Directors in Bismarck, North Dakota as well as the Standing Rock Sioux Tribe in North and South Dakota.

The United Tribes Technical College was first founded in 1969 by an intertribal organization, the United Tribes of North Dakota Development Corporation. It is a nonprofit corporation chartered by the State of North Dakota and operated by the five tribes wholly or in part in North Dakota. Those tribes are the **Mandan, Hidatsa, Arikara Nation**, the **Spirit Lake Tribe**, the **Sisseton Wahpeton Sioux Tribe**, the **Standing Rock Sioux Tribe** and the **Turtle Mountain Band of Chippewa**. The College is governed by a ten-member board of directors made up of the chairperson and one delegate selected from each of the tribes. For over thirty-three years, United Tribes Technical College has served over ten thousand American Indian students from more than 75 federally recognized Indian Tribes across the nation.

In light of recent events the United Tribes Technical College Board feels it is necessary and crucial to voice our support regarding the recent decision by the National Collegiate Athletic Association to bar the use of Native American tribal names in post-season games by colleges and universities. The United Tribes Technical College Board strongly advocates that the University of North Dakota discontinue the use of the "Fighting Sioux" nickname.

The following Sioux Tribes have officially asked the University of North Dakota to discontinue the use of the "Fighting Sioux" nickname:

SISSETON-WAHPETON SIOUX TRIBE– TRIBAL COUNCIL RESOLUTION NO. SWST-99-015 February 12, 1999.

OGLALA SIOUX TRIBE RESOLUTION NO. 99-07XB February 3, 1999.

ROSEBUD SIOUX TRIBE February 16, 1999.

YANKTON SIOUX TRIBE February 19, 1999.

CROW CREEK SIOUX TRIBE February 18, 1999.

CHEYENNE RIVER SIOUX TRIBE February 19, 1999.

STANDING ROCK SIOUX TRIBE February 11, 1998.

We are also including supporting documents from the:

1.) DAKOTA, LAKOTA, NAKOTA SUMMIT V --Resolution Number. 93-07 that denounces the USE OF ANY AMERICAN INDIAN NAME OR ARTIFICE ASSOCIATED WITH TEAM MASCOTS BY ANY PROFESSIONAL OR NON-PROFESSIONAL TEAMS.

2.) Resolution of the Great Plains Regional Tribal Chairman's Association supporting the change of the name and logo of the University of North Dakota.

3.) Letter from Tex Hall Chairman of the Three Affiliated Tribes and the Great Plains Tribal Chairman's Association asking the State of North Dakota Board of Higher Education to meet on the decision to keep the "Fighting Sioux" nickname on December 30, 2000.

In the forthcoming days there will be an official resolution from the United Tribes Technical College Board supporting the recent decision by the National Collegiate Athletic Association to bar the use of Native American tribal names in post-season games by colleges and universities and asking the University of North Dakota to discontinue the use of the "Fighting Sioux" nickname.

The United Tribes Technical College Board, is made up of sovereign tribal entities. These tribal nations have a right to engage in government-to-government relationships. Tribal Nation representation feels that the appeals process regarding American Indian Mascots in the NCAA, *if allowed* to overlook official tribal resolutions and motions asking the University of North Dakota to discontinue the use of the "Fighting Sioux" nickname will not only undermine the whole premise of democracy but will further hamper conciliatory efforts with the University of North Dakota. The answer is quite

clear. Several Sioux Nations have asked the University of North Dakota to discontinue the use of the "Fighting Sioux" nickname. This is, after all their tribal name and no one else's.

We would appreciate the consideration you have given this issue and please, ask the NCAA to keep the ban on the use of American Indian imagery in post-season play at the University of North Dakota.

If you have any questions please feel free to contact our office.

Sincerely,



Charles W. Murphy
Chairman
United Tribes Technical College &
Standing Rock Sioux Tribe

E-1

UNITED TRIBES TECHNICAL COLLEGE
3315 UNIVERSITY DRIVE
BISMARCK, NORTH DAKOTA 58504 • PHONE 701-255-3285 • FAX 701-530-0605

July 13, 2005

NCAA Executive Subcommittee on Gender and Diversity
NCAA Executive Committee
Attn: Myles Brand, President
National Collegiate Athletic Association
P.O. Box 6222
Indianapolis, Indiana 46206-6222

Re: Team names of NCAA schools that are disrespectful of American Indian tribes and their members – from a graduate of the University of North Dakota, and the President of United Tribes Technical College in Bismarck, North Dakota

Dear President Brand:

Soon, the Executive Committee of the National Collegiate Athletic Association (NCAA) and your Subcommittee on Gender and Diversity will be considering a subject that should not be an issue in 21st century America – the use of stereotypical and often linguistically inaccurate racial names for athletic teams whose host schools are members of the NCAA. I am an American Indian, a Lakota member of the Standing Rock Tribe in North and South Dakota, and am President of United Tribes Technical College which provides on an annual basis almost 1,000 American Indians from throughout the United States with postsecondary career technical education on a campus located near Bismarck, North Dakota. Our College is governed by the Tribal Chairs and another representative from each of the five Indian Tribes with a presence in North Dakota. These Tribes include the Turtle Mountain Band of Chippewa, the Standing Rock Sioux Tribe, the Sisseton Wahpeton Oyaté, the Three Affiliated Tribes, and the Spirit Lake Tribe.

I am also a graduate of the University of North Dakota, Class of 1969. Our College and its Board of Directors have been following closely the process, called a "self-study", that the NCAA has invited the University of North Dakota (UND) to conduct regarding their continued use of the derogatory term "Sioux" as the name of their athletic teams, along with the caricature of an American Indian used as the mascot for these teams.

Our Board of Directors has gone on record on several occasions in opposition to the continued use of the name "Sioux" by UND and has not changed its mind as a result of the "self-study" by UND, which I consider to be entirely self-serving and intellectually dishonest. Among other things, our Board points out in one of our resolutions of opposition to the name being used at UND that the word "Sioux" is not a name that the Lakota and Dakota peoples of the Great Plains

ever called themselves; it is generally considered a corruption of a French word meaning "little snake". The word we use to describe ourselves, "Lakota", or in another dialect, "Dakota", means "ally", or "friend". The Lakota and Dakota peoples are not "honored" by use of the name "Sioux", it is a despicable nickname and is equivalent to African-Americans being referenced by any of a number of terms that are entirely in disrepute today.

What is particularly troubling is that the University of North Dakota has virtually ignored the position of the Tribes and the Indian community within the state in which it is located and continues, instead, to insist on the use of the "Sioux" nickname. UND insists that the nickname is an attempt to "honor" the "warrior" spirit of the native peoples of North Dakota. Nothing could be further from the truth.

This attitude of the University perpetuates stereotypical notions of indigenous peoples in the United States, everywhere the UND team plays. As the NCAA is well aware, UND has a long tradition of being competitive in several sports at the NCAA Division I level, particularly ice hockey. I believe there should be some consequences for essentially promoting a racially biased point of view by use of a derogatory stereotypical name for sports teams, and I also believe that the NCAA is in a position to do something about it.

It is for these reasons, among others discussed further below, that I support the "Minority Report" submitted to you and your subcommittee. This Report, largely authored by Leigh Jeanotte, a long time instructor at UND and a close associate of mine on issues such as the Indians Into Medicine program at UND, makes it plain that the continued controversy over the use of the "Sioux" nickname is largely responsible for a continuing and dangerously racially charged atmosphere on the UND campus, attended by several hundred American Indians among its students.

In the Minority Report, Mr. Jeannotte details many campus racial incidents that the "self-study" failed to mention. Perhaps most troubling is that the "self-study" failed to consider the comments and concerns made by Native American faculty and staff to the self-study committee members. Much of the racial tension present on campus could be dissipated if UND and its leadership finally did what more than 2000 colleges, universities, high schools and other schools have done in the past 35 years, and that is change their name to something that is not offensive to a racial minority. It is that simple.

Many will no doubt argue to you that the reasons for the racial tensions at places like UND and the University of Illinois relate to the activists, like myself, who continue to clamor for a change in the name, not the use of the nickname itself. Of course, racism does not originate in a sports team nickname, but it certainly provides a good excuse for continuing racial stereotypes that demean American Indians, who are very much still alive and present in their homelands across the United States. Removing the nickname removes one more excuse for being racist or harboring racist sentiments.

But removing the nickname is not only the right thing to do, it is also a position that should be mandated by the NCAA. The NCAA should have no place in its tournaments for teams whose nickname is racially derogatory. The NCAA would not, I suspect, tolerate a team named the

Mississippi State Darkies, or the Arkansas Niggers, the Brooklyn College Kikes, or the San Francisco State Chinks. The "Sioux" nickname is racially derogatory, and American Indians, at any place they reside within the United States, should not be expected to have to accept a derogatory nickname rubbed in their faces every time they read the sports pages or hear about the successes of the University of North Dakota any more than African-Americans or Jewish-Americans or Asian- Americans would want to have their races stereotyped with a caricature and a derogatory team name. Again, your organization can do something about it.

The "Sioux" nickname controversy is linked, of course, with a major benefactor of the University of North Dakota, Ralph Englestad. Just at the point several years ago when the present President of UND, Mr. Kupcella, was announcing to tribal leaders that the University was considering phasing out the nickname, Mr. Englestad wrote a letter to North Dakota's Board of Higher Education, which oversees the state university system, saying that if the nickname was changed, he would not complete the hockey arena then being constructed at a cost of $100 million. The Englestad Arena (known locally as the "Ralph"), is emblazoned throughout with the "Sioux" logo. After receiving the letter, and then calling a meeting with very little notice, the Board of Higher Education stated emphatically it would not change the nickname of the University of North Dakota.

Shortly thereafter, I appeared on the ESPN show "Outside the Lines" to again make the point that despite Mr. Englestad's threat, the nickname and logo needed to be removed. The moderator of the show pointed out in his introduction that the Nevada Gaming Control Board disciplined and fined Ralph Englestad, then the owner of the Imperial Palace in Las Vegas and now deceased, for holding a 100th birthday party honoring Adolph Hitler. The clear implication of this introduction by the ESPN host is that it will take some strong measures from the NCAA acting to discipline one of its member universities for promoting racial stereotypes against American Indians.

This is why your decision is so critical. Your organization can make the difference. Your organization can make it plain that until UND changes the nickname of its sports teams, NCAA will not allow these games to be broadcast on television or radio with the sponsorship of the NCAA, or that the teams will not be able to participate in the NCAA tournaments, or other appropriate sanctions. Simply taking no action should not be an option

You are the sanctioning body for major school college athletics. Please, I urge you to take action and help force the University of North Dakota to do what it should have done a long time ago: get rid of a nickname and logo that is offensive and derogatory to American Indians.

Please feel free to contact me at your convenience. My office number is listed above.

Sincerely yours,

David M. Gipp
President
United Tribes Technical College

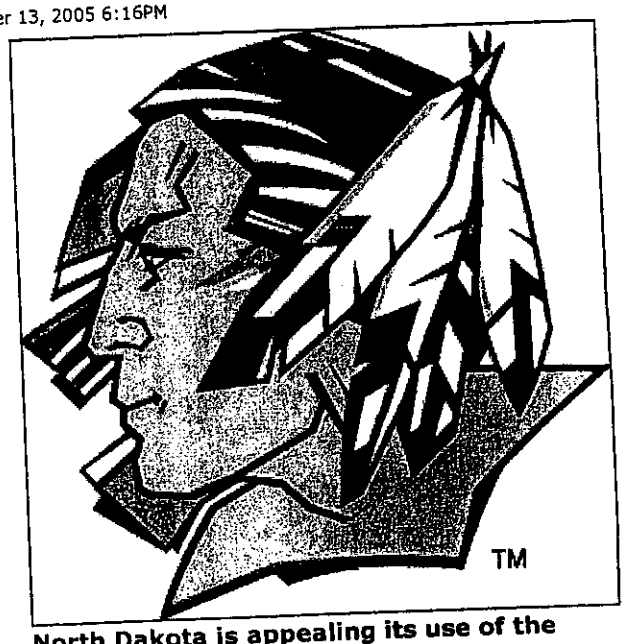
F.1

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Loud and clear

North Dakota doesn't have support for its nickname

Posted: Tuesday September 13, 2005 4:30PM; Updated: Tuesday September 13, 2005 6:16PM



North Dakota is appealing its use of the Fighting Sioux nickname and logo.

AP

Since launching its crusade August 5 against nicknames deemed "hostile or abusive" to Native Americans, the NCAA has itself endured hostility and abuse, mostly from people who deride the initiative as "political correctness run amok." The new policy includes an appeals process through which the 18 targeted schools can demonstrate they have the support of their namesake tribes. Three schools have successfully appealed on this basis -- Florida State (Seminoles), Utah (Utes) and Central Michigan (Chippewas).

ADVERTISEMENT

Now, the University of North Dakota, home of the Fighting Sioux, has appealed for an exemption -- even though UND's nickname has been officially condemned by the vast majority of the tribal leaders in the state. This should make the school's appeal exceedingly easy to reject. If the NCAA does otherwise, there would be no point in having a policy at all. "This is a moral, ethical and civil rights issue," says **Leigh Jeanotte**, the director of UND's American Indian Student Services department. "We have to chip away at this over time. Slavery wasn't changed overnight. Women's suffrage wasn't changed overnight. More and more people are becoming aware that using American Indian names in collegiate sports is just not the right thing to do."

I submit to you that Jeanotte, a Chippewa who has worked at UND for 32 years, is far more qualified to weigh in on this matter than the yahoo who hosts your local sports call-in radio show. Yes, there are plenty of Native Americans in this country who say they are not offended by the nicknames, but there are also plenty who say they are. In the end, the sentiments that should prevail are those that belong to the Indians who live near the schools in question, especially if they work there or attend as students.

UND's case for its appeal was made in a disingenous letter written to the NCAA by university president **Charles Kupchella**. In the letter, Kupchella cites two national polls indicating a majority of American Indians do not object to these nicknames. But he fails to mention that a survey conducted on his own campus five years ago showed 67 percent of UND's Native American students believed the school should junk its Fighting Sioux nickname.

F-2

Kupchella also conveniently omits the fact that four of the state's five federally recognized tribes have passed resolutions -- all predating the NCAA's current initiative -- condemning UND's use of the nickname. Kupchella proudly informs the NCAA his school has more than 25 American Indian programs, yet he declines to acknowledge 21 of those programs oppose the nickname.

Moreover, late last week, the United Tribes of North Dakota, an association of those five tribes inside the state (three of which are Sioux), passed a resolution in Bismark condemning the nickname and imploring the NCAA to turn down UND's appeal. Kupchella spoke to the gathering before the vote, but apparently the members were more influenced by the copies of hate mail they saw as well as the images on T-shirts worn by fans featuring degrading images of Sioux Indians. As Jeanotte points out, "I've been to games where I've heard opposing fans screaming, 'F--- the Sioux! F--- the Sioux squaws!' There's just no way to make sure the name is used in a respectful manner."

Ironically, when the university looked into this issue in 2000, Kupchella himself wrote an email to the state's board of higher education arguing the school should "respect the request of Sioux tribes that we quit using their name, because to do otherwise would be to put the university and its president in an untenable position." That brought an angry response by a wealthy casino owner and UND alum who was paying for a $110 million arena that was being built in Grand Forks. When the benefactor threatened to halt construction, the board passed a unanimous resolution stating UND's nickname should forever remain the Fighting Sioux.

For those of you who have been deriding the NCAA's new policy, ask yourself a simple question: Would you tolerate a similar caricature if it was focused on blacks? On Jews? On Latinos? Of course not. So why are you willing to exempt Native Americans from the same kind of political correctness?

Fortunately, the NCAA is holding its member schools to a higher standard. NCAA president **Myles Brand** unabashedly believes college sports should be "a catalyst for constructive social change." He notes that as a young boy growing up in Brooklyn, he used to watch **Jackie Robinson** play for the Dodgers at Ebbets Field, where, Brand says, "the reaction was often not favorable." So he's not surprised the NCAA has gotten so much unfavorable reaction.

"This is not political correctness. This is social justice," Brand told me. "It's very easy to underestimate the emotional effects these names have on some people. These symbols are very hurtful to many Native Americans I've talked to and received letters from. To call it political correctness is to trivialize an important human problem."

Kupchella's letter of appeal isn't just filled with half-truths and red herrings. (He asks why the NCAA opposes "Fighting Sioux" but not "Fighting Irish." Answer: Because there has never been mass protest by Irishmen and women over Notre Dame's nickname.) Kupchella also arrogantly takes the NCAA to task for its reasoning and execution. "The new policy appears to have been hastily implemented and not well thought through," Kupchella writes. He also calls the NCAA "heavy-handed" and adds, "[T]here are many more significant problems in intercollegiate athletics that should be addressed by the NCAA." As if the NCAA is works on just one issue at a time.

Kupchella knows this policy was not hastily implemented. The NCAA has been studying this for four years, dating back to the statement it received in 2001 from the U.S. Commission on Civil Rights condemning the use of Native American nicknames. The NCAA also asked the targeted schools to conduct a thorough self-assessment over the summer. The new policy -- which, by the way, doesn't call for a ban on the nicknames but simply puts limits on postseason participation -- was announced in August, but the schools have until February to file their appeals. It's main provisions take effect on February 1, 2006, and it will be

F-3

fully implemented on August 1, 2008.

It's not easy convincing people the use of Native American nicknames is a serious issue. But that's no excuse for the NCAA -- or professional sports, for that matter -- to turn away from it. If the point is to give a voice to people who otherwise go unheard, then the Native Americans of North Dakota have spoken loud and clear. The least we can do is listen.

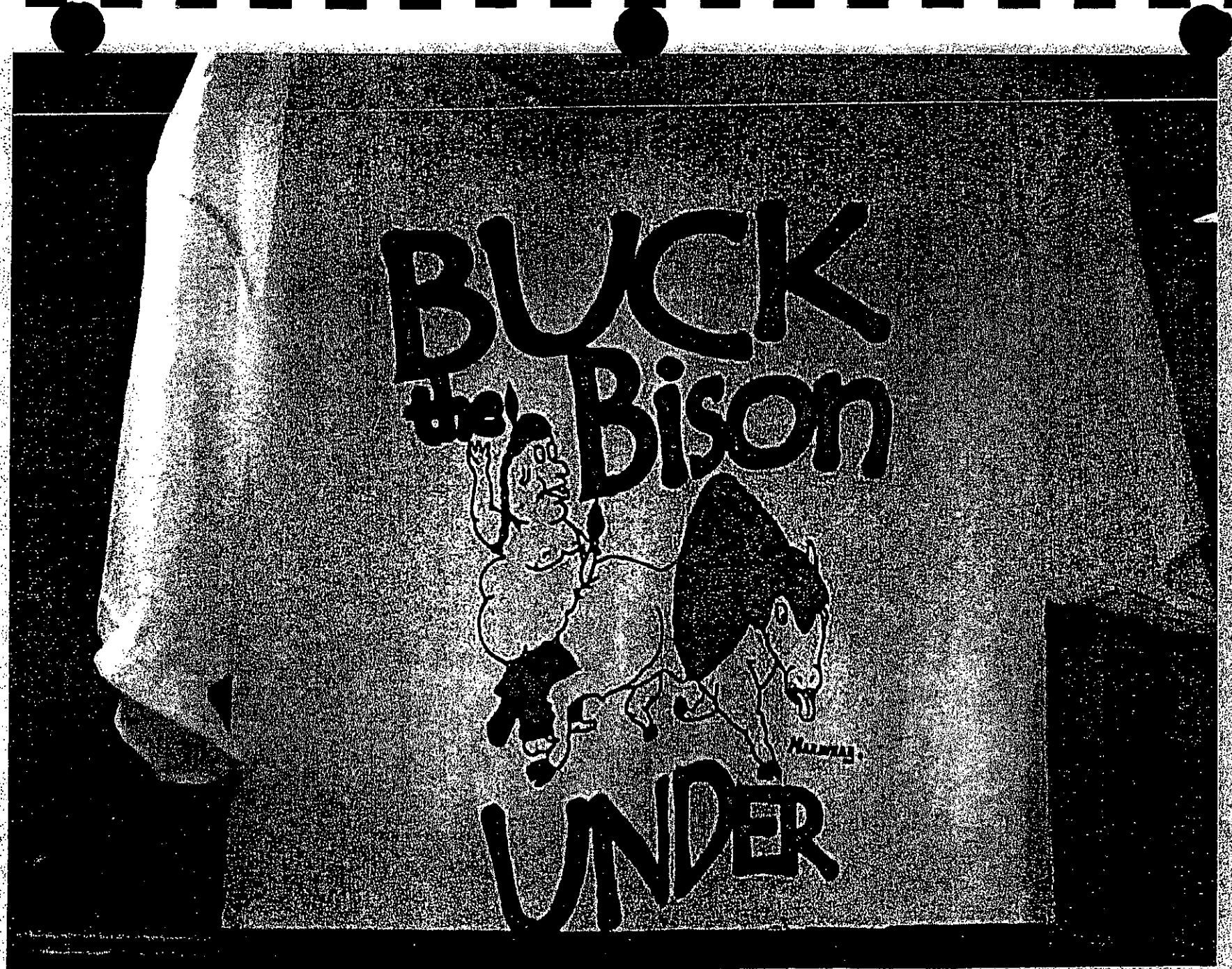
Find this article at:
http://sportsillustrated.cnn.com/2005/writers/seth_davis/09/13/hoop.thoughts/index.html

☐ Check the box to include the list of links referenced in the article.

Images of Discrimination

WARNING!

The images you are about to see may be offensive.



T-shirt worn by University of North Dakota fans





North Dakota State University fans

Second poster found outside the UND Indian Studies Department.

The small print reads…

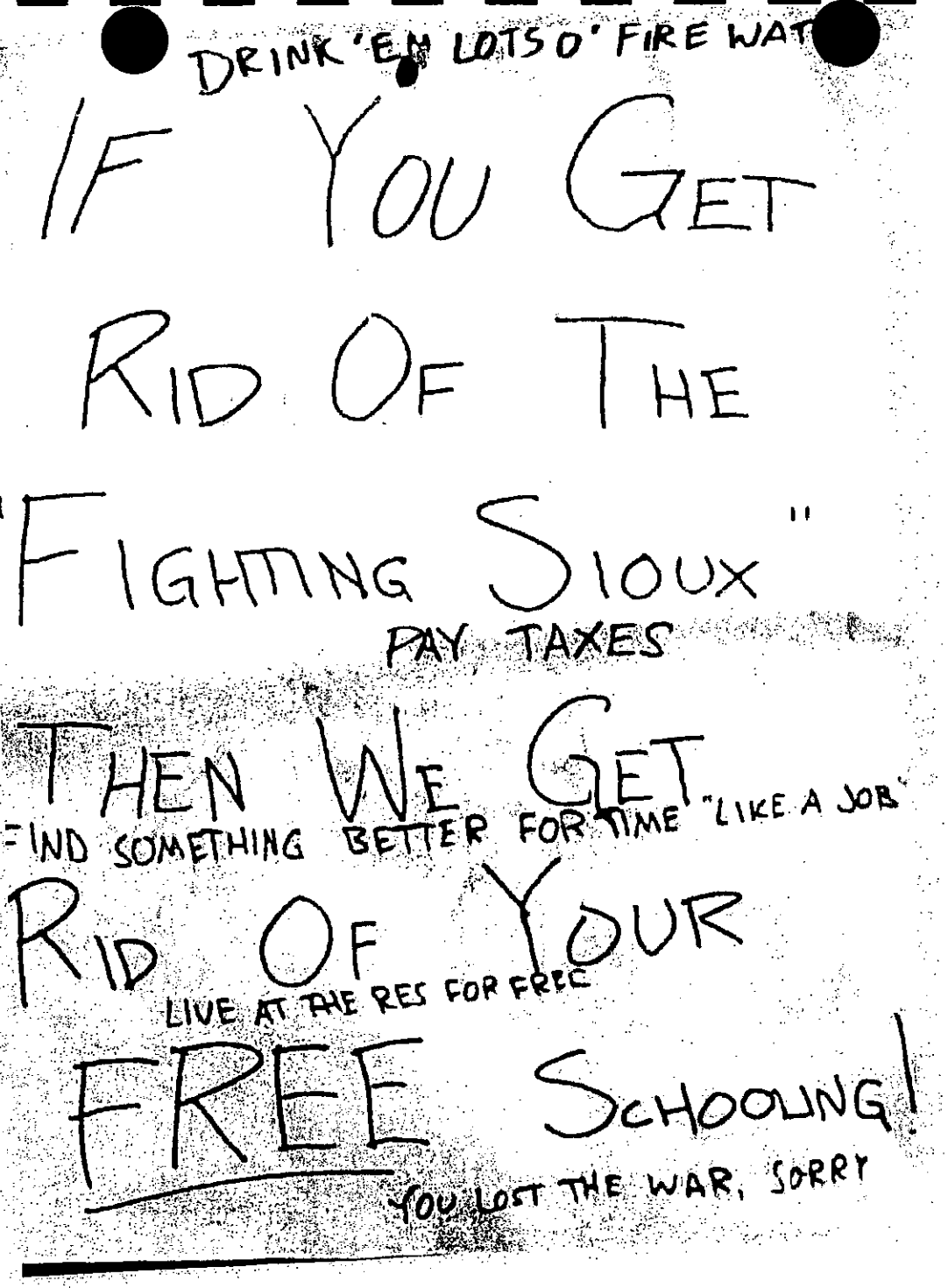
"Drink 'em lots o' Fire Water"

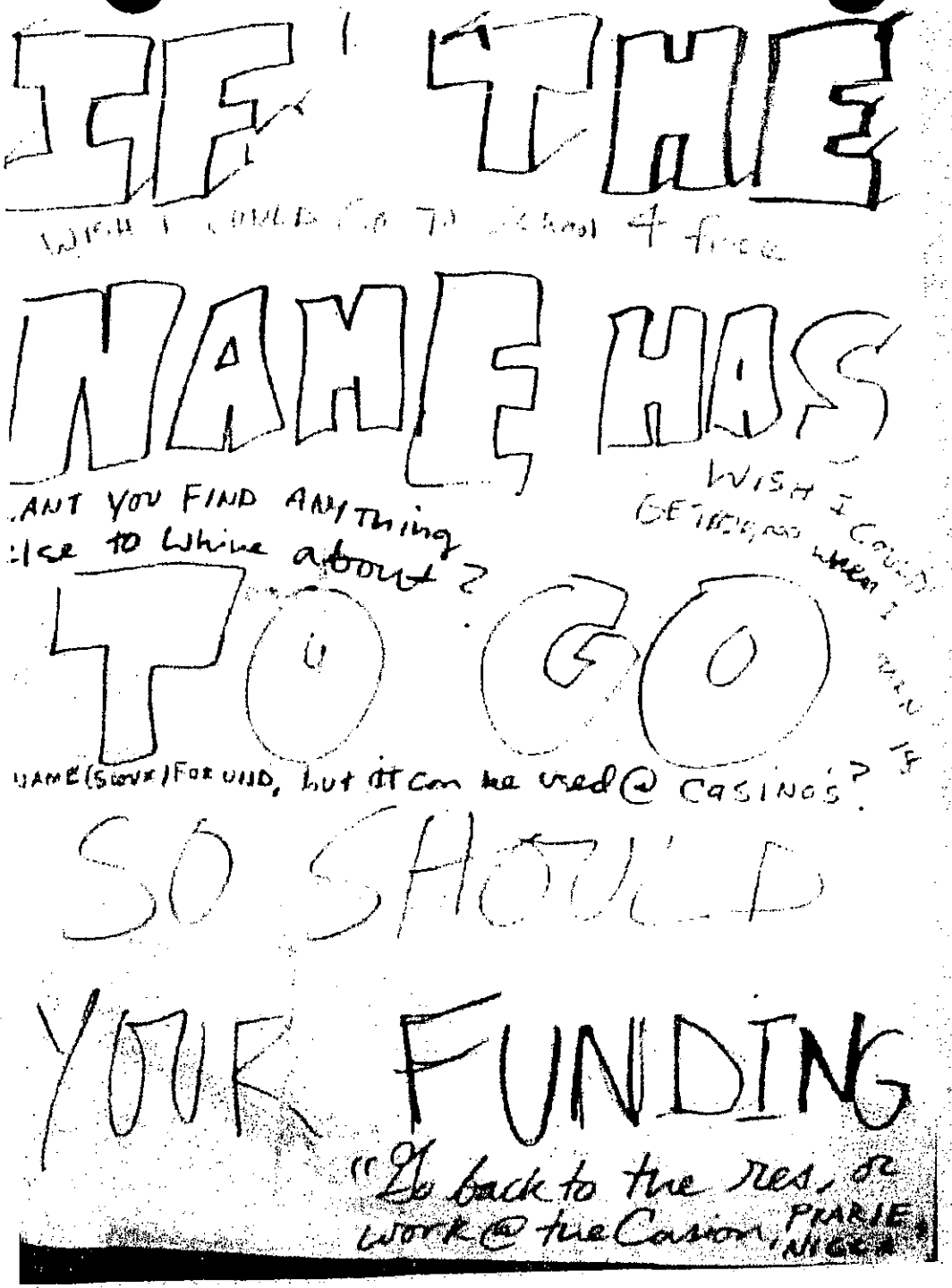
"Pay Taxes"

"Live at the res for Free"

"You lost the war, Sorry"

"Find something better for time LIKE A JOB"





Poster found outside the UND Indian Studies Department.

The small print reads…

"Wish I could go to school 4 free"

"Wish I could get $20,000 when I turn 18"

"Go back to the res, or work (at) the (Casino), Prairie Nigga"



T-shirt worn by North Dakota State University fans



Gift shop in the Ralph Engelstad Arena.



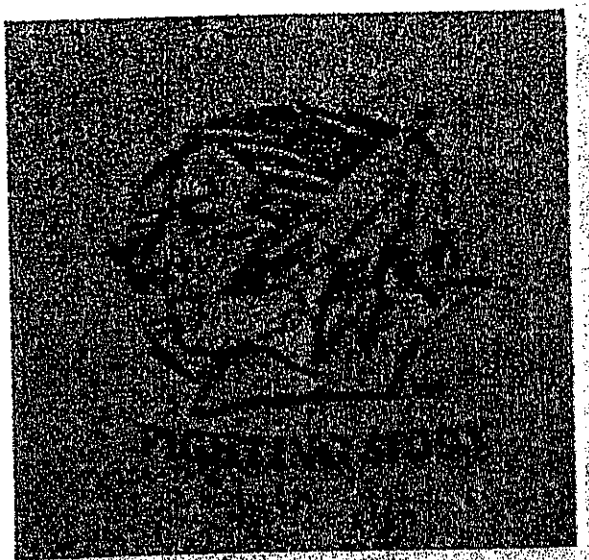
Concession stand in the Ralph Engelstad Arena.



Shot glass sold with the permission of UND.

A-10





Martini shaker sold by the Ralph Englestad Arena.

A-11



T-shirt worn by North Dakota State University fans.

A12

The University of North Dakota has not acknowledged the requests of these sovereign nations and organizations.

A-13

- GREAT PLAINS REGIONAL TRIBAL CHAIRMAN'S ASSOCIATION.
- NATIONAL CONGRESS OF AMERICAN INDIANS.
- NORTH DAKOTA INDIAN EDUCATION ASSOCIATION.
- MINNESOTA INDIAN EDUCATION ASSOCIATION.
- NATIONAL INDIAN EDUCATION ASSOCIATION.
- TWENTY-ONE UND INDIAN RELATED PROGRAMS.
- NATIVE AMERICAN JOURNALISTS ASSOCIATION.
- SOCIETY OF INDIAN PSYCHOLOGISTS OF THE AMERICAS.

- STANDING ROCK SIOUX TRIBE February 11, 1998.
- SISSETON-WAHPETON SIOUX TRIBE, SWST-99-015 February 12, 1999.
- CHEYENNE RIVER SIOUX TRIBE February 19, 1999.
- OGLALA SIOUX TRIBE Resolution no. 99-07XB February 3, 1999.
- ROSEBUD SIOUX TRIBE February 16, 1999.
- YANKTON SIOUX TRIBE February 19, 1999.
- CROW CREEK SIOUX TRIBE February 18, 1999.
- DAKOTA, LAKOTA, NAKOTA SUMMIT V --Resolution Number. 93-07.

A-1

Psychological Distress Between American Indian and Majority Culture College Students Regarding the Use of the Fighting Sioux Nickname and Logo

By Angela LaRocque, Ph.D.

Introduction

- The word "Indian" can trigger an array of images to different people.
- American Indians are often depicted as strong, brave, and warlike, and usually not perceived as contributing to contemporary mainstream culture.
- Unfortunately, many majority culture members tend to over-sensationalize their image of the American Indian of the past and ignore the real American Indian of the present and future.

Introduction

- Inaccuracies are often derived from literature, history books, television, and Hollywood made movies.
- The subset of American society that most reflects inaccuracies are professional, high school, and college athletic teams that choose to use American Indians as mascots, nicknames and logos.
- The imagery projected from American Indian mascots, logos, and nicknames is often bias, distorted, and misrepresented.

Introduction

- Stereotypes from these depictions cause modern American Indians and some non-Indians to find the utilization of American Indian mascots, nicknames, and logos not only offensive, but also dehumanizing.
- They fonder racism and preconceived attitudes towards American Indians, and because of these attitudes, many American Indian students attending schools and universities outside Indian communities are often subjected to racial slurs and attacks (Hansen & Rouse, 1987).

Introduction

- A conflict exists between American Indians and athletic teams (fans included) over the use of American Indians as sport symbols.
- The teams and fans justify the use by proclaiming their team is bringing tradition and honor to American Indians (Davis, 1993).
- They also believe that American Indians should feel proud about the recognition that these mascots, nicknames, and logos bring (Davis, 1993).

Introduction

- Controversy continues to exist about whether the use of American Indians as mascots, nicknames, and logos is an actual honor to American Indian or a form of racism.
- However, the solution to this controversy cannot be resolved so easily, because it is a complicated issue.
- Thus, this topic needs further examination in order to understand the breadth of the issue and its potential adverse effects it can pose to American Indians.

A-2

The University of North Dakota Nickname and Logo Conflict

- LaRocque (2001) conducted a study examining the differences between non-Indian and American Indian college students' attitudes, beliefs, and reactions to the Fighting Sioux nickname and logo at UND.
- Participants filled out a survey on attitudes, beliefs, and reactions to the "Fighting Sioux" logo/nickname and its surrounding controversy.

The University of North Dakota Nickname and Logo Conflict

- Results for the American Indians revealed:
  - -that the nickname did not honor UND or the Lakota/Dakota/Nakota people.
  - -they felt it was used in a disrespectful manner and that it should be changed.
  - -that historically and recently there has been an atmosphere at UND that promotes discrimination.
  - -that they have experienced discrimination.
  - -they felt their personal safety was threatened.
  - -they have experienced cultural clashes from the controversy that lead to levels of tension in classrooms.
  - -they have greater levels of stress and tension resulting from the nickname issue.

The University of North Dakota Nickname and Logo Conflict

- Results for the non-Indians were the complete opposite of the American Indian results.
- They were in support of its continued use and were not affected by the controversy surrounding its use.

The University of North Dakota Nickname and Logo Conflict

- Jollie-Trottier (2002) examined differences between American Indians and Caucasians in level of sport fan identification and sport fan motivation at UND. A question regarding the continued use of the nickname and logo was also asked.
- Results: Caucasian participants highly identified with the nickname and were more likely to attend athletic events. They also did not support a name change.

The University of North Dakota Nickname and Logo Conflict

- American Indians participants on the other hand, did not identify with the nickname and were not likely to attend athletic events.
- Many of the American Indian students reported that they were sport fans, but did not attend games because of the nickname and logo.
- They also reported that the nickname was encouraging racism and supported a name change.

Purpose of Current Study

- The purpose of this study was to investigate to what extent, if any, the "Fighting Sioux" nickname and logo affected American Indian and Majority Culture college students emotionally.
- The study compared American Indian and Majority Culture students differences of emotional reactions and distress to 2 different slide shows using images of the "Fighting Sioux" nickname and logo found around campus at UND.

A-3

Hypotheses

- American Indians will have more negative affect as a result of viewing the neutral images of the Fighting Sioux nickname/logo than Majority Culture participants.
- Majority Culture participants will experience more negative affect as a result of viewing the controversial images than American Indian participants.
- American Indian participants will have higher levels of psychological distress than non-Indian participants.

Methodology

- Participants: 36 Majority Culture and 33 American Indian students attending UND.
- Materials: Research packet consisted of 1)informed consent form 2) a demographic questionnaire 3) three Multiple Affect Adjective Checklists (MAACL-R) and 4) the Nickname and Logo Distress Scale (NLDS). American Indian participants also filled out the Northern Plains Biculturalism Inventory (NPBI).

Methodology

- Recruitment consisted of soliciting students from psychology and Indian studies classes, sending an e-mail message to American Indian students, and research assistants approaching American Indian students at the American Indian Center.
- The study was conducted in a lab in the Psychology building. Each participant was run separately.

Methodology

- Participants read through the consent form and signed it if they chose to participate-a copy was also given to them. They were then given specific instructions about the study.
- They first completed the demographic questionnaire and American Indians also filled out the NPBI. Participants then filled out the first MAACL-R to establish a baseline for each participant.
- They then viewed either the Neutral slide show or the Controversial slide show. The slide shows were counterbalanced.
- After viewing each slide show, participants were instructed to fill out the MAACL-R to measure if there was a change in emotional state.

Methodology

- After they completed the last MAACL-R, they were then instructed to fill out the Nickname and Logo Distress Scale. The study lasted approximately 45 minutes.
- Upon completion of the study, each participant was thanked for their time and were awarded either one hour of extra credit towards their class or five dollars for their participation.

Results

- Descriptive analysis of all appropriate demographic variables.
- Pearson Product Moment correlations were conducted to examine the relationships between variables and the NLDS as well as with the MAACL-R.
- Two (group) X 3 (MAACL-R) mixed factor ANOVA for each subscale of the MAACL-R
- An independent t-test was conducted to see if there was a significant difference on mean scores on the NLDS.

A-4

Results

Descriptive Analyses for Entire Sample

- N=69: 36 Majority Culture (19 females & 17 males); 33 American Indian (19 females & 15 males).
- Mean age was 23.55 (SD=6.20).
- 32% were freshman, 22% were sophomores, 17% juniors, 20% were seniors, and 9% were graduate students.
- Majors: 15% psychology; 12% nursing; 10% elementary education, and 9% aviation.
- Years attended UND: Mean length was 2.33 (SD=1.78).

Results

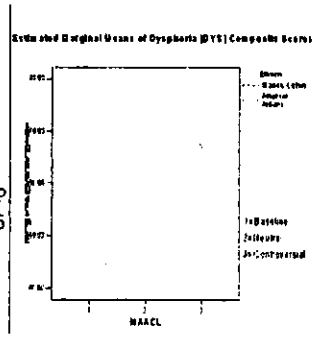
Descriptive Statistics for Dysphoria Composite Scale

Ethnic Group	M	SD	N
Baseline			
Majority Culture	43.41	8.49	36
American Indians	47.36	14.85	33
Total	45.30	12.04	69
Neutral			
Majority Culture	47.61*	13.41	36
American Indians	67.48*	20.05	33
Total	57.11	19.54	69
Controversy			
Majority Culture	67.19*	20.72	36
American Indians	77.90*	21.01	33
Total	72.31	21.39	69

*=significant at α=.05

Results

- Main effect of MAACL-R
  [F(2,67)=66, p=.000] α=.05
- MAACL-R *Ethnic Group Interaction
  [F(2,67)=5.77, p=.000] α=.05
- Main effect of Ethnic Group
  [F(1,67)=14.16, p=.000] α=.05



Results

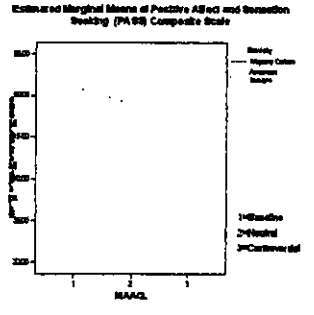
Descriptive Statistics for PASS Composite Scale

Ethnic Group	M	SD	N
Baseline			
Majority Culture	51	9.10	36
American Indians	51.48	9.57	33
Total	51.23	9.26	69
Neutral			
Majority Culture	48.97*	9.87	36
American Indians	36.54*	12.85	33
Total	43.02	12.92	69
Controversy			
Majority Culture	42.30*	10.92	36
American Indians	31.48*	11.09	33
Total	37.13	12.21	69

*=significant at α=.05

Results

- Main effect of MAACL-R
  [F(2,67)=49.94, p=.000] α=.05
- MAACL-R *Ethnic Group Interaction
  [F(2,67)=11.88, p=.000] α=.05
- Main effect of Ethnic Group
  [F(1,67)=14.16, p=.000] α=.05



Results

Descriptive Statistics for Anxiety Subscale

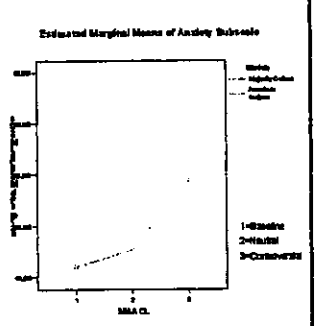
Ethnic Group	M	SD	N
Baseline			
Majority Culture	44.41	8.62	36
American Indians	45.84	11.48	33
Total	45.10	10.04	69
Neutral			
Majority Culture	45.08*	10.14	36
American Indians	51.30*	12.44	33
Total	48.05	11.65	69
Controversy			
Majority Culture	47.77	8.83	36
American Indians	48.66	7.99	33
Total	48.20	8.39	69

*=significant at α=.05

A-5

Results

- Main effect of MAACL-R
  [F(2,67)=3.23, p<.043] α=.05
- MAACL-R *Ethnic Group Interaction
  [F(2,67)=2.20, p>.118] α=.05
- Main effect of Ethnic Group
  [F(1,67)=2.51, p>.117] α=.05



Results

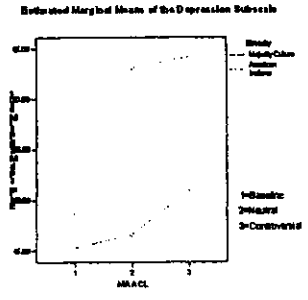
Descriptive Statistics for Depression Subscale

Ethnic Group	M	SD	N
Baseline			
Majority Culture	45.38	7.77	36
American Indians	48.48	11.64	33
Total	46.86	9.86	69
Neutral			
Majority Culture	46.61*	7.83	36
American Indians	63.12*	20.48	33
Total	54.50	17.26	69
Controversy			
Majority Culture	51.05*	8.13	36
American Indians	64.18*	17.71	33
Total	57.33	15.01	69

*=significant at α=.05

Results

- Main effect of MAACL-R
  [F(2,67)=18.99, p=.000043] α=.05
- MAACL-R *Ethnic Group Interaction
  [F(2,67)=7.51, p<.001] α=.05
- Main effect of Ethnic Group
  [F(1,67)=16.29, p=.000] α=.05



Results

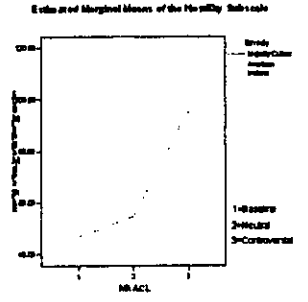
Descriptive Statistics for Hostility Subscale

Ethnic Group	M	SD	N
Baseline			
Majority Culture	47.16	10.18	36
American Indians	49.39	11.77	33
Total	48.23	10.95	69
Neutral			
Majority Culture	54.80*	26.09	36
American Indians	81.24*	33.51	33
Total	67.44	32.49	69
Controversy			
Majority Culture	95.58*	48.48	36
American Indians	111.09*	45.28	33
Total	103	47.28	69

*=significant at α=.05

Results

- Main effect of MAACL-R
  [F(2,67)=70.13, p=.000043] α=.05
- MAACL-R *Ethnic Group Interaction
  [F(2,67)=3.31, p<.039] α=.05
- Main effect of Ethnic Group
  [F(1,67)=44.84, p=.000] α=.05



Results

Independent t-Test

- An independent t-Test was conducted between American Indian and Majority Culture participant's mean scores on the Nickname and Logo Distress Scale.
- There was a statistically significant difference between the total scores [t(67)=-5.95, p=.000] at α=.05.
- American Indians had a mean score of 15(SD=5.6) and Majority Culture had a mean score of 8.8 (SD=2.67)
- The higher mean score indicates that American Indian participants has higher levels of distress due to the "Fighting Sioux" nickname and logo.

A-6

Discussion

- Probably the most interesting result of the study is the findings from the examination of the Hostility subscale. The findings indicate that there was a significant difference between American Indian and Majority Culture participants on Hostility mean scores after each slide.
- The mean scores reveal that each group had a fairly low baseline on the Hostility subscale. After the neutral presentation, the scores for each group significantly increased.
- After the Controversial slide show, scores for each group increased at a higher rate.

Discussion

- In general, the data derived from this study supported the first hypotheses that American Indian participants would have higher mean scores of negative affect than Majority Culture participants after viewing the Neutral slide show.
- Initially when each participant came in he/she had a significantly low baseline of dysphoria, after he/she viewed the Neutral presentation scores for both groups went up, but the American Indian group had a significantly higher mean score than the Majority Culture group after viewing the Neutral slide show.

Discussion

- In fact, the American Indian group's mean score after viewing the Neutral slide show was in the range for experiencing moderate distress whereas the Majority Culture participants still had scores in the normal range.
- The supportive evidence for the current hypothesis becomes even clearer when the PASS Composite Scale mean scores are examined.
- American Indian and Majority culture participants came to the study feeling fairly euthymic, exhibiting positive affect at an almost equal level.
- After viewing the Neutral slide show, both mean scores drop on the PASS scale, but the mean score for the American Indian group drops almost 15 points into the moderate distress range whereas the Majority Culture group's mean score only dropped by 2.5 points and are still in a positive affect state

Discussion

- The second hypothesis that Majority Culture participants would have more negative affect as a result of viewing the Controversial images of the "Fighting Sioux" nickname/logo than American Indians was not supported.
- The Majority Culture group had higher scores of negative affect after they viewed the Controversial slide show.
- The reason the hypothesis was not supported was because the American Indian group's mean scores became significantly higher after viewing the Controversial slide show and extremely higher than those of the Majority Culture group.
- The Majority Culture group's mean score fell into the range of moderate distress after viewing the Controversial slide show whereas the American Indian group's mean score fell into the range of significant distress. The Majority Culture group still had a score that is in the range for having positive affect on PASS.

Discussion

- The American Indian group's mean score after the Neutral slide show put American Indians in the extremely significant range for hostility and remained there after viewing the Controversial slide show.
- The Majority Culture participants mean score hit the extremely significant range after they viewed the controversial slide show.
- The extremely high scores indicate proneness to violence according to the MAACL-R manual

Discussion

- The findings from the current study suggest that the American Indian participants left the study feeling depressed and angry, with a total loss of positive affect.
- Interestingly, American Indian participants had baseline scores that were higher on the negative affect scales of the MAACL-R than the Majority Culture participants.
- One possibility for this is that the American Indian students could have initial higher levels of distress due to being a minority student in a predominately Caucasian university (Huffman, 1991; Zakhar 1987).
- Another possibility could be that the American Indian students experience a level of discrimination, racism, and prejudice that affects their daily emotional state (LaRocque, 2001).
- Another suggestion is that American Indians are a higher risk for psychological instability due to historical trauma (Walker, 2001, Lester, 1999; Bryon1997).

A-7

Discussion

- When generalizing the findings to other students in campus at UND, they can imply that American Indian students on campus may have higher levels of psychological distress on a daily basis simply from seeing images of the "Fighting Sioux" nickname and logo.
- Seeing the nickname and logo images are also making the students more prone to hostility and feelings of depression.
- Controversial images of the "Fighting Sioux" nickname/logo and the surrounding controversy contribute to even higher levels of negative affect and psychological distress.

Discussion

- Negative affect experienced at that level can contribute to American Indian students having a hard time functioning in their daily living.
- The students may have a harder time concentrating on their studies, trouble with sleeping, less motivation, and feel even more isolated.
- The hostility and anger can also contribute to difficulties of getting along with students of the majority culture which can further lead to hostile disagreements between students of the majority culture or further segregation between the majority culture and American Indian students on campus.

Conclusions

- This study provides evidence that American Indian students and Majority culture students are experiencing negative affect and psychological distress due to the "Fighting Sioux" nickname/logo and its surrounding controversy but at different levels.
- This is without even considering the added hype that occurs when a controversial issue is brought up on campus about the "Fighting Sioux" nickname/logo such as discussion panels, newspaper articles, news stories on television, classroom discussions, discussions around campus, or simply hearing verbalizations from others.

Conclusions

- Although this study provided some significant results, further research regarding the effects of American Indian stereotypical images is clearly needed.
- More specific and meaningful research needs to be done in this area, other than offering opinion polls.
- More evidence needs to be obtained regarding the direct psychological impact of using American Indians as nickname, logos, and mascots, not only on college campuses, but on a national level as well.

Conclusions

- It is clear that this is a serious issue that needs more attention since the findings of the current study do not contribute to a healthy learning environment for American Indian students.
- If this problem is not addressed, this issue will continue to contribute to the many problems American Indians face and assist in hindering their psychological well-being.

Conclusions

- This study did not offer any potential solutions to the "Fighting Sioux" nickname/logo issue, but it did offer an area that needs to be addressed in regards to the seriousness of how American Indian students are being affected.
- Hopefully, this study will contribute to the issue by providing further research in this area and by helping find a resolution to a long standing issue among schools, universities, and professional athletic teams.

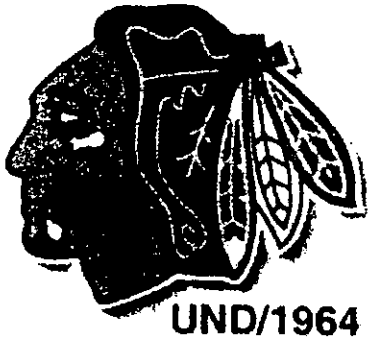
B-1

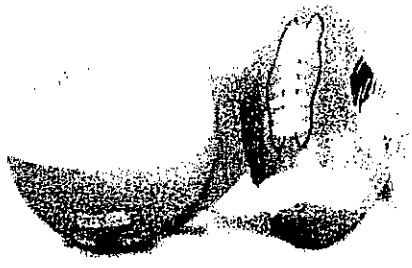
APPENDIX G

Images Shown in the Neutral Slideshow











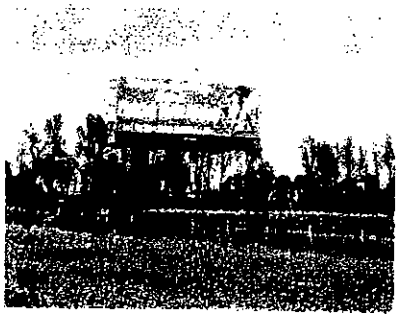


B-2







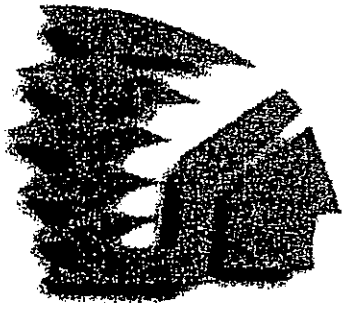








B-3













B-4

APPENDIX H
Images Shown in the Controversial Slideshow











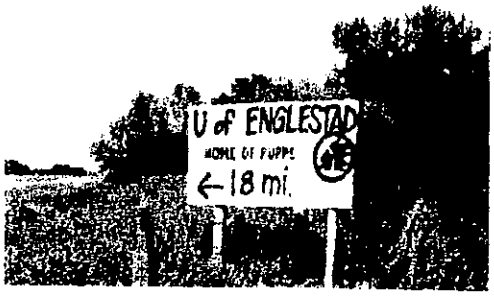
Both of these things are *just* like the other...



H-SIOUX-O is a brand of bottled water produced for and sanctioned by the University of North Dakota

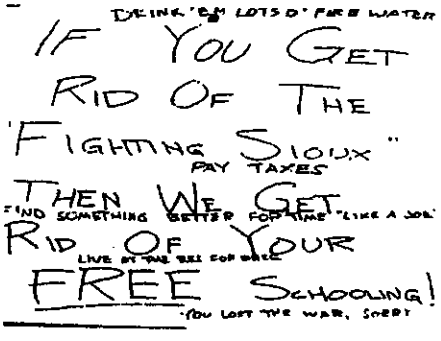
B-5

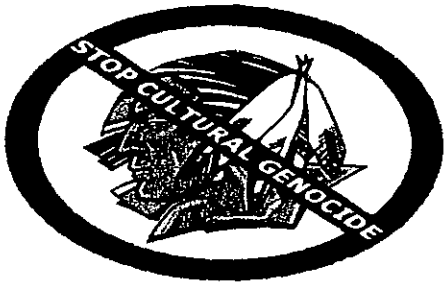


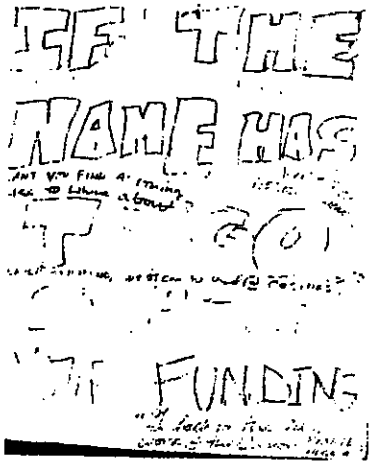

U of ENGLESTAD
HOME OF FUPPS
←18 mi.


Whose rich heritage?


OFFENSIVE
"Arabs Suck"
OFFENSIVE
"Jews Suck"
OFFENSIVE
"Blacks Suck"
NOT OFFENSIVE
"Sioux Suck"
Are We Missing Something Here?


IF YOU GET
RID OF THE
"FIGHTING SIOUX"
THEN WE GET
RID OF YOUR
FREE SCHOOLING!


STOP CULTURAL GENOCIDE


IF THE
NAME HAS
IF FUNDING


The University of North Dakota
Proudly Presents
THE NEW ADVENTURES
OF
THE
LONE RANGER!
A Staggering 200 MILLION DOLLAR production!
STARRING:
Coming Fall 2001 to an arena near you!

B-6





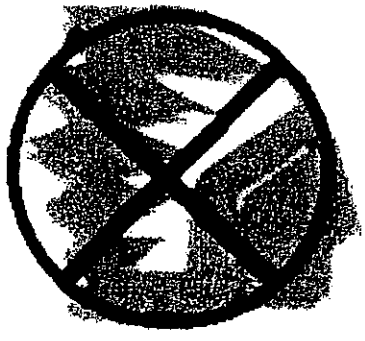
UND/1960/70s

So, this is what "honor" looks like, huh?

University of North Dakota's "Fighting Sioux" mascot unable to fight back...







C-1

American Indian Sports Team Mascots Main Index

American Indian Sports Teams Mascots, Tokens, Nicknames, Logos and Associated Symbols

- Psychological Considerations -

1. While anthropologists generally seem to agree that sports have their origins in religious rituals, the often fierce competitiveness inherent in sports has frequently resulted in analogies being draw between such activities and warfare. Thus we find that characteristics like aggression, brute strength, deception, and relentlessness, which are highly valued in combat, are also desirable traits for athletes competing in the socialized, ritual warfare of the sports arena.

By coupling American Indians to such traits via the use of symbolically related logos, etc., negative stereotypes and historical inaccuracies are subtly encouraged and perpetuated. This insideous association is particularly troublesome with regards to schools which, by virtue of their perceived authority, have the ability to strongly influence students in their development of lifelong attitudes and constructs.

2. The misconceived, self-serving concept of American Indians being universally inclined toward particularly war-like and violent behavior historically allowed for the justification of heinous acts committed against Native Peoples in the name of "civilizing" the so-called "primitives." By continuing to portray American Indians in this manner via association to the intrinsic aggression found in many sporting activities, this same rationalization is erroneously continued to this day and carries with it serious negative consequences for contemporary Native Peoples.

3. Attitudes toward the use of "Indian" related mascots are inculcated at an early age when the individual is highly susceptible to influence and social pressure. This phenomenon was successfully exploited by Adolph Hitler who paid particular attention to conditioning youth to adopt his philosophy and strategies.

Similarly, it is also interesting to note that several elements that were typically present at Nazi spectacle events including cheering crowds, martial music, marching, and lights (such as are used in night games) are also regular parts of high school football.

4. Stereotypic, cartoon-like imagery tends to dehumanize the subject. This mechanism is well-known and is often used during times of war to dehumanize an enemy. The result allows the portrayer to trivialize the concerns of the one being portrayed and simultaneously helps protect

C-2

self-esteem by relieving guilt feelings arising from hostile acts directed against the subject.

5. Through stereotyping and dehumanization objectification is facilitated. Instead of being thought of as unique individuals each of whom is capable of the full range of human behaviors and potentialities, Native Peoples are transformed into depersonalized "things" having very limited scope. At work here are the same principles found in pornography which also turns real, living people into objects of a different sort.

6. Social psycholgists tell us that an attitude is composed of three parts: cognitive; affective (emotional); and behavioral. Because of the strong and deeply rooted emotional component involved in the uses in question, attitudes toward such uses are highly resistant to change through the application of rational arguments or pure reason.

7. The use of such mascots and nicknames is a form of tokenism which consequently engenders rationalization of more serious acts or negative attitudes directed toward Native Peoples.

8. The concept of mascots and nicknames "honoring Indians" may in reality be an ego defense mechanism that helps preserve the self-esteem of the individual doing the alleged "honoring" by protecting him or her from facing the reality of what actually happened to Native Peoples.

9. The generic quality of the ersatz term "Indians" denies Indigenous Peoples the sense of pride and place derived from an understanding and recognition of one's unique cultural heritage. By failing to illustrate the great diversity found among Native American cultures, generic mascots facilitate stereotypical categorization and perpetuate false concepts that arose with the first contact between European explorers and their Indigenous counterparts.

10. "Indian" mascots "freeze" Native Peoples in a romanticized historical period that ended over a century ago - and which in truth probably never existed. By continuing to portray American Indians in such a manner the reality of how Native Americans are today - living, struggling and adapting like everyone else in the modern world - is set askew.

11. Because of the pervasiveness and longevity involved in the use of American Indian related mascots by public schools, such uses have become institutionalized. Having been institutionalized, it becomes very difficult to recognize the discriminatory and racist practices for what they are.

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A-1

August 30, 2005

Myles Brand, President
National Collegiate Athletic Association
PO Box 6222
Indianapolis, IN 46206

Bernard Franklin
Senior Vice-President for Governance and Membership
National Collegiate Athletic Association
PO Box 6222
Indianapolis, IN 46206

Dear President Brand and Vice President Franklin:

The University of North Dakota is appealing the decision made recently by the Executive Committee of the NCAA. This decision placed the University of North Dakota in a small group of institutions whose use of American Indian names and imagery was deemed "hostile" and/or "abusive" and, thereby, subjected the University to a new policy. We believe this action by the NCAA was unwarranted. Furthermore, it was based on inconsistent, vague, and unclear standards and inappropriately lumped the University of North Dakota in with schools that actually do have mascots. We do not.

We hereby ask that we be exempted from this new policy if, in fact, after more careful consideration, the policy is retained at all. Our basic argument is as follows: (1) Our nickname and logo are used with the utmost respect and class and are in no way inherently hostile or abusive. (2) We have many substantive positive relationships with American Indians and we have had and continue to have the support – even formal support (see resolution attached) – of many Indian people. (3) Furthermore, we believe that it is totally unreasonable for the NCAA to ask us to change the terms of a contract whereby we would host the regional Division I men's hockey tournament in the spring.

Our logo and nickname, Fighting Sioux, are used with consummate respect.
The logo currently in use by the University of North Dakota (Figure 1)[1] is a classic depiction of an authentic American Indian Sioux warrior, rendered by a widely respected American Indian artist, Bennett Brien (Figure 2). It is a classic representation of the warriors of the 18th and 19th centuries and is similar to images found on North Dakota highway signs, North Dakota Highway Patrol cars and on U.S. coins, images all intended to convey respect. When the logo was transferred from Mr. Brien to UND, he described the symbolism of his work: "The feathers symbolize the outstanding rewards that students, faculty, staff and alumni will achieve for academic, athletic and lifelong excellence. The determined look in the eyes symbolizes fortitude and never giving up and the focus necessary for sustained academic, athletics and

[1] Figures referenced here are available at http://www.universityrelations.und.edu/logoappeal/. Our American Indian student recruiting brochure and other attachments referenced here are also available at the same site.

lifelong achievement. The paint on the cheekbone symbolizes that life can be a battle and we have daily struggles. The color green symbolizes the development of young people and their growth at the University of North Dakota. The color yellow symbolizes the sun which provides humanity light and warmth in order that life may continue. The color red symbolizes the lifeblood that has been poured out to make our state and peoples great." It is this work of art that has become the University's athletic department logo.

Before every hockey and football game, we show to all fans a video explaining the reasons for adopting the Sioux nickname and imagery, and fans are asked to be aware of and respectful of the culture the nickname represents. This video clip is available online at: http://www.universityrelations.und.edu/logoappeal/. Prior to most home athletic contests, a statement is read about the selection, usage, and respect for our American Indian namesake.

The athletic program of the University of North Dakota is one of the classiest in America; it serves as a source of pride for many. The University's teams (Figure 3) are fiercely competitive. We played in seven national NCAA title games in the last six years. The program is free of scandal and, indeed, is exemplary in the degree to which scholarship and the student portion of student-athlete is emphasized. A few years ago, a UND football player received the NCAA's most prestigious student-athlete recognition, the Walter Byers Award. Three years ago, the University of North Dakota had the student-athlete of the year in both college and university divisions. That same year the University was ranked in the top ten of institutions in terms of student-athlete graduation rate. The association of our nickname and logo with the University are all highly positive. This has extended to the Oval Office (Figure 4) where in 2000 our national championship hockey team presented a UND Fighting Sioux jersey to the President of the United States (see also Figure 5), which he displayed proudly via multiple print and broadcast stories around the nation and beyond (Figure 6).

The fact that some tribes support the use of American Indian imagery and others are, at least, okay with it, suggests that, in no way, is such imagery inherently objectionable hostile or abusive. Recent polls (Peter Harris Group, National Annenberg Election Survey) have shown that a majority of American Indians don't object even to nicknames such as "Redskins," the nickname for a professional team in our nation's capital.

American Indian images and nomenclature are deeply embedded in our culture from the names of states (ours included), counties, cities, towns, special districts, numerous geographical landmarks, coinage, schools, roads, bridges, vehicles – the list is practically endless. In an earlier letter we addressed the dilemma we would have referring to ourselves as Dakotans, since Dakota is one of the names that the indigenous people of this region actually call themselves. We believe that we have both a legal and a moral right to use the nickname so long as we do so respectfully. Our intention is to honor the spirit of the great people that inhabited these Northern Plains long before white settlers and pioneers moved in. Clearly, those who chose the name "Fighting Sioux" back in the 1930s were trying to wrap our sports teams in the spirit of these great people – the courage, loyalty to cause, honor, and giving the full measure of commitment.

It's not clear to us all of what we might address in this appeal, because the policy issued by the NCAA is in many ways vague and unclear. We reject the NCAA argument that Indian nicknames and logos stereotype American Indians. The nickname Fighting Sioux and our logo no more stereotypes current-day American Indians than depictions of pioneers would stereotype

the current-day white population. Additionally, the use of our logo doesn't stereotype any more than the use of the nicknames "Braves" and "Warriors" used by sport teams on reservations here in the Dakotas, or American Indian powwows which we host annually here on our campus (Figure 7).

It certainly cannot be that the "problem" is reference to any human being or, as indicated in the NCAA's press release, any nickname derived from "national origin" (a phrase used in your new policy statement). If so, the nicknames "Fighting Irish" and "Vikings" would also have been included in our grouping by the NCAA. We don't see that there is a substantive difference between "Fighting Sioux" and "Fighting Irish." Both have the names of nations, both are preceded by the adjective "fighting." This leaves the new policy clearly open to the charge of "inconsistency." Since the policy includes references to Indians but not to Vikings or Irish, it discriminates on the basis of race, which is not only wrong but also probably illegal.

If the use of a nickname is dependent on approval of a particular Tribal Council, in our case this is complicated by the fact that there are many Sioux Tribes. Approval could be withdrawn by one Council, then reinstated by another. The NCAA went down a very slippery slope in indicating that because there are no Aztec Tribes, somehow "Aztecs" is okay; yet the NCAA decision includes the University of Illinois, which also invokes the name of a tribe without a formal governance structure. This is terribly unclear and, at best, inconsistent. Who is empowered to grant or deny the use of words in the public domain? Who controls the use of Irish, Scandinavians (Vikings), Mountaineers, "Sooners" or even "Gamecocks"? Should the NCAA really be assuming – or even implicitly assigning – the right?

Four years ago, a formal charge was made to the Office for Civil Rights alleging racial harassment and a hostile environment on the University campus which increased when issues of the logo and nickname were discussed. The Office for Civil Rights sent several teams to our campus to investigate these allegations. They interviewed many of our University community members—faculty, students, and staff, and after two separate visits, one consisting of more than a week, the Office for Civil Rights made no findings. They indicated that there were areas which needed further refinement and publicizing. Since the University was already revamping its harassment policy to broaden its scope to address all areas of harassment and this as well as the issues of notice, training, and oversight had already been discussed among the University's administration, the University agreed to enter into a consent agreement. The consent agreement, into which the University and the Office for Civil Rights entered, covered issues of fine tuning policy, notice, training, and oversight—areas already undergoing review and implementation at the time of the allegations. The entire University community went through a training program and passed a test at the end, indicating they understood both the spirit and the letter of laws governing sexual harassment, discrimination, and racial harassment. One hundred percent of all full-time UND employees, as well as part-time faculty teaching at least one class per semester, and all graduate assistants passed the test.

<u>University of North Dakota's relationship with American Indians</u>

The NCAA apparently has determined that a major factor in the lifting of the ban in the case of Florida State is approval of the Seminole Tribes, both in Florida and in Oklahoma. The University of North Dakota has had the approval of the use of the nickname from the Sioux Tribe geographically closest to us. A copy of the resolution in effect since 2001 is attached. As stated earlier, we are aware that configurations of Tribal Councils change, along with the individual and collective views regarding sports teams and imagery, especially now because of

the pressure precipitated by the recent NCAA pronouncement about hostility and abuse. It has been reported to us that the NCAA's pronouncement has generated a lobbying effort to have the Spirit Lake Nation rescind its earlier resolution. Years ago, representatives of the other Sioux tribe in the state, gave the University approval to use the nickname, even though this was superseded by a subsequent Tribal Council resolution. An article covering that event written by an American Indian, Art Raymond, a writer for the *Grand Forks Herald*, is appended to this Letter of Appeal.

The University of North Dakota's relationship with the American Indian people is far more substantive and fundamental than the use of a nickname. UND enrolls more than 400 American Indian students and has more than 25 programs (see enclosures) – probably proportionately more than any institution of higher education in the United States – designed to support American Indian students. Over the years, we have had dozens of cooperative programs in education, health care, economic development, etc. with the tribes throughout our region. We should do more; we will do more. Our resolve to do so is spelled out in our strategic plan, which is available on line at the University's Web site. (http://www.und.edu/stratplan2/)

Some of the University's programs (see packet enclosed) in support of American Indian students are as follows:

Indians Into Medicine (INMED) – This long-standing program (more than 30 years) encourages American Indian students beginning in middle school to enter health careers and prepare for practice in underserved Indian communities. This program has generated nearly 20 percent of this nation's American Indian physicians.

Native Media Center – This initiative of the UND School of Communication is designed to encourage Native people to enter a wide variety of communication fields. Some of the programs include the Native Youth Media Institute, the Native Media Caucus, and *Native Directions* magazine.

Recruitment/Retention of American Indians Into Nursing (RAIN) – RAIN is designed to meet health care needs of Indian people by addressing nursing shortages in Indian Country. RAIN provides academic advisement and support services for American Indian students pursuing undergraduate degrees (B.S.N.), graduate nursing (M.S.), and Ph.D. degrees.

National Resource Center on Native American Aging – This Center provides information and services to the country's ever-growing population of American Indian, Alaska Native, and Native Hawaiian elders in an effort to enhance and improve their quality of life.

Indians Into Psychology Doctoral Education (INPSYDE) – The program's objectives are to train more American Indian psychologists and to instill cross-cultural competencies in non-Indian students, faculty, and staff.

Indian Studies Degree Program – The Department of Indian Studies offers either a B.A. degree or a minor in association with another discipline. Course topics include tribal history, contemporary issues, federal Indian law and policy, oral traditions, contemporary literature, and American Indian arts, among others.

American Indian Student Services (AISS) – This program works with all aspects of the University to maintain a climate responsive to the needs of American Indians and serves as general institutional contact for American Indian students. AISS is responsible for administering the American Indian Center, coordinating recruitment, establishing communication channels, assisting with institutional planning, advising faculty and staff as to the needs of American Indian students, and serves as an advocate. The program also acts as a liaison with the reservation communities to bring the University and the students' home communities closer.

Indians Into Engineering – Our School of Engineering and Mines just this week received a $100,000 grant from the 3M Company to support a program for American Indian engineering students.

Indians Into Aviation – Currently under development is a program for American Indians patterned after the INMED program to support American Indian students in our world-class John D. Odegard School of Aerospace Sciences.

An American Indian Programs Council, which advises the President of the University directly, is co-chaired by two University vice presidents.

The University of North Dakota supports American Indians in the celebration of culture with no fewer than three powwows each year (Figures 7, 8 and 9). One of these events is for children, another large powwow involves many different Indian Nations, and still another event is sponsored by the Indians Into Medicine program. Also, we are building an American Indian Programs Center on our campus (Figure 10). We have had one for many years that has outgrown its space. This new center will be a temporary one on the way to a large American Indian Center/Museum to be built in the future.

In all, the University annually hosts more than $5 million in American Indian student programming on campus with funding coming from the Tribes themselves, from the federal government, from state government, from private sources, and from the University.

Given all of the above, how then might we explain that there are those who oppose the use of the nickname "Fighting Sioux" and the use of the logo described above? While we do not fully understand the nature of the opposition by some to what the University considers to be respectful uses of the logo and the nickname, at least some of the opposition to the University's use of the nickname has to do with the behavior of fans, particularly those of opposing teams. In the past, fans of opposing teams and, apparently, even some of our own, less-gifted, fans have worn T-shirts and made banners that went beyond respectful to the point of obscene. UND turns away all such fans and confiscates such offensive materials. We have not seen evidence of such behavior in recent years. Effective measures have also been taken at the schools of opposing teams.

It is noteworthy that fan behavior is an issue throughout intercollegiate athletics and, in fact, is a much bigger, broader issue than the one in question here. Obscene language and other unsportsmanlike behavior unrelated to American Indian imagery is a problem at many institutions, and we, the NCAA, and conferences throughout the country have been attempting to and continue to address this broader issue. The NCAA should redouble its effort to address this issue.

The new policy appears to have been hastily implemented and not well thought through.

Should the ban imposed by February 1, 2006, be applied to the Division I Men's Ice Hockey Regional Tournament in March, the effect would be the modification of an existing contract between UND and the NCAA. The policy, as we understand it, would require us to cover images which would, in some cases, alter the architecture of a building we do not own. This would cost hundreds of thousands of dollars, if not more, which could be used for much better things.

We made a bid and the NCAA accepted it. Typically, an existing contract cannot be unilaterally modified. The NCAA and UND reached "agreement" some time ago, and by the NCAA's acceptance of our bid, entered into an agreement. Thus, the prohibition on hosting post-season tournaments at pre-awarded sites with the current contract in place, regardless of the ultimate disposition of the appeal in its entirety on its merit, is improper and should be withdrawn. In the meantime, implementation of your policy at this time shows that the policy was hastily implemented.

In the longer term, the new policy is a breach of fundamental fairness in that it envelops our student-athletes in a way that's unfair. It translates an "opinion" by members of a Committee into a competitive disadvantage for athletes by losing the right they may have earned to compete with a home venue advantage in play-off competition.

We certainly have no intention, in any case, of covering images at the site of the regional ice hockey tournament. To do so would imply that we are somehow ashamed of an 80-year history of one of the nation's most successful athletic programs and of our link to the proud heritage of this region.

Time could be better spent on other things by all involved.

The Chair of the Spirit Lake Nation, Myra Pearson, was quoted in the newspaper here recently as saying that people on her reservation laugh about this issue, indicating that there are far more important issues to be addressed. As pointed out in an earlier letter, there are many more significant problems in intercollegiate athletics that should be addressed by the NCAA. We don't understand why with its philosophical commitment and insistence on institutional control, the NCAA has decided to intervene in a very heavy-handed way on this issue. The NCAA can't possibly know the nuances of the social ecology of all of the places in this country where this issue now has been re-ignited.

Again, we ask that UND be exempted from what was, no doubt, a well-intentioned policy, but one that was inappropriately applied to us. We ask that you consider this case with the same dispatch as was used in the Florida State decision.

Your exemption of Florida State Seminoles, despite the fact that FSU does have a mascot (we do not), who, as we understand it, is a non-American Indian who goes through routines on a horse – all of which apparently is deemed to be fine by the Seminole Tribe – certainly sets the expectation that our logo and nickname will be exempted as well.

Respectfully submitted,

Charles E. Kupchella
President

CEK/cw
Attachments
c: Robert Potts, Chancellor, North Dakota University System
State Board of Higher Education Members
UND President's Cabinet
UND Alumni Association & Foundation Board
Fellows of the University
Governor John Hoeven
Senator Byron Dorgan
Senator Kent Conrad
Representative Earl Pomeroy
Wayne Stenehjem, Attorney General
ND State Legislative Leadership
Roger Thomas, Commissioner, North Central Conference
Bruce McLeod, Commissioner, Western Collegiate Hockey Association

B-1

Infamous letter from Ralph Engelstad to Charles Kupchella (UND President)

Dear Chuck:

I am sorry to have to write this letter, but as a businessman, I have no choice.

Commitments were made to me by others and yourself, regarding the Sioux logo and the Sioux slogan, before I started the arena and after it had been started.

These promises have not been kept, and I, as a businessman, cannot proceed while this cloud is still hanging above me.

I do not think that you realize the amount of work and the amount of people involved to make this new arena a success, and time is running out on us to accomplish what we have to do prior to its opening, such as selling tickets, advertising, installation of equipment and many other details that no one thinks of. All of this takes time.

I understand that you are to make a decision sometime in the future, but I do not understand where one person gets the authority to make this kind of a decision on behalf of all alumni, students, the city of Grand Forks and the state of North Dakota.

We previously had shut down (construction of the arena) for approximately two months, as per your request that we didn't do anything while you were working on the name. We took the logo and the slogan off of the Web site, and we have been trying to do our job, but we are faced with an uphill hurdle because of your indecisiveness.

I have been given the authority to use this logo and the slogan, and we have hesitated to do so in order to help you with your decision-making, but it has now come to the point that we must march forward. The only item that this logo and slogan have been used on, are the models of the arena which we sent out the first part of the week. These models were ordered many, many months ago, and are part of our advertising campaign to sell season tickets.

I figure that we must sell 10,000 tickets between now and July if we are going to fill this arena, and we need to fill this arena to make money for the UND hockey team and the athletic department.

I know what has been said in the past, and you know what has been said in the past, and if the commitments are not lived up to, then I have no reason to live up to my commitment to build an arena for the UND hockey team.

We are in the process of hiring more people to sell tickets and advertising, which does nothing to help us, but benefits UND.

Please be advised that if this logo and slogan are not approved by you no later than Friday, December 29, 2000, then you will leave me with no alternative to take the action which I think is necessary.

B-2

If the logo and slogan are not approved by the above-mentioned date, I will then write a letter on December 30, 2000, to all contractors and to everybody associated with the arena, canceling their construction contracts for the completion of the arena. I am a man of my word, and I will see to it that a settlement is made with all subcontractors, with anyone who has purchased prepaid advertising. I will refund money to all ticket holders and abandon the project. It would then be left up to you if you want to complete it, with money from wherever you may be able to find it.

I have spent, as of this time, in excess of $35 million, which I will consider a bad investment, but I will take my lumps and walk away.

As I am sure you realize, the commitment I made to the university of North Dakota was, I believe, one of the 10 largest ever made to a school of higher education, but if it is not completed, I am sure it will be the number one building never brought to completion at a school of higher education, due to your changing the logo and the slogan.

You need to think how changing this logo and slogan will affect not just the few that are urging the name change, but also how it will affect the university as a while, the students, the city of Grand forks, and the state of North Dakota.

If I walk away and abandon the project, please be advised that we will shut off all temporary heat going to this building, and I am sure that nature, through its cold weather, will completely destroy any portion of the building through frost that you might be able to salvage. I surely hoped that it would never come to this, but I guess it has.

It is a good thing that you are an educator because you are a man of indecision, and, and if you were a businessman, you would not succeed, you would be broke immediately.

Please do not consider this letter a threat in any7 manner, as it is not intended to be. It is only notification to you of exactly what I am going to do if you change this logo and this slogan.

In the event it is necessary to cancel the completion of the arena, I will then send notification to anyone who is interested, informing them of the same, and laying out to them all of the facts and all of the figures from all of the meetings that led me to make this decision.

Your lack of making a decision has hung over our heads too long, and we can't go on with it any further.

It is your choice if you want to put hundreds of construction workers out of a job, and deprive the local businesses of Grand forks of the income they are receiving f4rom the construction of the arena.

I might also add that while I was dictating this letter, I received a call from Dean Blais (UND's hockey coach), who is completely fed up, and he informed me that he is possibly going to tender his resignation if the logo and the slogan are changed.

Yours truly,
Ralph Engelstad

A-1

Native Media Center

University of North Dakota

School of Communication
P. O. Box 7169
Grand Forks, ND 58202-7169
1629-0601

1.701.777.2478
FAX 1.701.777.3090
NativeD@sage.und.nodak.edu

Date: February 3, 1999

To: UND students, staff, and faculty; Student Senators; President Kendall Baker; Vice President Robert Boyd; Vice President John Ettling; Leigh Jeanotte, Director of Native American Programs; Dr. Birgit Hans, Chair of Indian Studies Department; Terry Wanless, Athletic Director; Earl Strinden, Executive Director of Alumni Association: and, Members of North Dakota's Fifty-sixth Legislative Assembly

From: Native Media Center
Lynda Kenney, Director
Holly A. Annis, Assistant Director
and
Native Directions staff and students

Re: Changing the University of North Dakota's "Fighting Sioux" nickname and logo

We are writing on behalf of the Native Media Center and *Native Directions* staff and students to notify you that we are in full support of UND's Student Senate Resolution 18 and North Dakota's House Concurrent Resolution 3024 to change the University's "Fighting Sioux" nickname and logo.

We believe the "Fighting Sioux" nickname and icon perpetuate negative and derogatory stereotypes of Native people, especially the Lakota, Nakota and Dakota peoples.

We believe the nickname works against the University's mission to promote diversity and pluralism and as "a conduit through which individual perspectives and global interrelationships are enhanced by a learning and teaching environment that is aware of and sensitive to the diversity of its constituents."

We believe the University of North Dakota promotes racism, bigotry, and harassment through its continued use of the "Fighting Sioux" nickname and logo.

We consider the nickname and its prolific use to be, at best, unethical and, at worst, dehumanizing.

We respectfully urge University of North Dakota students, staff, faculty, senators and administrators, and North Dakota legislators to lead the way in progressive reform and change UND's nickname to one that truly honors our great university and state.

Elections Committee Ann A-2

SR18

UND Student Senate

Senate Resolution

To: Student Senators

From: Lars Teppo, Graduate School Senator
Chaminda Prelis, University Apartments Senator
Sarah Wieland, Honors Senator
Colleen Smith, Off-Campus Senator

CC: Jonathan Sickler, Steve Snortland, President Kendall Baker, Vice President Robert Boyd, Vice President John Ettling and Leigh Jeanotte, Director of Native American Programs

Date: 25 January 1999

Re: Discontinuing the use of the "Sioux" nickname and logo by UND

Whereas, "Sioux" is a derogatory term for the Dakota, Lakota, and Nakota peoples used by the U.S. Government and originally by French fur traders and trappers meaning "snakes"; and,

Whereas, the use of the "Sioux" nickname and logo has been a controversial issue for the last 30 years; and,

Whereas, by virtue of resolution, American Indian Governments have respectfully asked UND to discontinue use of the "Sioux" nickname and logo; and,

Whereas, using as a nickname and logo the name of a people that has been discriminated against does not promote a spirit of unity as we move into the 21st century; and,

Whereas, it is part of UND's mission to promote multiculturalism, and continued use of the "Sioux" name perpetuates archaic stereotypes of American Indians; and,

Whereas, other national universities have changed their athletic nicknames and logos without detriment to the integrity of their athletic and academic programs; and,

Whereas, if the group to whom "Sioux" refers does not feel honored by its use, then we as a University do not honor the people, despite our intentions;

Therefore, be it resolved that the UND Student Senate, in true honor of the word and request of the Dakota, Lakota and Nakota peoples, stands for discontinuing the use of the "Sioux" name as the nickname and logo of our university.

12-10-1

8.1

SUMMIT V RESOLUTION NO. 93-07

DAKOTA, LAKOTA, NAKOTA SUMMIT V
LAKOTA NATION
KYLE, SOUTH DAKOTA
JUNE 7 - 11, 1993

RESOLUTION OF THE DAKOTA, LAKOTA, NAKOTA NATIONS AND BANDS OF THE 1993 SUMMIT V MEETING TO DENOUNCE THE USE OF ANY AMERICAN INDIAN NAME OR ARTIFICE ASSOCIATED WITH TEAM MASCOTS BY ANY PROFESSIONAL OR NON-PROFESSIONAL SPORTS TEAMS.

WHEREAS, the Dakota, Lakota, Nakota Nations convened and discussed the issue of Mascot names of professional and non-professional sports teams, including college and high school teams, and

WHEREAS, the Delegates, herein condemn the racist and condescending attitude of team owners, colleges and high schools, which continue to demean the members of our Nations, now

THEREFORE BE IT RESOLVED, that the Nations and Bands here assembled, denounce the use of any American Indian name or Artifice associated with team mascots, and

BE IT FURTHER RESOLVED, that the Nations call upon all reasonable individuals in decision making positions, to voluntarily change racist and dehumanizing mascots.

C-E-R-T-I-F-I-C-A-T-I-O-N

I, as Recording Secretary of the Dakota, Lakota, Nakota Nations Summit V Meeting, hereby certify that this Resolution was presented and approved during a formal duly called and convened meeting of the Dakota, Lakota, Nakota Nations, held on the 10th day of JUNE, 1993, in Kyle, South Dakota.

B-2

JOCELYN GIBBONS
Recording Secretary
Ikce Wicasa Ta Omniciye
1993 Summit V

A-T-T-E-S-T

JOHN YELLOW BIRD STEELE
Chairman
Ikce Wicasa Ta Omniciye
1993 Summit V

GERALD ONE FEATHER
Coordinator
Ikce Wicasa Ta Omniciye
1993 Summit V

DISTRICTS
ATTACHMENT 3
C-1
AUG 23 2005
SRST HEW MINUTES

Charles W. Murphy
Chairman

Tom Iron
Vice Chairman

Elaine McLaughlin
Secretary

AT LARGE
Joe Keepseagle
Dave Archambault
Jesse Taken Alive
Reva Gates
Sharon Two Bears
Verna Bailey

Robert Cordova
Cannonball District
Raphael Joe Walker
Fort Yates District
Joe Strong Hand
Wakpala District
Palmer Defender
Kenel District
Dean Bear Ribs
Bear Soldier District
Milton Brown Otter
Rock Creek District
Farren Long Chase
Little Eagle District
Randal White Sr.
Porcupine District

February 16, 1999

Dr. Kendall Baker, President
University of North Dakota

Dear Dr. Baker:

I hope the New Year has brought you many successes at UND as I am certain your office has as many challenges. As Chairman of the Standing Rock Sioux Tribe, I have learned of some very interesting and troubling developments at your fine university. The matter I speak of is the use of the "Fighting Sioux" nickname and mascot at UND. As you know we have taken three specific actions in the recent years regarding this matter as a government representing well over 10, 000 members. The purpose of this letter is to respectfully remind your office and any other entities directly or indirectly associated with UND of our position. It is of course very simple and very clear, "Eliminate and stop the use of the " Fighting Sioux" nickname and caricature today."

President Baker, while I understand the word tradition is used as rationale to continue the use of the nickname, our people find it very offensive and disrespectful to say the least. This fact alone should compel those fine and respectful people at UND to find a more suitable nickname for such a fine institution as the University of North Dakota. Furthermore, I have learned a prominent political figure and UND Alumnus has stated that continued use of the Sioux nickname would keep our people from being isolated. Such views about our people and our capabilities or inabilities in his mind, will only perpetuate the ridiculous stereotypes that exist about American Indians in the United States as we enter a new century. Again, this type of ignorance demonstrates if not borders complete lack of respect for our people. Dr. Baker, it is well past the time to allow for any race of people to be used as a nickname or caricature for any reason. Respectfully, we ask your institution to hear our call to stop the use of the "Fighting Sioux" nickname immediately. It is most unfortunate that matters have escalated to episodes where racial slurs and related acts have been reported to my office stemming from the Sioux nickname used by UND. Again the elimination of the nickname would result in the elimination

P.O. BOX D • FORT YATES, NORTH DAKOTA 58538
PHONE: 701-854-7201 or 701-854-7202 • FAX 701-854-7299

AUG 23 2005

of such dehumanizing acts that I understand are a regular occurrence at UND athletic events. To subject our People, Students and their Children to such acts at UND are uncalled for and will not be tolerated.

SRST HEW MINUTES

Finally, I understand in a letter dated February 8, 1999 to Mr. Earl Strinden, North Dakota Alumni Association from Mr. Clarence W. Skye, Executive Director, United Sioux Tribes of South Dakota has led some to believe that the use of the Sioux nickname is not opposed by Sioux Tribes in South Dakota. Please understand that this is first of all NOT TRUE and secondly, Mr. Clarence Skye does not speak for the Standing Rock Sioux Tribe on this matter as some may have been led to believe upon reading the letter to Mr. Strinden. The actions taken by the Standing Rock Sioux Tribe are simply of the contrary and call for the "Fighting Sioux" nickname to be discontinued for use by the University of North Dakota.

In closing President Baker, I hope our position is understood in that our respect for UND remains, only the nickname and mascot is challenged as it challenges our People, our History, our Culture and our Generations to come. Our support and prayers continue with those students and other supporters at UND who seek to see the Sioux nickname eliminated at UND and at any other institutions who choose to use human beings as their Nicknames, Mascots or Caricatures.

Sincerely,

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

CWM:JTA

PC: file

ATTACHMENT 3

REGULAR TRIBAL COUNCIL MEETING
FOLLOW-UP

AUG 23 2005

MEETING DATE: December 2, 1998

SRST NEW MINUTES

#59. MOTION WAS MADE BY DEAN BEAR RIBS, SECONDED BY RANDY WHITE, TO APPROVE FOR TO OFFICIALLY USE THE TRIBAL EQUIPMENT TO MOVE FEMA TRAILERS.

AMENDED TO: To be use only for this project and be returned upon completion of the project.

ROLL CALL VOTE: MURPHY, C. - EXCUSED

ARCHAMBAULT, D.	E.	KEEPSEAGLE, J.	YES
BAILEY, V.	E.	LONG CHASE, F.	YES
BEAR RIBS, D.	YES	MCLAUGHLIN, E.	NO
BROWN OTTER, D.	YES	SEE WALKER, R.	NO
CORDOVA, R.	NO	STRONG HEART, J.	NO
DEFENDER, P.	YES	TAKEN ALIVE, J.	YES
GATES, R.	E.	TWO BEARS, S.	NO
IRON, T. [CHAIRING]	N.V.	WHITE, R.	YES

VOTE: YES - 7 NO - 5 NOT VOTING - 1

4 - EXCUSED

MOTION CARRIED.

#60. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY DEAN BEAR RIBS, TO APPROVE THAT THE STANDING ROCK SIOUX TRIBAL COUNCIL APPROVES OF SUBMISSION OF LEGISLATION TO THE NORTH DAKOTA STATE GOVERNMENT OPPOSING THE USE OF AMERICAN INDIAN MASCOTS AND MONIKERS BY UNIVERSITY'S AND INSTITUTIONS OF HIGHER EDUCATION IN NORTH DAKOTA SUCH LEGISLATION WILL BE CONSISTENT WITH PREVIOUS ACTIONS TAKEN BY THE STANDING ROCK TRIBAL COUNCIL.

ROLL CALL VOTE: MURPHY, C. - EXCUSED

ARCHAMBAULT, D.	E.	KEEPSEAGLE, J.	YES
BAILEY, V.	E.	LONG CHASE, F.	YES
BEAR RIBS, D.	YES	MCLAUGHLIN, E.	YES
BROWN OTTER, D.	YES	SEE WALKER, R.	YES
CORDOVA, R.	YES	STRONG HEART, J.	YES
DEFENDER, P.	YES	TAKEN ALIVE, J.	YES
GATES, R.	E.	TWO BEARS, S.	YES
IRON, T. [CHAIRING]	N.V.	WHITE, R.	

VOTE: YES - 12 NO - 0 NOT VOTING - 1

4 - EXCUSED

MOTION CARRIED.

ATTACHMENT C-4

AUG 23 2005

SRST HEW MINUTES

RESOLUTION NO. 078-98

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Article 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribe had issued Resolution No. 356-92 to demand that the University of north Dakota discontinue the use of the name and mascot of the "Fighting Sioux"; and

WHEREAS, the University Administration has stated in the past that such actions, like the racially insensitive ones of October 24, 1992, will not be tolerated on campus; and

WHEREAS, the University's continued use of the "Fighting Sioux" nickname places Native American students in the position of being mascots and subjects those students to such racially insensitive actions; and

WHEREAS, the University is sending a Dual Message to the students of UND, by attempting to provide a quality education for its students, but subjects int indigenous students, namely those from the Lakota/Dakota Peoples of North America, to continued racial actions, by not changing its "Sioux" and "fighting Sioux" nicknames; and

NOW THEREFORE BE IT RESOLVED, the undersigned Standing Rock Sioux Tribal Council hereby reaffirms the Resolution of December 3, 1992, specifically that the University of North Dakota should discontinue the use of the "Fighting Sioux" nickname.

BE IT FURTHER RESOLVED, that the foregoing resolution shall be effective on this date and shall remain in full force an effect thereafter.

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [17] members, of whom 16 constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened and held on the 11th day of FEBRUARY, 1998, and that the foregoing resolution was duly adopted by the affirmative vote of 10 members, with 0 opposing, and with 6 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT IN CASE OF A TIE.

Dated this 11th day of FEBRUARY, 1998.

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

ATTEST:

Elaine McLaughlin, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

ATTACHMENT 6-5

RESOLUTION NO. AUBSC-92-2005

SRST HEW MINUTES

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, and the recognizing governing body of the Tribe is known as the Standing Rock Sioux Tribal Council, and

WHEREAS, the racially insensitive events of October 24, 1992, at the Homecoming Parade, are not isolated events but, rather, an example of what Native Students at UND must endure while attempting to gain an education at the University, and

WHEREAS, the University Administration has stated in the past that such actions, like the ones of October 24, 1992, will not be tolerated on campus, and

WHEREAS, the University's continued use of the 'Fighting Sioux' nickname places Native Students in the position of being mascots and subjects those students to such racially insensitive actions, and

WHEREAS, the University is sending a Dual Message to the students of UND,

NOW THEREFORE BE IT RESOLVED, the undersigned feel that the University of North Dakota should discontinue the use of the 'Fighting Sioux' nickname. The undersigned further believe that the President of the University has the authority to discontinue the use of that nickname.

CERTIFICATION

We, the undersigned Chairman and Secretary of the Tribal Council do hereby certify that the Standing Rock Sioux Tribal Council is composed of 17 members of whom [illegible] constituting a quorum were present at a meeting thereof, duly and regularly called, noticed, convened, and held on the 3rd day of December, 1992, and the following resolution was duly adopted by the affirmative vote of 9 members, with 4 members not voting and with 1 opposing. The Chairman's vote is not required except in case of a tie.

DATES THIS 3rd DAY OF December, 1992

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

ATTEST: Laelia Harrison for
Elaine McLaughlin, Secretary
Standing Rock Sioux Tribe

OFFICIAL SEAL

ATTACHMENT D-1

AUG 23 2005

SRST HEW MINUTES

Sisseton - Wahpeton Sioux Tribe

LAKE TRAVERSE RESERVATION

OLD AGENCY BOX 509 • AGENCY VILLAGE, SOUTH DAKOTA 57262 0509
PHONE: (605) 698-3911 • FAX: (605) 698-3708

OFFICE OF THE TRIBAL CHAIRMAN

February 19, 1999

Dr. Kendall Baker, President
University of North Dakota
Grand Forks, North Dakota

Ref: ***University of North Dakota "Fighting Sioux" mascot***

Dear Dr. Baker,

I send you greetings from the Sisseton-Wahpeton Sioux Tribe and its 10,207 Members. The Lake Traverse Reservation has lands in both states of North and South Dakota currently and a magnificent history of these and other lands that our people are very much proud. My name is Andrew J. Grey, Sr., and I am the Chairman of the Sisseton-Wahpeton Sioux Tribe. Today I write this letter to you for two specific reasons that I am certain you will find as important as we have. The issue surrounding these reasons lies with the nickname used by the institution of higher learning you lead respectively, the University of North Dakota. This nickname I speak of is the "Fighting Sioux" and any mascot or caricature so associated with its use.

The first matter of concern I wish to appraise you of is our support for those efforts that have been on going t see the change and elimination of such a nickname. The reason of course is simple: Use of a race of people as a nickname or mascot is totally unacceptable and only leads to the dehumanization of their Being, Culture, history and Children. Only when one is in this situation can you truly understand the full impact of such demeaning an dehumanizing behavior. What do we tell our beautiful children when they are subjected to such acts either personally or when they have to read or hear about their ancestors as nickname or mascots and not humans/ Dr. Baker no amount of talk or money can address this most dire circumstance, only immediate action that results in the nickname change will be acceptable. The most recent passage of Resolution No. SWST-99-015 by our Government affirms our request to your office to change the "Fighting Sioux" nickname.

Secondly, we join our fellow Tribal Governments in stating that the United Sioux Tribes of South Dakota and it's Director, Mr. Clarence Skye does not speak for the Sisseton-

Wahpeton Sioux Tribe in this matter of the "Fighting Sioux" nickname. This simple statement should not be interpreted in any other fashion. Our support to those efforts to change the nickname by students and groups remains until the use of the nickname by UND is banned.

In conclusion, I want to convey to your office that we continue to respect UND however remain opposed to the use of the "Fighting Sioux" nickname until it is changed.

Sincerely.

Andrew J. Grey, Sr.
Tribal Chairman
Sisseton-Wahpeton Sioux Tribe

ATTACHMENT 5-3

Sisseton - Wahpeton Sioux Tribe

AUG 23 2005

SRST HEW MINUTES

LAKE TRAVERSE RESERVATION

OLD AGENCY BOX 509 • AGENCY VILLAGE, SOUTH DAKOTA 57262-0509
PHONE: (605) 698-3911

TRIBAL COUNCIL RESOLUTION NO. SWST-99-015

Fighting Sioux Nickname

WHEREAS, The Sisseton-Wahpeton Sioux Tribe is organized under a Constitution and By-laws adopted by the members of the Tribe on August 1-2, 1966, and approved by the Commissioner of Indian Affairs on August 25, 1966; and,

WHEREAS, The Constitution and By-laws ARTICLE VII, Section 1, that the Tribe shall be governed by the Tribal Council, and that the Tribal Council shall have the power to: (a) represent the Tribe in all negotiations with federal, state, and local governments; (c) to engage in any business that will further the economic development of the Tribe and its members and to use tribal funds or other resources for such purposes; (d) to make rules governing the relationship of the members of the Tribe, to Tribal property, and to one another as members of the Tribe; (g) to take actions by ordinance, resolution or otherwise which are reasonably necessary, through committees, boards, agents, or otherwise, to carry into effect the foregoing purposes; (h) to promote public health, education, charity and other services as may contribute to the social advancement of the members of the Sisseton-Wahpeton Sioux Tribe; and, (i) to adopt resolutions regulating the procedures of the Tribal Council, its officials and committees in the conduct of the Tribal Affairs; and,

WHEREAS, The University Administration has stated in the past that actions such as the racially insensitive ones of October 24, 1992, will not be tolerated on campus; and,

WHEREAS, The continued use of the "Fighting Sioux" nickname by the University of North Dakota, places Native American students in the position of being mascots, and subjects those students to such racially insensitive actions; and,

WHEREAS, The continued use of the nickkname is sending a dual message to the students of the University of North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That the Tribal Council of the Sisseton-Wahpeton Sioux Tribe hereby supports the Standing Rock Sioux Tribe in their efforts to discontinue the use of the Fighting Sioux nickname; and,

AUG 23 2005

FINALLY, BE IT RESOLVED, That the Tribal Council of the Sisseton-Wahpeton Sioux Tribe herein requests the President of the University of North Dakota to exercise his authority and band the use of that nickname.

SRSTTC MINUTES

CERTIFICATION

We, the undersigned duly elected Chairman and Secretary of the Sisseton-Wahpeton Sioux Tribal Council, do hereby certify that the above resolution was duly adopted by the Sisseton-Wahpeton Sioux Tribal Council, which is composed of 10 members, (representing a total of 15 Tribal Council weighted votes) of whom 8 constituting a quorum, were present at a Tribal Council meeting, duly noticed, called, convened and held at the TiWakan Tio Tipi, Agency Village, South Dakota, February 4, 1999, by *a vote of 8 for, 0 opposed, 0 abstained, 5 absent from vote, 2 not voting, and that said Resolution has not been rescinded or amended in any way.*

Dated this 12th of February, 1999.

Andrew J. Grey, Sr.
Tribal Chairman
Sisseton-Wahpeton Sioux Tribe

ATTEST:

Darrell Quinn, Sr.
Tribal Secretary
Sisseton-Wahpeton Sioux Tribe

Original Copy to UND

cc: Standing Rock Sioux Tribe

Oglala Sioux Tribe

Box H
Pine Ridge, South Dakota 57770
Phone: (605) 867-5821
Fax: (605) 867-1373
E-mail: haroldS@oglala.org

ATTACHMENT E-1
AUG 23 2005
SRST NEW MINUTES

OFFICE OF THE PRESIDENT
HAROLD D. SALWAY
"Akil Nujipi"

February 12, 1999

Dr. Kendall Baker, President
The University of North Dakota
Grand Forks, North Dakota

Dear President Baker,

I write to inform you of our position regarding the UND mascot issue and related controversy recently brought to my attention. Before I began, I hope all is well with you and those endeavors that face you daily. As President of the Oglala Sioux Tribe, there are many challenges that confront our People of major importance.

Mr. Baker, the mascot issue at your great university is one of these challenges. The reason for my statement is very simple in that no human race or human being should be used as a mascot.

Our position and I convey respectfully to you is that to stop the use of the "fighting Sioux" mascot and moniker at The University of North Dakota today. As we enter a new century there isn't any justifiable reason to continue to dehumanize a race of people, their history, their culture and their children today. As a member of this race of people and President of the Oglala Sioux Tribe with an estimated population of 40,000, I ask your institution to stop the use of the "fighting Sioux" mascot and moniker.

As I understand one of the latest developments in this matter is a letter addressed to Mr. Earl Strinden from Mr. Clarence Skye of the United Sioux Tribes, Pierre South Dakota. I want to assure you our position on this matter is clear and that Mr. Skye does not speak for the Oglala Sioux Tribe on this matter as proponents to keep the current mascot name at UND may be led to believe.

Our people, Elders and children are precious to us and once leadership amongst my fellow tribal governments is well informed I believe they will concur with our position. Again please understand our position in that it is simple and we support those students and other supporters who seek to change and eliminate the fighting Sioux mascot and monicker at the University of North Dakota.

Respectfully,

Harold D. Salway

Harold D. Salway, President
Oglala Sioux Tribe

ATTACHMENT E-2

AUG 23 2005

RESOLUTION NO. 99-07XB

SRST HEW MINUTES

RESOLUTION OF THE EXECUTIVE COMMITTEE
OF THE OGLALA SIOUX TRIBE
(An Unincorporated Tribe)

RESOLUTION OF THE OGLALA SIOUX TRIBE, EXECUTIVE COMMITTEE SUPPORTING THE STANDING ROCK SIOUX TRIBE RESOLUTION NO. 078-98.

WHEREAS, the Standing Rock Sioux Tribe had issued Resolution No. 356-92 to demand that the University of North Dakota discontinue the use of the name and mascot of the "Fighting Sioux", and

WHEREAS, the University Administration has stated in the past that such actions, like the racially insensitive ones of October 24, 1992, will not be tolerate on campus, and

WHEREAS, the University's continued use of the "Fighting Sioux" nickname places Native American students in the position of being mascots and subjects those students to such racially insensitive actions, and

WHEREAS, the University is sending a Dual Message to the students of University of North Dakota, by attempting to provide a quality education for its students, but subjects into indigenous students, namely those from the Lakota/Dakota Peoples of North America, to continued racial actions, by not changing its "Sioux" and "Fighting Sioux" nicknames, now

THEREFORE BE IT RESOLVED, the undersigned Oglala Sioux Tribe Executive Committee hereby support the Standing Rock Sioux Tribal Council reaffirmation of the resolution of December 03, 1992, specifically that the University of North Dakota should discontinue the use of the "Fighting Sioux" nickname.

C-E-R-T-I-F-I-C-A-T-I-O-N

I, as undersigned Secretary of the Executive Committee, hereby certify that this Resolution was adopted by the vote of: 3 for; 0 against; and 0 not voting, during a REGULAR SESSION held on the 3rd day of FEBRUARY, 1999.

ATTACHMENT 23

AUG 23 2005

SRST HEW MINUTES

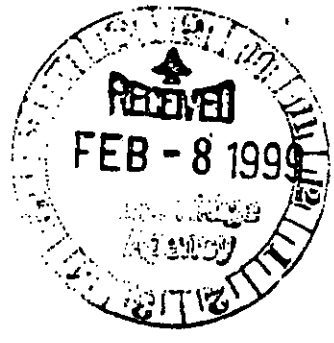
Stacy L. Two Lance

STACY L. TWO LANCE
Secretary
Oglala Sioux Tribe

A-T-T-E-S-T:

Harold D. Salway

HAROLD D. SALWAY
President
Oglala Sioux Tribe



ATTACHMENT 1

Item
AUG 23 2005

SRST HEW MINUTES

Rosebud Sioux Tribe
Office of the President
Norman G. Wilson

Rose Cordier

Geraldine Gordon

Charles White Pipe

Pat Bad Hand

February 16, 1999

Dr. Kendall Baker, President
The University of North Dakota

Dear President Baker:

Most recently I have heard of a controversial issue occurring at the University of North Dakota. After being appraised of this matter at UND, I am compelled to write you and respectfully state our position on this issue. This controversy of course is the use of the "fighting Sioux" nickname by your institution of higher learning. After reviewing this situation, I am saddened and deeply concerned about the continued use of the "fighting Sioux", as it mimics and shows complete disrespect for the Sioux Tribe. I ask and strongly urge you and the institution you lead to stop the use of such a nickname and caricature as the "fighting Sioux" immediately.

The reason is obvious and clear this practice of using the "fighting Sioux" shows the complete lack acknowledgment of this indigenous race of people. Dr. Baker our people have a beautiful history, culture, and legacy that should not be subjected to such demeaning acts for any reason, at any time. I might add that one act is to many and warrants the immediate and elimination of the "fighting Sioux" nickname at the University of North Dakota.

Finally, I state that only the Rosebud Sioux Tribe, it's people (32,000) and government only speak for us on this matter. Please consider this message to your office and other entities, so associated with UND as our position regarding the "fighting Sioux" nickname. We extend our support to those students and others who seek to stop the use of the "fighting Sioux" nickname.

Respectfully,

Norman G. Wilson, President
Rosebud Sioux Tribe

YANKTON SIOUX TRIBE

Yankton Sioux Tribe

Box 246
Marty, SD 57361
(605) 384-3804 / 384-3641
FAX (605) 384-5687

AUG 23 2005
SRST HEW MINUTES

February 19, 1999

Dr. Kendall Baker, President
University of North Dakota
Grand Forks, North Dakota

Dear Dr. Baker:

From the land of the friendly people of the Seven Council Fires we send you greetings. This letter will reaffirm our position in a letter to Chairman Charles Murphy of the Standing Rock Sioux Tribe: we hereby reiterate our opposition to the use of the "Fighting Sioux" nickname by the University of North Dakota. People and their culture should not be degraded to such use and we ask UND to "Do the right thing" and change its "Fighting Sioux" nickname.

When it comes to this issue please share this letter with those involved in this matter. Most importantly, we want to state that only the Yankton Sioux Tribe speaks for itself on this subject. In particular, Mr. Earl Strinden and the UND Alumni Association must know of our position, as we understand they may have been informed otherwise.

Dr. Baker, do not interpret our position regarding the "Fighting Sioux" nickname as being disrespectful to UND. In fact our respect remains however, we urge your university to change its nickname. In doing so you will help to change a gross misunderstanding in history regarding our people. The fact that we are from the "Land of the Friendly People of the Seven Council Fires" will replace any misnomer that we condone violence or that we are disrespectful.

Yours Respectfully

Stephen N. Cournoyer
Chairman
Yankton Sioux Tribe

OFFICERS:
STEPHEN N. COURNOYER, JR., CHAIRMAN
ROBERT COURNOYER, VICE-CHAIRMAN
HARLAN HORNED EAGLE, TREASURER
GLENFORD (SAM) SULLY, SECRETARY

Business and Claims Committee 9'S T

MEMBERS:
FRANK JANDREAU, JR.
ROBERT (PETE) KEZENA
JOSEPH MCBRIDE
EVERDALE SONG HAWK
JOHN SULLY, SR.

ATTACHMENT A-1

AUG 23 2005

SRST, HEW MINUTES

CROW CREEK SIOUX TRIBE

FORT THOMPSON, SOUTH DAKOTA 57339

February 18,1999

TRIBAL COUNCIL

Harold D. Miller Sr.
Chairman

Norman Thompson Sr.
Vice-Chairman

Tina Grey Owl
Secretary

Ronald Kirkie Sr.
Treasurer

Randy Shields Sr.
Councilmember

Donald McGhee
Councilmember

Loren Fallis Sr.
Councilmember

Dr. Kendall Baker. President
University of North Dakota
Grand Forks. North Dakota

Dear Dr. Baker:

I wish to extend to you a heartfelt handshake from the Crow Creek Sioux Tribe located at Fort Thompson, South Dakota. My name is Harold miller and I am currently the Chairman of the Crow Creek Sioux Tribe. The intent of this correspondence is to share with you a fairly simple but most serious matter that I believe needs my attention. Please accept and understand our position regarding the use of the "Fighting Sioux" nickname use by the University of North Dakota.

Our position is simple in that we oppose the use of the nickname and kindly request that UND stop immediately the use of the "Fighting Sioux" nickname and/or mascot. It is most offensive to know the use of this nickname, as I understand it results in racial remarks and acts, publicly, in particular at sports events made when UND teams compete. This alone inclines us to take our position against the use of the "Fighting Sioux" nickname.

I understand that a letter from the United Sioux Tribes of South Dakota signed by Mr. Clarence Skye led some to believe Sioux Tribes in South Dakota are in favor of the UND nickname. Dr. Baker please understand that Mr. Skye and the February 8.1999 letter to Earl Strinden does not speak for the Crow Creek Sioux Tribe on the UND nickname matter.

Please send our message and support to those students and supporters who seek and work to see the "Fighting Sioux" nickname discontinued at UND. Our respect for your University remains; likewise, our position regarding the nickname remains until it is eliminated.

Sincerely,

Harold Miller Sr.

Harold D. Miller, Chairman
Crow Creek Sioux Tribe

P.O. BOX 50 • TELEPHONE: (605) 245-2221 • FAX # 245-2470

ATTACHMENT 1

AUG 23 2005
CRST NEW MINUTES

P.O. Box 590
Eagle Butte, South Dakota 57625
(605) 964 - 4155
Fax: (605) 964 - 4151

OFFICE OF THE CHAIRMAN

MEMORANDUM

DA: FEBRUARY 19, 1999

TO: KENDAL BAKER, UND PRESIDENT

FR: GREGG BOURLAND, TRIBAL CHAIRMAN

RE: FIGHTING SIOUX

****

****

This memo again reiterates our opposition to the use of the name Fighting Sioux by UND. Attached is our resolution opposing it along with my memo to you of October 9, 1997.

Regardless of what any other tribe or tribal organization may have said, we still are in opposition to the use of this name.

Thank you for your time and consideration of this memo.

GREGG J. BOURLAND, TRIBAL CHAIRMAN

ATTACHMENT 1
I.2

P.O. Box 590
Eagle Butte, South Dakota 57625
(605) 964 - 4155
Fax: (605) 964 - 4151

AUG 23 2005
SR&T NEW MINUTES

CHEYENNE RIVER SIOUX TRIBE

OFFICE OF THE CHAIRMAN

MEMORANDUM

DA: OCTOBER 9, 1997

TO: KENDALL BAKER, UND PRESIDENT

FR: GREGG BOURLAND, TRIBAL CHAIRMAN

RE: USE OF THE NAME "FIGHTING SIOUX RESOLUTION"

****

****

Attached to this memo is a resolution passed by the Cheyenne River Sioux Tribal Council that requests:

"The Cheyenne River Sioux Tribe is Respectfully requesting the University of North Dakota to do the moral and honorable thing, by removing and discontinuing the use of the mascot name "the Fighting Sioux".

As the leader and President of your University, I am certain that you will want to remove the name, now that you are aware of our concerns. **Humanity has come a long way in the last one hundred years.** Institutes of higher learning have helped to make that happen. **The use of Native Americans as mascots** (putting us in the same class as animals) **is one of the last barriers facing colleges and universities to a real fulfillment of higher** learning.

Thank you for your time and consideration of this memo.

GREGG J. BOURLAND, TRIBAL CHAIRMAN

Cc: Tribal Council Tribal Sec. Tribal Treas.

ATTACHMENT I.3

AUG 23 2005

SRST NEW MINUTES

RESOLUTION NO. 287-97-CR

WHEREAS, the Cheyenne River Sioux Tribe of South Dakota is an unincorporated tribe of Indians, having accepted the provision of the Act of June 18, 1934, (48 Stat. 984), and

WHEREAS, the Tribe, in order to establish its tribal organizations; to conserve its tribal property; to develop its common resources; and to promote the general welfare of its people, has ordained and established a Constitution and By-Laws, and

WHEREAS, the Lakota People are proud of their heritage and culture, and

WHEREAS, the use of the mascot name the "Fighting Sioux", has been brought to the tribe's attention by Native American Students at the University of North Dakota, and

WHEREAS, the use of this name is demeaning and derogatory to the Lakota Nation, and

WHEREAS, the Cheyenne River Sioux Nation respectfully requests the University North Dakota to do the moral and honorable thing, by removing and discontinuing the use of the mascot name "the Fighting Sioux", now

THEREFORE BE IT RESOLVED, that the Cheyenne River Sioux Tribe is Respectfully requesting the University of North Dakota to do the moral honorable thing, by removing and discontinuing the use of the mascot name "the Fighting Sioux"

CERTIFICATION

I, the undersigned as Secretary of the Cheyenne River Sioux Tribe certify that the Tribal Council is composed of fifteen (15) members of whom 11, constituting a quorum, were present at a meeting duly and specially called, noticed, convened and held this 8th day of October, 1997, Regular Session; and that the foregoing resolution was duly adopted at such meeting by an affirmative vote of 11 for, 0 against, 0 not voting and 4 absent.

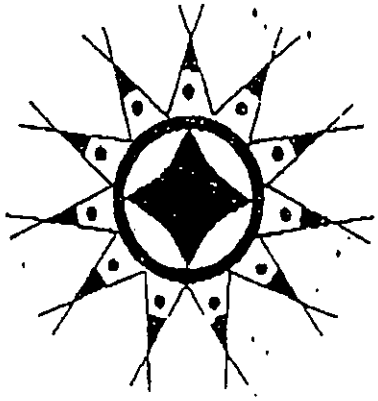
Arlene Thompson, Secretary
Cheyenne River Sioux Tribe

J.1

ATTACHMENT

UNITED SIOUX TRIBES OF SOUTH DAKOTA
Development Corporation
P. O. Box 1193
Pierre, SD 57501

Administration	224-1375
Employment Assistance	224-8861
Appraisals	224-8860
J.T.P.A.	224-8865
Natural Resources	224-8864



- Standing Rock
- Lower Brule
- Fort Totten
- Flandreau
- Rosebud
- Santee
- Crow Creek
- Pine Ridge
- Cheyenne
- Sisseton
- Yankton

AUG 23 2005

SRST HEW MINUTES

Field Offices

Aberdeen	225-9513
Rapid City	343-1100
Sioux Falls	338-8090

February 8, 1999

Mr. Earl Strinden
North Dakota Alumni Association
University of North Dakota
PO Box #8157
Grand Forks, SD 58202

Dear Mr. Strinden,

As per conversation of February 8, 1999, you requested a letter from the United Sioux Tribes reflecting on the name Sioux. You mentioned, there were students opposed to the University of North Dakota using the name Sioux. The name Sioux was derogatory as the French gave the Sioux name as it meant snake in the grass, now it has become part of the Sioux culture.

First, United States Congress designated through treaties with the Sioux Nation the Great Sioux Nation settlement. The second was the Black Hills claims with the Sioux Nation, Custer was wiped out by the great Sioux Nation and the fighting Sioux warriors. The Sioux Tribes in South Dakota were never opposed to any one over the years for using the Sioux Name. We always mentioned to the institutions or organizations not to use an Indian mascot, as it may be taken as derogatory for that ethnic group. There are businesses and Organizations that use the Sioux name in South Dakota and that is there right just as free speech. The Chairman of the Lower Brule Sioux Tribe doesn't really see a problem with the name Sioux being attached to the University of North Dakota although; we have not really consulted with all the Sioux Tribes yet.

Thank you very much Earl for your inquiry about our web-site home page.

Sincerely,

Clarence W. Skye

Clarence W. Skye
UST-Executive Director

K-1

Resolution No. 02-031-RP

Resolution of the Governing Body of the Three Affiliated Tribes of the Fort Berthold Indian Reservation

A Resolution entitled, "Opposition to the University of North Dakota's use of the Fighting Sioux name and logo"

WHEREAS, This Nation having accepted the Indian Reogranization Act of June 18, 1934, and the authority under said Act; and

WHEREAS, The Three Affiliated Tribes Consitution authorizes and empowers the Mandan, Hidatsa & Arikara Tribal Business Council to engage in activity on behalf of and in the interest of the welfare and benefit of the Tribes an of the enrolled members thereof; and

WHEREAS, the use of an American Indian stereotype demeaning by its very nature, whethere intended as such or not; and

WHEREAS, these stereotypical symbols create an environment in which degrading acts become more acceptable and promote practices that trivalize and demean Native American culture, traditions and spirituality; and

WHEREAS, this is an issue of human rights because the use of such a name and symbol at the University of North Dakota limits the ability of all Native Students to learn and take part in campus and community activities; and

NOW, THEREFORE BE IT RESOLVED, that the Mandan Hidatsa & Arikara Nation does hereby support the ending of the use of outdated and politically incorrect American Indian stereotypes at the University of North Dakota and all across America that demean the history and culture of Indian nations; and

BE IT FURTHER RESOLVED, that Mandan Hidatsa & Arikara Nation supports the aforementioned request to end the University of North Dakota's use of the "Fighting Sioux" name and its accompanying "Indian-head" symbol; and

FINALLY, BE IT RESOLVES, that Mandan Hidatsa & Arikara nation does hereby support this resolution in response to end the national use of stereotypical images that demean, rather than honor American Indian Nations.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indain Reservation hereby certify that the

tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 6 were present at a Regular Meetings thereof duly called, noticed, convened and held on the 21st day of November, 2002, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

L-1

CERTIFICATION

I do hereby certify that the foregoing resolution was duly considered and passed by the NIEA Board of Directors at is October 28 – 31, 2001 meeting in Billings Montana at which time a quorum was present.

Carole Anne Heart, President (2000-2001)

RESOLUTION #01-02

Title: In opposition to the University of North Dakota's use of the "Fighting Sioux" name and logo.

WHEREAS, THE National, Indian Education Association (NIEA) was established in 1969 for the purpose of advocating, planning, and promoting the unique and special educational needs of American Indians, Alaska Natives an Native Hawaiians; and

WHEREAS, NIEA as the largest national Indian organization of American Indian, Alaska Native and Native Hawaiian educators, administrators, parents and students in the United States, provides a forum to discuss and act upon issues affecting the education of Indian and Native people; and

WHEREAS, through its unique political relationship with Indian nationals and tribes, the federal government has established programs and resources to meet the educational needs of American Indians, Alaska Natives; and

WHEREAS, the use of an American Indian stereotype is demeaning by its very nature, whether intended as such or not, and

WHEREAS, these stereotypical symbols create an environment in which degrading acts become more acceptable and promote practices that trivialize and demean Native American culture, traditions and spirituality, and

WHEREAS, the United States Commission on Civil Rights calls for an end to the use of Native American images and team names by non-Native schools acknowledging that such names and logos when promoted by public educational institutions, teach all students that stereotyping of minority groups is acceptable, and

WHEREAS, this is an issue of human rights because the use of such a name and symbol at the University of North Dakota limits the ability of all Native students to learn and take part in campus and community activities.

WHEREAS, the President of St. Cloud University, Roy Saigo, has expressed his full support for this work and will make a presentation to the National Collegiate Athletic Association (NCAA) and the Minnesota State College and University Board (MSCUB) on how the mascot violates student rights and creates a hostile environment; and

WHEREAS, the Minnesota Indian Education Association and the North Dakota Indian Education Association have both passed resolutions opposing the continuation of the "Fighting Sioux" mascot; and

WHEREAS, the National Indian Education Association was founding in 1969 to give American Indians a national voice in their struggle to improve access to educational opportunity; and

WHEREAS, former NIEA President and Indian Educator of the Year has cosponsored this resolution; and

NOW THEREFORE BE IT RESOLVED, that the National Indian Education Association deplores, opposes and calls for an immediate end to the University of North

Dakota's use of the "Fighting Sioux" name and its accompanying "Indian-head" symbol.
NOW THEREFORE BE IT RESOLVED, that NIEA supports the aforementioned work and calls on the UND Administration to change the UND mascot from the "Fighting Sioux" to a UND American Indian student suggested mascot.:
Submitted by: Dana Goodwin-Chaffee White Earth Band of Ojibwe, Minnesota Chippewa Tribe
Robert J. Swan & James R. Swan, Chippewa Cree
North Dakota Indian Education Association, Viola LaFountain, President

CERTIFICATION

I do hereby certify that the foregoing resolution was duly considered and passed by the NIEA Board of Directors at its October 28 – 31, 2001 meeting in Billings, Montana at which time a quorum was present.
Carole Anne Heart, President (2000-2001)

RESOLUTION # 01-03

Title: Alternative Education
WHEREAS, THE National, Indian Education Association (NIEA) was established in 1969 for the purpose of advocating, planning, and promoting the unique and special educational needs of American Indians, Alaska Natives an Native Hawaiians; and
WHEREAS, NIEA as the largest national Indian organization of American Indian, Alaska Native and Native Hawaiian educators, administrators, parents and students in the United States, provides a forum to discuss and act upon issues affecting the education of Indian and Native people; and
WHEREAS, through its unique political relationship with Indian nationals and tribes, the federal government has established programs and resources to meet the educational needs of American Indians, Alaska Natives and Native Hawaiians residing on and off their reserved or non-reserved homelands; and
WHEREAS, we the members of NIEA, in the efforts and commitment to quality Indian education, are to enlighten and support those efforts; and
WHEREAS, the NIEA does support the "Building Blocks for Our Future," which include, "language, culture and spirituality;" and
WHEREAS, the members of NIEA do support those efforts seeking alternative initiatives to increase graduation rages among American Indian students; and
WHEREAS, the members of NIEA additionally support quality alternative education systems that promote a student's identity through culture, language an spirituality.
NOW THEREFORE BE IT RESOLVED, that the National Indian Education Association does hereby publicly support alternative education systems, specifically American Indian charter schools or those charter schools that embrace and facilitate the student's culture, language, and spirituality for the well-being of our Indian students.
Submitted by: Dana Goodwin-Chaffee White Earth Band of Ojibwe, Minnesota Chippewa Tribe

CERTIFICATION

M-1

December 30, 2000

William Isaacson
President
Board of Higher Education
State of North Dakota
State Capitol Building
600 East Boulevard Ave.
Bismarck, North Dakota 58505

Re: Use of "Sioux" as nickname for the University of North Dakota

Dear Mr. Isaacson and Board members:

I am writing this letter Chairman of both the Three Affiliated Tribes (the Mandan, Hidatsa and Arikara Nation), a Federally recognized Indian Tribe located in North Dakota and on behalf of the Great Plains Tribal Chairman's Association, comprised of the Tribal leaders of all of the sovereign Tribal Nations located in North Dakota, South Dakota and Nebraska, to request a meeting with the North Dakota Board of Higher Education as soon as possible concerning the recent decision of your board to retain the "Sioux" nickname for the University of North Dakota.

We are deeply concerned not only about the decision of the Board to keep the nickname, but also the manner in which that decision was made and the reasons given for that decision. Recently, on December 5, 2000, the President of the University of North Dakota visited a meeting of our Great Plains Tribal Chairman's Association at Prairie Knights Casino and Lodge in Fort Yates, North Dakota. He explained the process he had was going through to assess the possibility of changing the nickname of the University, which included establishment of a Commission that includes Native Americans. He pointed out that one of the reasons for establishment of the Commission was to allow a frank discussion of the issues surrounding a possible change of name.

The President of UND also heard that evening of many racially motivated incidents that have adversely impacted Native American students and others who have been on the UND campus. We appreciated the fact that the President was sincerely interested in listening to all points of view regarding the possibility of changing the name and was working towards an outcome that would be an attempt to heal wounds, rather than polarize those interested in this issue.

Following the UND President's remarks, the Great Plains Tribal Chairman's Association unanimously passed the attached resolution opposing UND's use of the Sioux nickname. A few days later this resolution was forwarded on to UND and others as an indication of our concern about the continued use of the Sioux nickname. As you may understand, the great majority of

M-2

the Tribal Nations in North Dakota, South Dakota and Nebraska are Lakota and Dakota peoples who have for some time also been known have as "Sioux" peoples, even though the word "Sioux" is generally believed to be a derogatory term. These Tribes, as well as all Tribal Nations in the United States, continue to have a profound interest in ending the use of the "Sioux" nickname and ending the use of the name or caricature of any racial group as a mascot.

Apparently, Mr. Isaacson, your board is not very interested in the views of the Native Americans that are most affected by the continued use of a derogatory racial term as the nickname of a sports team in the very state where the peoples who have been known by that term are located. A last minute agenda change and a decision on the nickname at a meeting not generally open to the public without considering even the points of view of the Commission established to consider this issue, let alone consideration of the points of view of Tribal leaders, is not satisfactory.

The decision your Board made will hardly end the debate about the use of the Sioux nickname. Rather, I believe that it may well inflame racial tensions, on campus and off. We must in fact come together to seek ways to end those tensions and to start taking the first steps on the long road towards reconciliation among Native Americans and non-Native Americans. This cannot be done without a face to face dialogue about these issues.

Tribal Nations across the United States have fought long and hard to establish a government-to-government relationship with the United States and with every state in which Tribal Nations are located. The manner in which your Board made its decision about keeping the Sioux nickname we believe runs contrary to those efforts. We need instead an effort that involves all affected groups, including the leadership of our Tribal Nations, participating in an open, active dialogue in which a rational decision about the appropriate nickname for the University of North Dakota can be made.

I would appreciate a response to my request for a meeting at your earliest opportunity.

Sincerely yours,

Tex G. Hall
Chairman
Three Affiliated Tribes
Great Plains Tribal Chairman's Association

cc: Great Plains Tribal Chairmen
Governor John Hoeven
Legislative Leaders

M-3

Resolution No. 00-12-____

RESOLUTION
OF THE
GREAT PLAINS REGIONAL TRIBAL CHAIRMAN'S ASSOCIATION

Re: Supporting Change of the Name and Logo of the University of North Dakota

WHEREAS, The Great Plains Regional (formerly Aberdeen Area) Tribal Chairman's Association (GPRTCA) is composed of the elected Chairs and Presidents of the sovereign Indian Tribes and Nations recognized by Treaties with the United States that are within the Great Plains Region of the Bureau of Indian Affairs; and

WHEREAS, The Great Plains Regional Tribal Chairman's Association was formed to promote the common interests of the sovereign Indian Tribes and Nations and their members of the Great Plains Region; and

WHEREAS, The majority of the Tribal Nations that belong to the GPRTCA are Nations affiliated with the Lakota, Dakota and Nakota peoples, known collectively by non-native peoples as the "Sioux"; and

WHEREAS, The name "Sioux" is derived from a French word which is pejorative in nature and which is offensive to the Tribal Nations who are comprised of people of Lakota, Dakota and Nakota ancestry; and

WHEREAS, The University of North Dakota, a state supported university located in Grand Forks, North Dakota, and which has developed or which sponsors many excellent educational programs for Native Americans, has continued to use the name "Sioux" or "Fighting Sioux" for its athletic teams and has adopted a caricature of a Native person as its logo used by both the University and its athletic teams; and

WHEREAS, In the United States, Native Americans are the only race or ethnic group where pejorative words describing Native Americans are used as the nickname for athletic teams of institutions of higher learning and who are, as an ethnic group, portrayed as caricatures in logos, symbols, mascots and in other ways by those institutions; and

WHEREAS, Many colleges, universities, high schools and other institutions with names offensive to the indigenous peoples of the United States have changed their school nickname, mascots and logos out of sensitivity to the desires of Native Americans to be free of such stereotypes and to be able to live without fear of such stereotypes being used against them; and

WHEREAS, The continued use of the "Sioux" nickname by the University of North Dakota allows an atmosphere of hostility to exist on the campus towards Native Americans who attend the University of North Dakota, which has resulted in numerous ugly incidents, including beatings, vandalism, death threats and other incidents directed towards Native American students and others who have advocated for a change in the nickname; and

M-4

WHEREAS, Many Tribal Nations from around the United States have requested that the University of North Dakota change its nickname from "Sioux" to some other name as quickly as possible our of simple respect and sensitivity to the concerns and desires of Native Americans everywhere, especially including the Lakota, Dakota and Nakota peoples, to be free of negative images and stereotypes which are perpetuated by the use of pejorative nicknames by educational institutions; and

WHEREAS, The present President of the University of North Dakota recently spoke to the GPRTCA at length about the issue of changing the nickname of the University of North Dakota, requesting understanding about the process now underway to consider if and when the University will change its nickname and heard from both Tribal leaders and Tribal members who expressed concerns about the nickname;

NOW, THEREFORE BE IT RESOLVED that the member Tribes of the Great Plains Regional Tribal Chairman's Association do hereby request that the President of the University of North Dakota take action to change the nickname of the University of North Dakota to a name not offensive to any ethnic group as soon as is practicable; and

NOW THEREFORE BE IT FURTHER RESOLVED that the GPRTCA hereby requests that regardless of if or when the UND nickname is changed, the President of the University of North Dakota provide as soon as possible appropriate racial and cultural sensitivity training for faculty, alumnae, administrative staff, students and other UND personnel to address the negative atmosphere that has surrounded this issue.

CERTIFICATION

This resolution was enacted at a duly called meeting of the Great Plains Regional Tribal Chairman's Association held at Aberdeen, South Dakota, on December 5, 2000, at which a quorum was present, with _____ members voting in favor, _____ members opposed, _____ members abstaining, and _____ members not present.

Dated this _____ day of _____, _____.

_____
Secretary
Great Plains Regional Tribal Chairman's Association

Attest:

_____
Chairman
Great Plains Regional Tribal Chairman's Association

North Dakota University System
HB 1263 – Senate Education Committee
March 7, 2011
Grant H. Shaft, Vice President,
North Dakota State Board of Higher Education

Chairman Freborg and members of the Senate Education Committee, good morning. For the record, my name is Grant Shaft, and I am the vice president of the North Dakota State Board of Higher Education. I am appearing today on behalf of the board.

As a member of the board, I had the primary responsibility for addressing the issue of the Fighting Sioux nickname and logo at the University of North Dakota. My purpose before your committee today is to provide you with information regarding what led the State Board of Higher Education to retire the Fighting Sioux nickname and logo and the process that led up to that decision.

NCAA ACTION

The University of North Dakota competes in athletics within the National Collegiate Athletic Association (NCAA). Accordingly, UND, like all other schools competing in NCAA-sanctioned events, is subject to the policies adopted by the NCAA.

In 2005, the NCAA adopted a policy that prohibited the display of Native American names or imagery deemed hostile or abusive on team uniforms and associated paraphernalia at NCAA championship events. Any school that continued to use Native American names and imagery was prohibited from hosting or bidding to host championship events. Further, the policy urged schools that were members of the NCAA to refrain from scheduling regular season competition with schools that use Native American names and imagery. The University of Minnesota is one institution that has taken this action against UND in all sports excepting hockey. UND was identified as a school using Native American names and imagery and was placed on the list of schools subject to the restrictions.

The NCAA provided a procedure to challenge a school's inclusion on the list and provided that a primary factor to be considered was whether a sovereign tribe had provided formal approval for the use of the name and imagery. This would be the exemption under which Florida State University is allowed to continue to use the Seminole name and imagery. UND appealed its inclusion on the list and exhausted the administrative appeal process afforded by the NCAA. On April 27, 2006, the NCAA issued a final decision rejecting UND's appeal.

With the administrative appeal options exhausted, the North Dakota State Board of Higher Education authorized the attorney general, on October 6, 2006, to initiate a lawsuit against the NCAA alleging breach of contract, breach of the implied covenant of good faith and fair dealing, and for violations of anti-trust law. Shortly after filing, the District Court issued a preliminary injunction prohibiting the NCAA from applying the restrictions against UND until trial.

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On October 26, 2007, the attorney general briefed the State Board of Higher Education on the status of the lawsuit and his extensive negotiations with the NCAA toward settlement. Based on this briefing, both the State Board of Higher Education and the attorney general approved the terms of this negotiated settlement. The settlement agreement included the following terms:

1. **UND was provided a three-year period from November 30, 2007, to November 30, 2010, to secure approval from both North Dakota Sioux Tribes, (Spirit Lake and Standing Rock).**

2. **During the three-year period, UND would not be subject to the NCAA restrictions.**

3. **If UND obtained the consent of both tribes, they would no longer be subject to the NCAA restrictions UNLESS:**

   a. **The NCAA changed its policy and no longer allowed schools to be exempt from the restrictions, or**
   b. **Either North Dakota Sioux Tribe withdrew its approval, at any time.**

4. **The District Court lawsuit was dismissed, with prejudice, meaning the litigants are barred from relitigating the subject matter of the lawsuit.**

I have included with my statement a copy of the *STATEMENT OF ATTORNEY GENERAL WAYNE STENEHJEM ON THE SETTLEMENT OF THE LAWSUIT AGAINST THE NCAA dated October 26, 2007, and a copy of the Settlement Agreement dated October 26, 2007.*

It should be noted that the attorney general is a UND alumni, and five of the eight voting members of the board at the time of the settlement had attended UND and were supportive of UND's continued use of the nickname and logo. Further, with regard to the legal issues involved, three voting members on the board were also licensed and practicing attorneys.

POST SETTLEMENT ACTIONS BY THE BOARD OF HIGHER EDUCATION

With the Settlement Agreement in place, resolution of the matter shifted from the attorney general to the State Board of Higher Education. From the date of settlement forward, the board sought two resolves:

1. Written permission from both tribes in accordance with the Settlement Agreement, AND

2. A long-term agreement with the tribes so that UND's exemption from the NCAA restrictions would not be jeopardized each time there was a tribal election or referendum.

The board felt both components were necessary so that the issue would be stabilized for a period of years, and UND could plan accordingly.

Immediately following the NCAA settlement, the board unanimously supported an exhaustive effort to obtain tribal approval. The spirit of the Settlement Agreement intended meetings at the highest level of both higher education and tribal government. This effort involved engaging all

interested constituencies, including the Standing Rock and Spirit Lake leadership, Ralph Engelstad Arena, UND, alumni, local, state and federal officials.

The board initially instructed the chancellor of the North Dakota University System to contact both tribes' leadership to determine their positions as to UND's use of the name and logo. After several meetings and follow-up discussions with the leadership of both tribes, the chancellor reported to the board that both tribal councils emphatically opposed UND's continued usage of the name and logo. During this same time period, the board monitored private efforts at obtaining approval from the tribes. These, too, were not successful.

By October 2008, both the Spirit Lake and Standing Rock tribal councils continued their opposition to the nickname and logo and formally stated to the board that they would not participate in any further discussions or meetings, regardless of the level of the participants. The board resolved to continue making every effort to obtain their approval. In furtherance of this, a committee was formed to engage the tribal leadership. Considerable time and effort was spent insuring that the committee consisted of equal representation from nickname supporters and those opposed including members from both tribes, UND, REA, government officials and the Grand Forks community. The committee made several written requests to all members of both tribal councils to meet. NONE of our written requests were answered, nor were our phone calls. The committee was therefore unable to engage the tribal leadership.

Despite the committee's efforts being rejected by the tribal leadership, the board continued its resolve to obtain approval. Since the tribal leadership was not receptive, the board embraced the referendum process at Spirit Lake. Through the efforts of Spirit Lake tribal members, a successful referendum vote was held requiring the Spirit Lake tribal council to adopt a resolution authorizing UND to use the nickname and logo. An authorizing resolution was secured that conformed to the terms of the Settlement Agreement. It should be noted that, prior to expiration of the three-year NCAA Settlement period, petition efforts had been undertaken at Spirit Lake to revoke this authorization.

While the above process was ongoing, UND's president and athletic director notified the board that UND wished to seek league affiliation with the Division I Summit League. According to UND, their lack of solid league affiliation was jeopardizing UND's transition to Division I athletics. However, the Summit League refused to consider UND's application until the nickname and logo issue was resolved. Rather than wait for UND, the Summit League intended to continue seeking other interested schools in hopes of filling its league needs. Given the potential impact to the Fighting Sioux name and logo, the chancellor, board president and two board members traveled to the Summit League offices in Chicago and met with the league's director to confirm their position. He confirmed the information provided by UND including the possibility that the league would find another school to fill the opening sought by UND. Based on the urgency presented by UND and the Summit League's stated position on the nickname and logo, the board was forced to address whether it was in the best interest of UND and its athletic programs to delay application to the Summit League until November 30, 2010, or shorten the timeline for tribal approval so as to accommodate the Summit League application.

On May 14, 2009, the State Board of Higher Education passed a motion to retire the nickname to take effect at a later date. At the same meeting, Standing Rock's leadership appeared before the board to formally express their continued opposition to the nickname and logo. They also

informed the board that there was a tribal moratorium on the issue, and the referendum process was not available under the Standing Rock constitution. This opposition was underscored in August 2009 when the Standing Rock leadership refused to schedule a referendum vote requested by members of the tribe. The Standing Rock leadership appeared before the board again on September 17, 2009, to restate its continued opposition.

Despite the urgency of UND's application to the Summit League and Standing Rock's clear opposition to name and logo approval, the board resolved to continue working for Standing Rock's approval in light of upcoming tribal elections in the fall of 2009. The elections were held, and a new chairman was elected along with several new council members. With hope of a change of posture on the part of the new tribal leadership, the chancellor and several board members immediately met with Chairman Murphy in order to clearly convey the urgency of the situation along with what approvals were needed. The new Standing Rock chairman clearly stated that the moratorium on referendum elections remained intact, that the name and logo issue was of low priority to the tribe, and, even if an agreement could be reached, it would not be binding on future elected councils. In other words, they could change their mind at any time.

Even in light of this disappointing position by the new chairman, the board continued to delay taking action on the name and logo while efforts among the tribal members at Standing Rock were underway to petition for a referendum, in spite of the existing moratorium on the same. On April 6, 2010, the Standing Rock Tribal Council received the signatures of 1,004 members supporting the nickname and logo and seeking a referendum vote. However, on June 12, 2010, the same Standing Rock Tribal Council received a petition signed by 1,010 tribal members urging the council to continue its opposition to the nickname and logo. On June 17, 2010, the tribal council voted 10-4 to refuse to consider the petitions, and stated that the council had reached a final resolution to not discuss or consider the Fighting Sioux nickname and logo further.

Overall, the Standing Rock tribal council has formally resolved on nine occasions between 1992 and 2010, under different chairmen and council makeup, to oppose UND's use of the nickname and logo or placing the issue on the ballot.

On April 8, 2010, based on the continued opposition from Standing Rock's leadership and information that UND's application would need to be submitted to the Summit League by June 1, 2010, to be considered for membership and competition in 2012, the board directed President Kelly to proceed with the process of retiring the nickname and logo. Immediately after taking this action, both the Division I Summit League and Big Sky Conference were in contact with UND regarding conference affiliation. UND has now joined the Big Sky Conference.

Between April 8, 2010, and November 30, 2010, the end date of the Settlement Agreement, the board continued to monitor Standing Rock's position with board members stating that if tribal approval was obtained by November 30, the board would reconsider the issue.

The final effort to obtain Standing Rock's approval was a Standing Rock Tribal Court action filed on October 18, 2010. Ten Standing Rock tribal members representing 1,004 petitioners filed an action against the Standing Rock Tribal Council and its individual members to compel the tribal council to give its support for UND's use of the nickname and logo or to allow a constitutional referendum vote. The tribal court denied their petition. An appeal was taken to the

Standing Rock Sioux Supreme Court as case no. COMP-10-563 and, on November 15, 2010, the Supreme Court dismissed the appeal and sent the matter back to the tribal court. The tribal court then dismissed the action in its entirety.

The above information is presented in summary fashion and cannot be specific to the hundreds of hours spent by board members attempting to secure approval from both tribes. The time and effort invested by board members greatly exceeds any reasonable expectations of such a board, and the time dedicated to doing so was often at the expense of other issues vital to UND and the other 10 institutions in North Dakota. However, during the entire process, contrary to public perception, all eight voting members of the State Board of Higher Education continued to believe that UND's use of the nickname and logo has always been respectful and dignified and that the tribes should be afforded every opportunity to give their approval.

As of November 30, 2010, the following strategies for retaining UND's use of the nickname and logo had been attempted:

1. NCAA administrative review and appeals;
2. Legal action against the NCAA in District Court;
3. Direct appeals to the tribal leadership;
4. Formation of a statewide committee to engage tribal leadership;
5. Tribal elections at Standing Rock;
6. Referendum efforts at both Standing Rock and Spirit Lake
7. Tribal court action and appeal.

This listing does not include other equally involved efforts undertaken by tribal members and private groups.

I am unable to think of any additional action, nor has anyone been able to suggest additional action, that the State Board of Higher Education or any government official or any tribal or private party could have taken to secure the approval of both tribes.

Thank you for the opportunity to appear before your committee today. The State Board of Higher Education hopes that my testimony will help the committee understand the efforts undertaken by the board and others to secure tribal approval for UND's continued use of the Fighting Sioux nickname and logo.

In the end, our constitutional obligation is to act in the best interest of the University of North Dakota. In deliberating this legislation, we ask that you do the same, even if that action differs from your personal feelings on this very emotional issue.

Thank you.

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STATEMENT OF ATTORNEY GENERAL WAYNE STENEHJEM
ON THE SETTLEMENT OF THE LAWSUIT AGAINST THE NCAA
October 26, 2007

On August 5, 2005 the National Collegiate Athletic Association ("NCAA") announced that it had adopted a policy that prohibited the display of Native American names or imagery deemed hostile or abusive on team uniforms and associated paraphernalia at NCAA Championship events and additionally prohibited schools that continue to use Native American names and imagery from hosting or bidding to host Championship events. The Policy further announced a set of "best practices" for member institutions to consider adopting which would encourage member institutions to refrain from scheduling regular season competition with schools that continue to use Native American names and imagery. The University of North Dakota ("UND") was identified and placed on the list of schools subject to these restrictions.

The NCAA subsequently announced the procedures that an identified school had for challenging its inclusion on the list of offending schools. The NCAA also announced that as part of that review, one primary factor that would be considered would be whether a sovereign tribe had provided formal approval for the use of the name and associated imagery. Through the appeals process provided by the NCAA, only those schools with namesake tribal approval were granted exemptions from the Policy.

UND appealed its inclusion on the list of offending school through each step of the internal process afforded by the NCAA. On April 27, 2006, the NCAA issued a final decision rejecting UND's appeal, determining that UND would remain on the list of offending schools deemed to be using hostile or abusive names and imagery.

At the conclusion of the appeals process, it was determined that the only remaining recourse available to UND was through the initiation of litigation. The internal appeals process was complete and UND did not have any further ability to challenge the NCAA's determination and its inclusion of UND on the list of schools deemed to be

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using hostile or abusive names and imagery. The North Dakota State Board of Higher Education subsequently authorized, and on October 6, 2006, UND initiated a lawsuit against the NCAA for breach of contract, breach of the implied covenant of good faith and fair dealing, and for violations of North Dakota antitrust law. On November 11, 2006, the District Court issued a preliminary injunction prohibiting the application of the Policy to UND until the issues were resolved at trial.

After extensive negotiation, the State Board of Higher Education on October 26, 2007, formally agreed to settle the lawsuit against the NCAA. Under the settlement terms, UND will be provided a three-year period from November 30, 2007 in which to engage in a dialogue with North Dakota Sioux Tribes for purposes of securing namesake approval for the continued use of the "Sioux" name and logo. If namesake approval is provided by both Spirit Lake and Standing Rock during this time period, the NCAA will agree to exempt UND from application of the Championship restrictions.

At the end of the three-year period, should UND not have namesake approval from both Spirit Lake and Standing Rock, UND agrees to transition to a new name and logo. The NCAA agrees to provide UND additional time until August 15, 2011 to accomplish the transition. In addition, certain imagery is allowed to transition at later dates, and some imagery would be allowed to remain indefinitely without implicating championship restrictions.

The NCAA also expressly agreed to make a public statement on the campus environment at UND. The NCAA statement is:

> The NCAA recognizes the University of North Dakota's many programs and outreach services to the Native American community and surrounding areas. The University of North Dakota is a national leader in offering educational programs to Native Americans.
>
> The University has indicated that it intends to use the current name and logo with the utmost respect and dignity, and only for so long as it may do so with the support of the Native

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> American community. The NCAA does not dispute UND's sincerity in this regard.
>
> The NCAA believes, as a general proposition, that the use of Native American names and imagery can create a hostile or abusive environment in collegiate athletics. However, the NCAA did not make any other findings about the environment on UND's campus. The NCAA also acknowledges that reasonable people can disagree about the propriety of Native American imagery in athletics. The NCAA believes that the time has come to retire Native American imagery in college sports.

This public acknowledgement was an important component of the settlement.

The settlement was agreed to by the Board by unanimous vote and approved by the Attorney General. As part of the settlement, it is stipulated that the lawsuit against the NCAA will be dismissed with prejudice.

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STATE OF NORTH DAKOTA IN DISTRICT COURT

COUNTY OF GRAND FORKS NORTHEAST CENTRAL JUDICIAL DISTRICT

State of North Dakota, by and through the North Dakota State Board of Higher Education, and the University of North Dakota,

Plaintiff,

v.

National Collegiate Athletic Association,

Defendant.

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

FILED IN THE OFFICE OF CLERK OF DISTRICT COURT GRAND FORKS COUNTY, N. DAK. ON OCT 26 20[illegible] REBECCA [illegible]SEY, CLERK BY

Civil No. 06-C-01333

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("Agreement") is entered into between the State of North Dakota, acting by and through the North Dakota State Board of Higher Education and the University of North Dakota ("UND"), and the National Collegiate Athletic Association ("NCAA").

WHEREAS, on or about August 5, 2005, the NCAA Executive Committee announced a Policy regarding the display of Native American nicknames, mascots and imagery at NCAA Championship events (the "Policy"); and

WHEREAS, pursuant to the Policy, uniforms or other paraphernalia with Native American references or images cannot be worn or displayed at NCAA Championship competitions, and institutions which continue to display or promote Native American references are prohibited from hosting Championship events; and

WHEREAS, disputes and differences have arisen between UND and the NCAA regarding promulgation of the Policy and application of the Policy to UND; and

WHEREAS, UND filed a civil action advancing certain claims against the NCAA, which action is styled *State of North Dakota, et al. v. National Collegiate Athletic Association*, Civil No. 18-06-C-1333, in the District Court, Northeast Central Judicial District, Grand Forks County, North Dakota; and

WHEREAS, UND asserted claims against the NCAA for breach of contract, breach of the implied covenant of good faith and fair dealing, and unlawful restraint of trade in violation of the North Dakota state antitrust laws; and

WHEREAS, UND recognizes that North Dakota Sioux Tribes, as the descendants of the indigenous people of the Northern Great Plains who UND strives to honor with its nickname, have important contributions in determining whether, to what extent and in what manner the "Sioux" name and the "Fighting Sioux" nickname or logo should continue to be used in conjunction with the athletic tradition at UND; and

WHEREAS, Plaintiff and Defendant each deny that they have any liability to the other, whether arising out of the foregoing lawsuit or on any other basis; and

WHEREAS, Plaintiff and Defendant desire to settle and extinguish all claims, rights of action, causes of action, and demands between themselves that they have or could have,

NOW, THEREFORE, in consideration of the agreements, releases and dismissal hereinafter described, the parties agree as follows:

1. Plaintiff hereby voluntarily settles, resolves and releases all claims asserted, or which could have been asserted, against any party or individual in the above-captioned matter, and in doing so will stipulate to dismissal of the above-captioned lawsuit with prejudice. Such dismissal shall be filed with the appropriate Court within three (3) days of the date this Agreement is fully executed. By such dismissal and by this Agreement, UND, with the intention of binding itself and its

administrators, employees and legal representatives, forever releases and discharges the NCAA and all insurers, officers, directors, employees, legal representatives, and all other persons from all claims, causes of action, and demands of every kind, including attorneys fees, arising out of, resulting from or in any manner pertaining to the Policy, except as expressly reserved in Section 3 below, which have been, or could have been, asserted by plaintiff as of the date of this Agreement.

2. In consideration for UND's release of its claims, the NCAA shall agree as follows:

a. **Effect of Namesake Approval.** UND will be provided a period of time until November 30, 2010 (the "Approval Period"), to seek and obtain namesake approval for its nickname and related imagery, during which time the Policy will not apply to UND and UND will not be restricted from hosting and bidding to host championship events for which it otherwise would be eligible to host. To secure approval qualifying UND for a namesake exemption from the Policy, UND must have clear and affirmative support for the "Fighting Sioux" nickname and logo, in the form set forth in Subsection 2(c) below, from both the Spirit Lake Tribe ("Spirit Lake") and the Standing Rock Sioux Tribe ("Standing Rock"). If UND obtains such support within the Approval Period, then the Policy will not apply to UND until such time as either (i) the NCAA abolishes the namesake exemption for all schools and makes the Policy apply, with all of its restrictions, to all exempted schools, or (ii) either of the tribes named in this Subsection withdraws or otherwise reverses its support for UND's use of the "Fighting Sioux" nickname and related imagery. The form of withdrawal or reversal, if any, is described in Subsection 2(c) below. The "Best Practices" portion of the Policy will apply to UND uniformly as it applies to all schools. No change or modification in the current namesake exemption will have any affect whatsoever on UND's rights under this Section, unless the namesake exemption is completely repealed so no member institutions are exempted from the Policy by that exemption. If the namesake exemption is completely repealed

before UND secures namesake approval as set forth in this Agreement, then UND shall not be able to gain a namesake approval under this Subsection. If the namesake exemption is completely repealed after UND secures approval as set forth in this Agreement, then no school, including UND, will be entitled to the exemption.

b. **Efforts to Influence Tribes.** The NCAA agrees that during the Approval Period it will not initiate contact with any Sioux Tribe for the purpose of attempting to persuade any tribal governmental entity to provide or not provide namesake approval to UND. Such contact, initiated by any representative duly authorized to speak on behalf of the NCAA acting in his or her official capacity for the purpose of attempting to persuade any Sioux Tribal entity to provide or not provide namesake approval, shall be a material breach of this Agreement. Nothing in this Subsection, however, shall be interpreted as precluding any NCAA official from responding to questions or seeking clarification regarding the position of one or more tribes.

c. **Form of Namesake Approval.** The NCAA recognizes that the Spirit Lake Tribal Council previously provided a resolution dated December 13, 2000. For purposes of this Agreement, the December 13, 2000 resolution shall constitute namesake approval on behalf of Spirit Lake upon written confirmation, by an individual duly authorized to bind or speak on behalf of Spirit Lake, that the Tribe approves of and affirmatively supports UND's use of the current nickname and related imagery. In the alternative, approval by Spirit Lake unrelated to the December 13, 2000 resolution shall be communicated in writing by an individual duly authorized to bind or speak on behalf of the Tribe. For purposes of this Agreement, namesake approval from Standing Rock shall be adopted by any means allowed in the Tribe's Constitution and shall be in writing. For purposes of this Agreement, withdrawal of approval by either Tribe shall be memorialized in the same form as the approval.

d. **Absence of Namesake Approval.** Within thirty (30) days from the date of this Agreement, UND will announce that its Athletic Department will transition to a new nickname and logo which do not violate the Policy or render UND subject to the Policy, if (i) it is unable to secure namesake approval as set forth in this Agreement prior to the expiration of the Approval Period, or (ii) namesake approval, once provided, is withdrawn. In the event UND announces a transition to a new nickname and logo which do not violate the Policy, the transition will be completed on or before August 15, 2011, subject to Subsection 2(f), below. If UND does not adopt a new nickname and logo, or if the transition to a new nickname and logo is not completed prior to August 15, 2011, then UND will be returned to the list of institutions subject to the Policy. In the event UND secures namesake approval but such approval is withdrawn after November 30, 2010, UND shall have one (1) year to complete transition to a new nickname and logo, unless the parties mutually agree to a period of time longer than one (1) year.

e. **Appropriate use discussions between UND and Namesake Tribes.** It is understood that UND will continue to solicit on an ongoing basis, both before and after Namesake approval is obtained, the views of North Dakota Sioux Tribes on the appropriate use of the Sioux name and related imagery in athletics at UND. No tribal resolution intended to communicate its views, concerns, or suggestions as part of this ongoing dialogue shall be construed as nullifying prior Namesake approval, unless the tribal resolution clearly expresses an intent to withdraw support as outlined in Subsection 2(a) of this Agreement.

f. **Permitted Imagery at the REA and other venues.** In the event there is a nickname change pursuant to Subsection 2(d), UND will not use a facility to host NCAA championship contests, whether or not owned by UND, which contains images commonly associated with Native American culture, except as expressly set forth herein:

1. Imagery of historical significance. Retaining imagery of independent historical significance will not disqualify the Ralph Engelstad Arena ("REA"), or other venues, from hosting NCAA championship contests. A complete list of those images which the parties agree have independent historical significance is attached hereto as Schedule A, Category 1, and incorporated herein.

2. Items Embedded in Architecture. Retaining imagery which is embedded in architecture will not disqualify the REA, or other venues, from hosting NCAA championship contests. A complete list of those images which the parties agree are embedded in architecture is attached hereto as Schedule A, Category 2, and incorporated herein.

3. Removal in the Ordinary Course. Retaining certain specifically identified imagery which will ultimately be replaced because of ordinary wear and tear will not disqualify the REA, or other venues, from hosting NCAA championship contests. A complete list of those images which the parties agree will be replaced in the ordinary course, but in no event later than the dates identified, is attached hereto as Schedule A, Category 3, and incorporated herein. Nothing in this Agreement precludes UND from bidding to host future predetermined events, including at venues which are continuing to make transitions consistent with this Agreement. The NCAA may, at its discretion, accept or reject a bid proposal from UND which provides that transitions in Schedule A which are not then, but are required to be, complete will be completed prior to the date of the championship event for which the bid is submitted.

g. **"Best Practices" Portion of the Policy.** During the Approval Period, or until such time as UND secures namesake approval during that Approval Period, the "Best Practices" portion of the Policy will also be suspended in its application to and not apply to UND. Within 5 (five) days

of the date of this Agreement, the NCAA shall issue a statement to its members which includes the following language: "Application of the Policy to UND has been suspended, subject to terms outlined in this Agreement, by mutual agreement between UND and the NCAA. No member institution should use the Policy as a factor in scheduling regular season competition with UND. Regular season competition should be scheduled in accordance with each individual institution's own internal policies and practices." If UND announces a transition to a new nickname and logo at the end of the Approval Period, or at any time during the Approval Period, then the NCAA shall issue a statement to its members which includes the following language: "UND has been removed from the list of schools subject to the Policy and no member institution should use the Policy and its prior application to UND as a factor in scheduling regular season competition. Regular season competition should be scheduled in accordance with each individual institution's own internal policies and practices."

h. **Control of Venue.** The NCAA recognizes that UND does not own or control all venues in which its athletic teams ordinarily compete. If UND is removed from the list of institutions subject to the Policy because it transitions to a new nickname and logo, UND may host NCAA championship events at facilities which do not contain or display imagery inconsistent with the Policy or this Agreement, including, but not limited to, any facilities owned and controlled by UND. It may also host regular season contests in any venue of its choosing, provided the venue is otherwise fit for use. However, absent namesake approval as set forth herein, UND expressly waives any opportunity to host NCAA championship events at outside venues (*i.e.*, venues UND does not own) containing or displaying imagery which is inconsistent with the Policy and/or this Agreement.

i. **NCAA Statement on Campus Environment.** The NCAA shall make a public announcement which includes the following language, including posting the text on the NCAA web site:

> The NCAA recognizes the University of North Dakota's many programs and outreach services to the Native American community and surrounding areas. The University of North Dakota is a national leader in offering educational programs to Native Americans.
>
> The University has indicated that it intends to use the current name and logo with the utmost respect and dignity, and only for so long as it may do so with the support of the Native American community. The NCAA does not dispute UND's sincerity in this regard.
>
> The NCAA believes, as a general proposition, that the use of Native American names and imagery can create a hostile or abusive environment in collegiate athletics. However, the NCAA did not make any other findings about the environment on UND's campus. The NCAA also acknowledges that reasonable people can disagree about the propriety of Native American imagery in athletics. The NCAA believes that the time has come to retire Native American imagery in college sports.

j. **Intellectual Property.** If UND announces a transition to a new nickname and logo at the end of the Approval Period, or at any time during the Approval Period, then any intellectual property and/or licensing rights to the "Fighting Sioux" nickname and mark shall remain, except as provided herein, the sole property of UND and shall not be further assigned, released, abandoned, exercised, or otherwise used, except as expressly permitted herein, in connection with UND's Athletic Department. UND reserves and shall have the right, at any time, to assign or transfer intellectual property or licensing rights of the "Fighting Sioux" nickname and mark to any Sioux nation or tribe. Retention of images bearing the nickname and logo as displayed on or before the date of this Agreement shall not be deemed a violation of this Subparagraph. Residual trademark rights and good will in connection with the continuing and continuous commercial use through retention of images bearing the nickname and/or logo demonstrates continuing trademark use and retention of trademark rights.

3. Reservation of Legal Rights. To the extent the NCAA modifies, adds to, expands or otherwise changes the Policy, its interpretation, or its application in any regard following the execution of this Agreement, UND shall retain the right to challenge the changed Policy in any manner and on any grounds it chooses, including without limitation through court action challenging the power of the NCAA to enact the Policy or any portion thereof.

4. Public Accountability. It is understood that this Agreement in no way restricts any officer, employee, or agent of the State of North Dakota or the NCAA from discussing the events leading up to and including this Settlement Agreement nor does the Agreement restrict any officer, employee, or agent of the State of North Dakota from releasing any public documents under Open Records Laws, except as otherwise provided by court order.

5. Modifications in Writing. Any modifications to this Agreement must be in writing and executed by UND and the NCAA.

6. Entire Agreement. UND and the NCAA agree that this Agreement constitutes all the agreements between them, and they have no other written or oral agreements or understandings.

7. Governing Law. This Agreement shall be construed and enforced in connection with the laws of the State of North Dakota.

8. Warranties. The parties warrant that before executing this Agreement, they have had the advice of their attorneys; that they have read the same and fully understand its contents and meaning; and that they have authority and competency to execute this document on behalf of the respective parties hereto.

Dated this 25th day of October, 2007.

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

By: _____

Subscribed and sworn to before me
this 25th day of October, 2007.

_____
Notary Public

PATRICIA A. SCHAEFER
Hendricks County
My Commission Expires
May 22, 2009

Dated this 26 day of October, 2007

Attest:

By: _____
Secretary

NORTH DAKOTA STATE BOARD OF HIGHER EDUCATION

By: _____
President

State of North Dakota
Office of Attorney General

_____
Wayne K. Stenehjem
Attorney General

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SCHEDULE A.

Category 1: Items of Historical Significance.

a. All championship banners, photographs, trophies, and dedication memorials and mirrors displayed at UND and associated sites including the Ralph Engelstad Arena.[1]

b. Native American sculpture (busts) and player statue currently located at Ralph Engelstad Arena.[2]

c. Sitting Bull Memorial statue on grounds of Ralph Engelstad Arena.[3]

d. Betty Engelstad Sioux Center arena entrance plaque.[4]

Category 2: Cost Prohibitive Changes.

a. In floor granite logos located at the Ralph Engelstad Arena.[5]

Category 3: Transition in the Ordinary Course of Wear and Replacement.

a. All carpet, artificial turf, tile, laminate or wood flooring, with the exception of imagery affixed through decals, provided the items are replaced no later than December 31, 2012.[6]

b. Aisle Seating standards at the Ralph Engelstad Arena, provided the items are removed no later than December 31, 2012.[7]

c. Brass etched logos located within the Ralph Engelstad Arena, provided the items are removed no later than December 31, 2011.[8]

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[1] See Exhibit A, Pictures 1-25. Such championship items earned during the Approval Period, which obviously cannot be photographed at this time, shall also be considered "Items of Historical Significance" for purposes of this Agreement.

[2] See Exhibit A, Pictures 26-27.

[3] See Exhibit A, Picture 28.

[4] See Exhibit A, Pictures 29-30.

[5] See Exhibit A, Pictures 31-32.

[6] See Exhibit A, Pictures 33-36.

[7] See Exhibit A, Picture 37.

[8] See Exhibit A, Picture 38.

d. Lighted exterior logos at the Ralph Engelstad Arena, provided the items are removed or replaced no later than December 31, 2011.[9]

e. All official imagery located within administrative and other areas of the Ralph Engelstad arena and UND campus not ordinarily open to the public during athletic competition, provided the items are replaced no later than December 31, 2013.[10]

f. Etched glass doors leading to the club areas of the Ralph Engelstad Arena, provided the items are replaced no later than December 31, 2012.[11]

g. Etched glass doors leading to the administrative areas of the Ralph Engelstad Arena provided the items are replaced no later than December 31, 2015.[12]

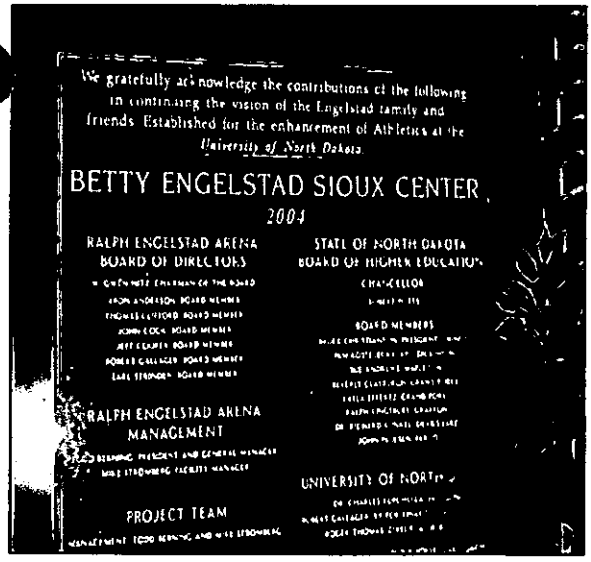
[9] See Exhibit A, Picture 39.

[10] See Exhibit A, Picture 40.

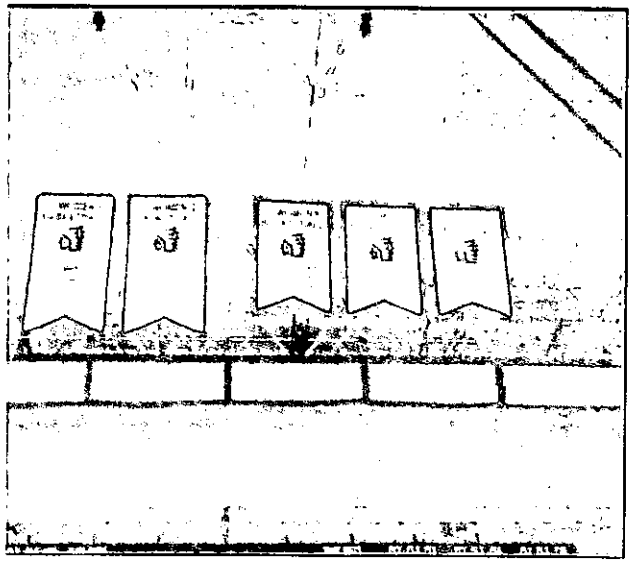
[11] See Exhibit A, Picture 41.

[12] See Exhibit A, Picture 42.

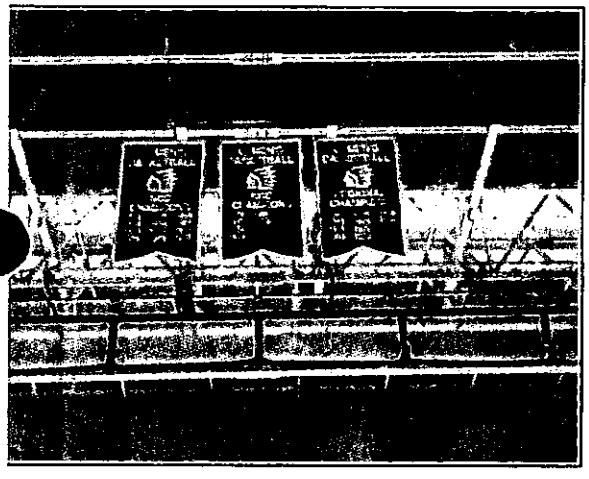
EXHIBIT A



Picture 1



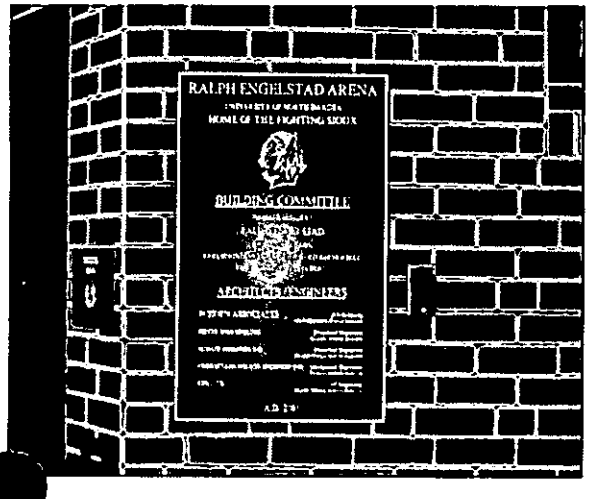
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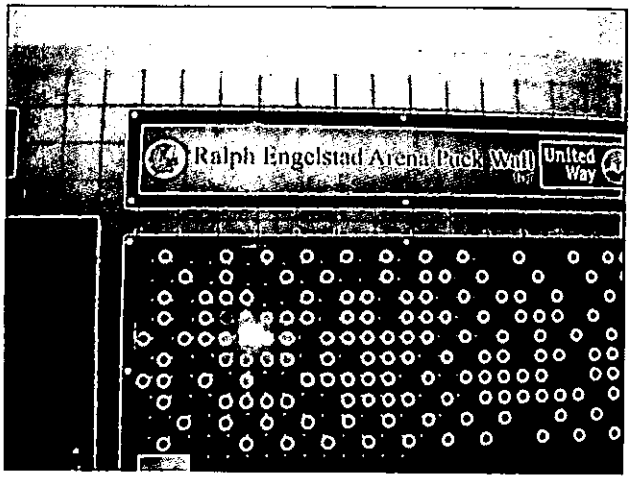
Picture 3



Picture 4

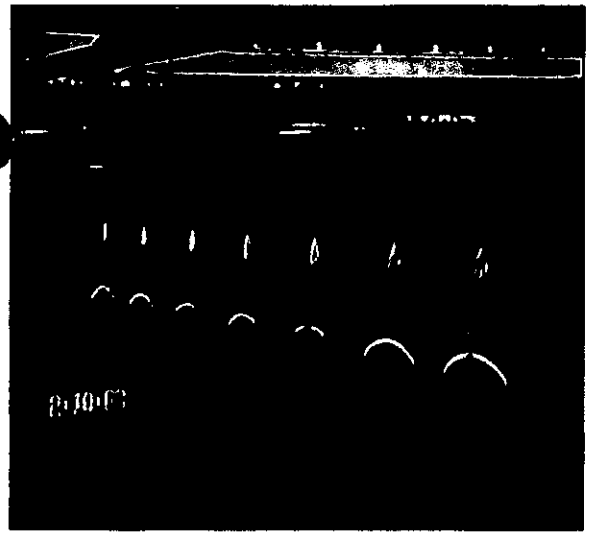


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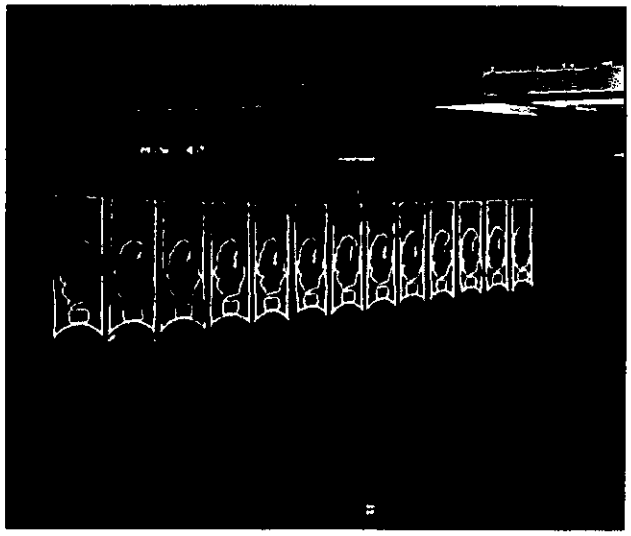


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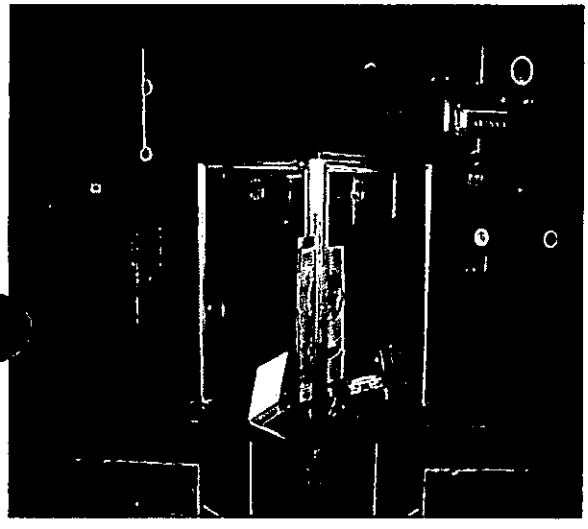
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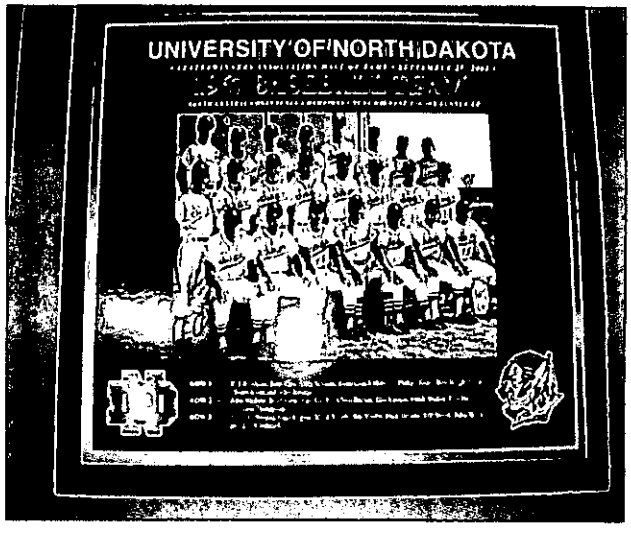
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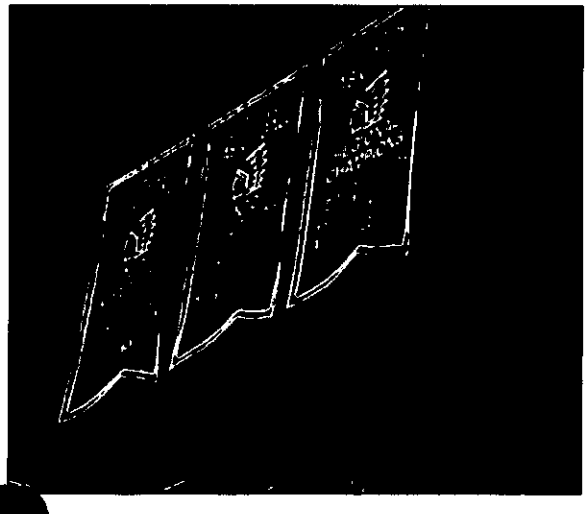
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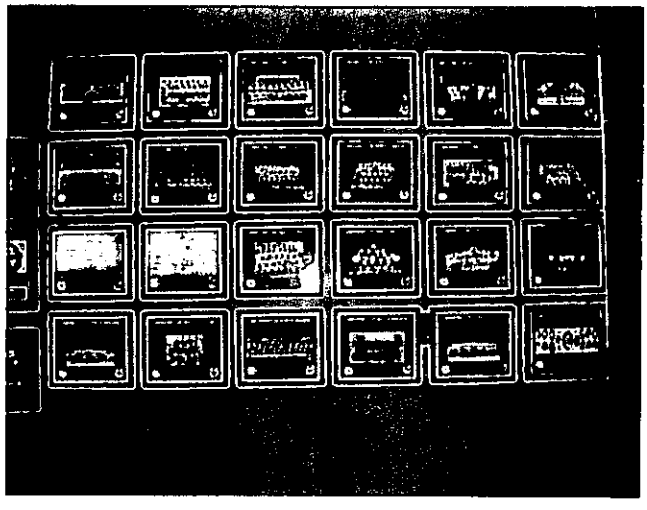
Picture 9



Picture 10



Picture 11

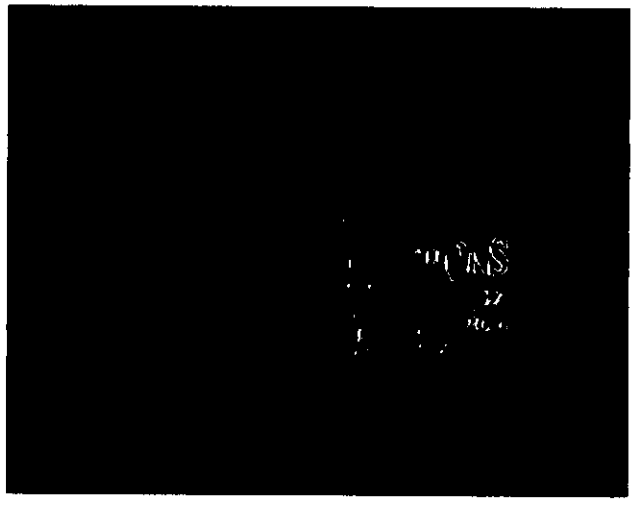


Picture 12

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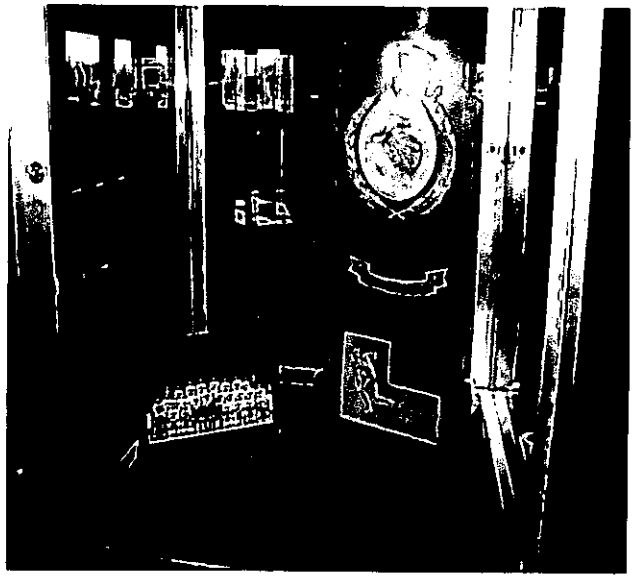
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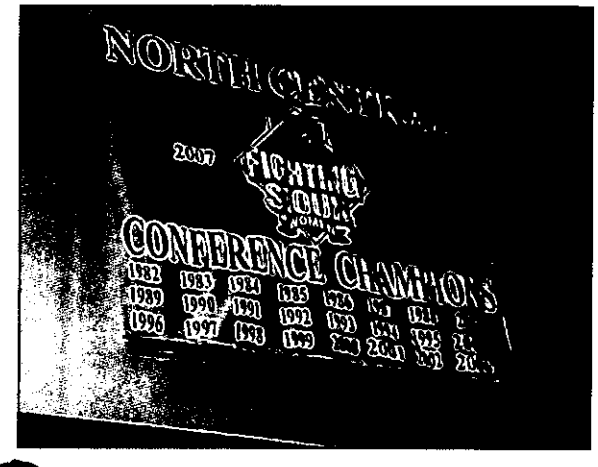
Picture 14



Picture 15



Picture 16



Picture 17



Picture 18

#20



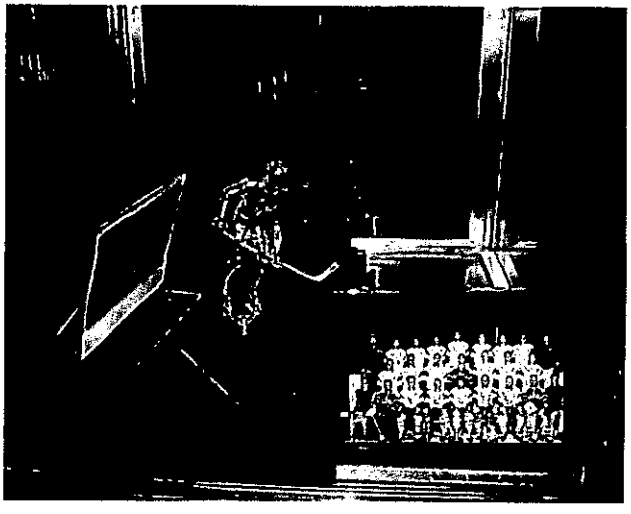
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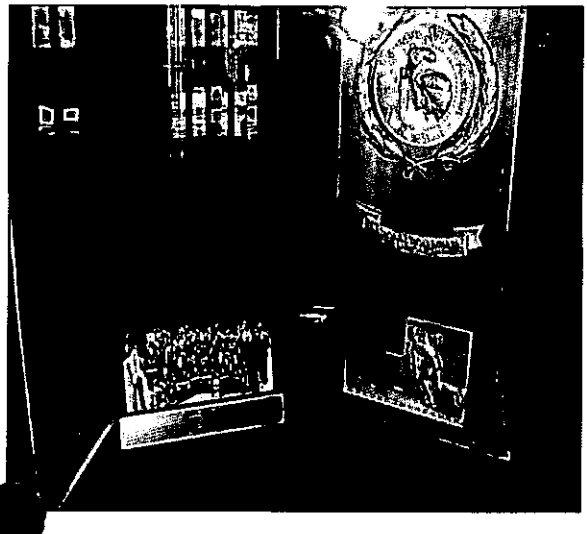
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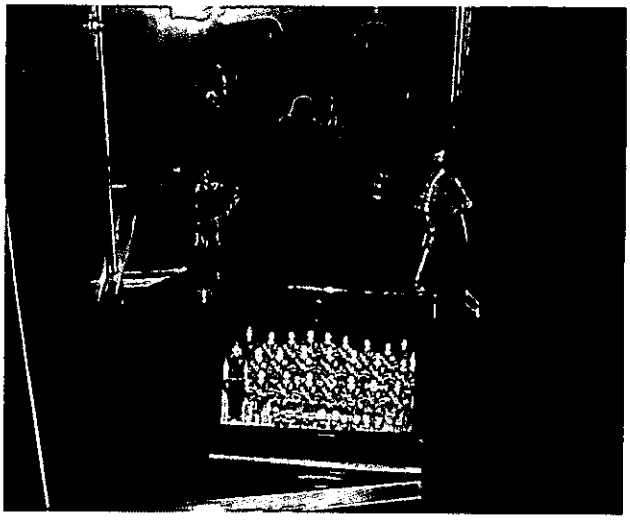
Picture 21



Picture 22



Picture 23



Picture 24

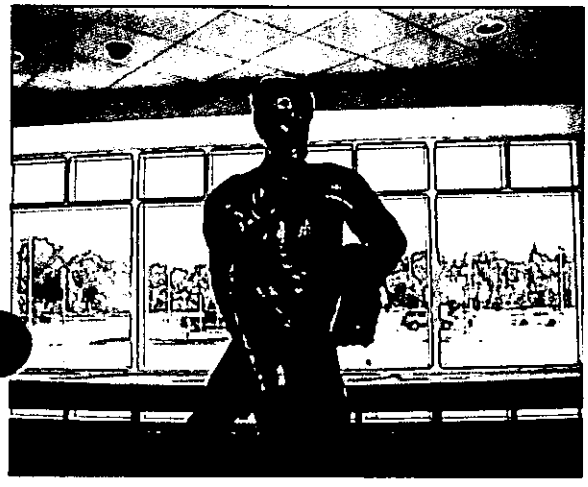
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Picture 25



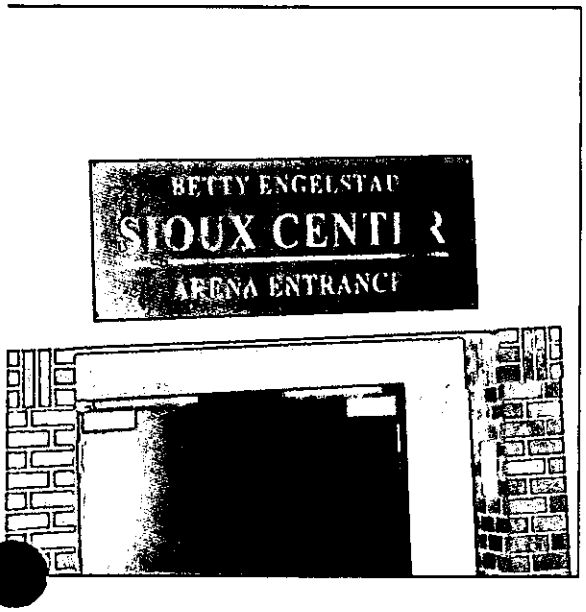
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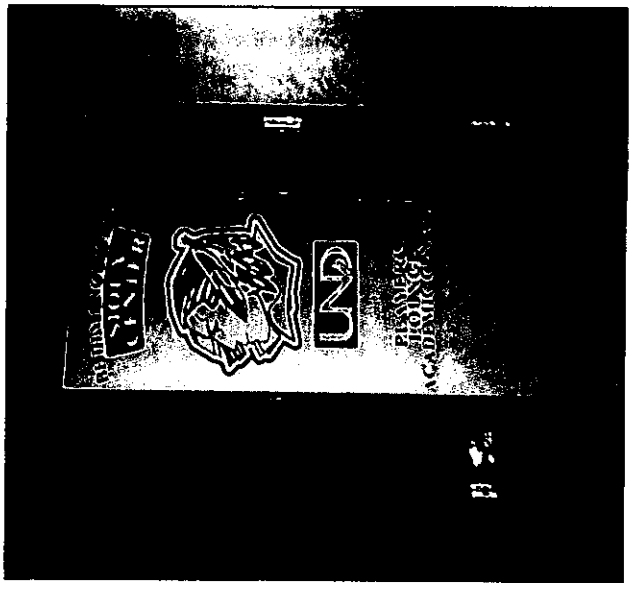
Picture 27



Picture 28



Picture 29

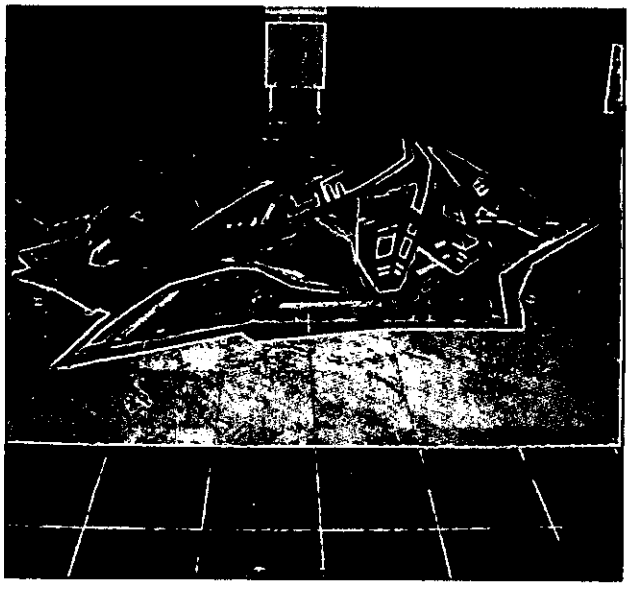


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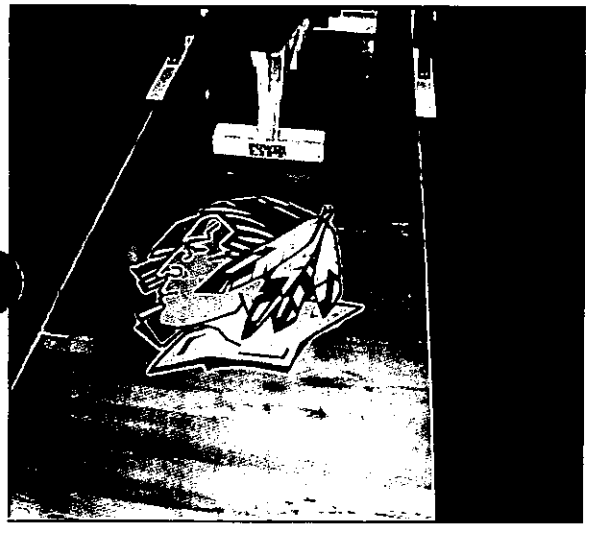
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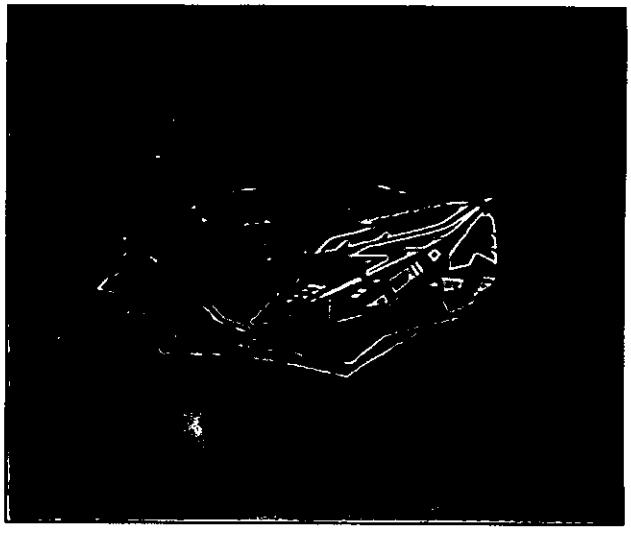
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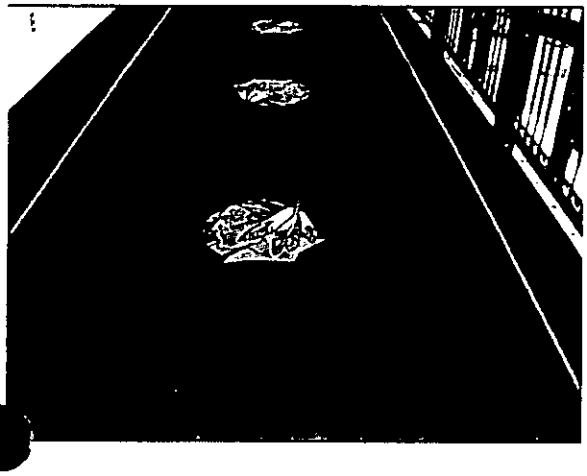
Picture 32



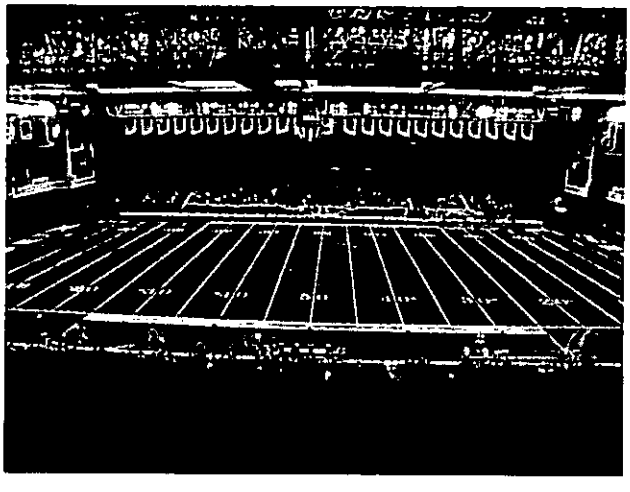
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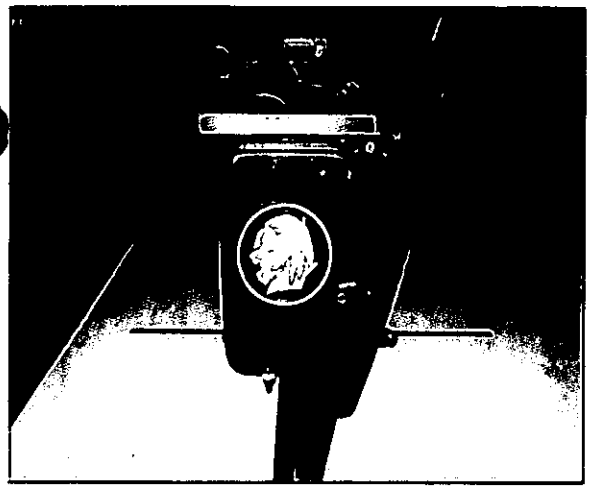
Picture 34



Picture 35



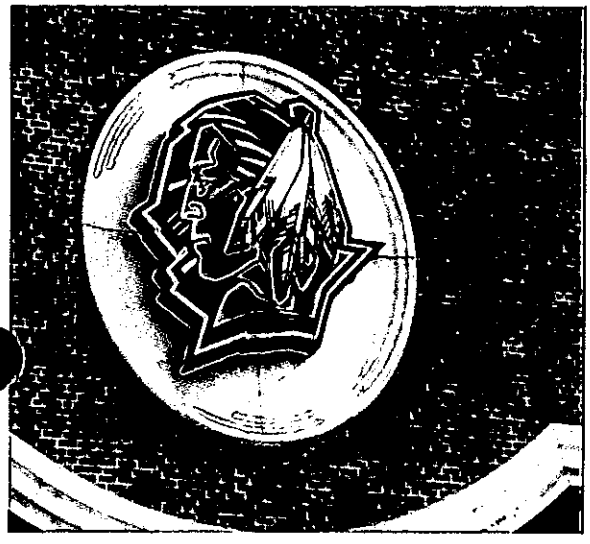
Picture 36



Picture 37



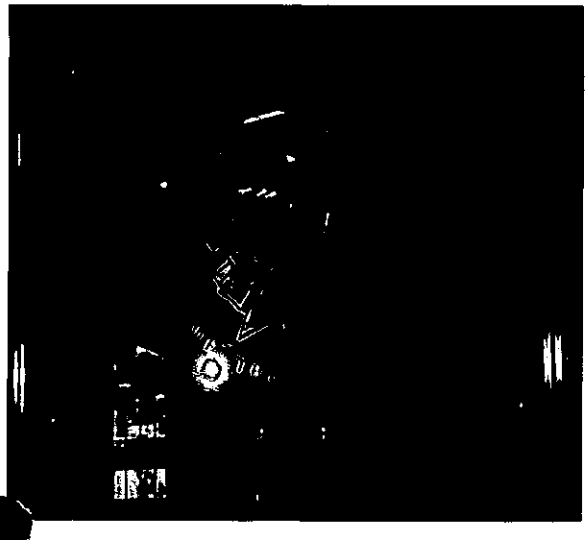
Picture 38



Picture 39



Picture 40



Picture 41



Picture 42

#20



#21

Testimony March 7, 2011

HB 1263

Senator Freborg & Senate Education members my name is Rod Froelich, a lifelong resident of District 31 and the Standing Rock Reservation. I am here in opposition of HB 1263.

Included in your packet is a photo of a young lady named Joy, she is an alumni of UND's Medical school and completing her last year of residency in MO. In conversations with her she disclosed her experience at UND and stated that racism is alive and well. Several years ago while a part of a study group in the medical school she heard derogatory comments like "I don't know why these Indians are fighting the name change they get free tuition and don't have to work". The reason that they felt free to make those comments was that they did not see her as belonging to the group they were talking about. Wrong! Joy is a member of a federally recognized tribe, and says that keeping the name contributes to and perpetuates racism. I have respect for those who feel the name should be retained, they have a right to their opinions however, I don't think anyone can truly make a fair judgment about this issue unless they have walked in the shoes of students who attend UND.

Also included in your packet are pictures of two children, I ask which of these two children will likely feel the effects of racism at UND? As human beings we would like to think and say we are color blind but in fact we are not. These two children are brother and sister and my grandchildren. Joy is my daughter and all are members of the Three Affiliated Tribes. HB 1263 perpetuates misconceptions about Native people no matter what their tribal affiliation is and it perpetuates a climate of mistrust and hostility to some students. Title IX was created to protect individuals from all forms of discrimination, the first step to reducing prejudice is to acknowledge that it exists.

Does HB 1263 take into consideration what the NCAA will impose on the UND Athletic Department?

I hope you will consider the ramifications of your vote today.

Thank you Rod Froelich

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Thank you Mr. Chairman,

My name is Grant Hauschild, I am a Senior at the University of North Dakota, majoring in Political Science and Public Administration. I am a 5th generation North Dakotan, born and raised in Fargo, ND. I currently serve in the elected role of Student Body Vice-President at UND, representing over 14,000 students.

I am here today to express my sentiments about the current debate going on here at the North Dakota legislature about the Fighting Sioux nickname and logo. This is a debate that has gone since the inception of the logo in 1930. I can tell you that I myself am a Fighting Sioux nickname and logo supporter, and an avid UND sports fan. However, there is an overarching theme that seems to be clouding the debate of this issue, and that is whether the Fighting Sioux Logo itself, has become more important to people than the things that it seeks to represent.

My hope is that students, alumni, and other advocates for UND hold the tangible accomplishments in as much of an admiring fashion as they do the logo that symbolizes these very things:

- from the increase in student enrollment, a nearly 5.1% increase since last year
- to the new educational programs that we develop like the unmanned aircraft systems we recently created
- or the diversified environments like the Feast of Nations and Wacipi Powwow put on by our international student organizations

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- the research discoveries like Wind Tunnel research for Wind Turbines
- or the talented athletes that makeup our division I teams like our # 1 nationally ranked men's hockey team

The current debate in the North Dakota Legislature is a microcosm for the problem that this issue presents for UND, the community of Grand Forks, and the State of North Dakota. For instance, the debate in this chamber has distracted us from a crucial opportunity that our state has to provide ground-breaking support for the expansion of our higher education system.

Why is it that the focus is on a logo rather than discussing ways to improve our institutions? We have law school accreditation issues, a lack of rural health doctors being trained at our medical school, and an ever increasing student population that needs our state's attention. Is it not just as important to support the innovation of our University, if the logo that embodies that University is worth this much devotion?

There is a similar disruption going on at the University of North Dakota. Often our Administrators, Athletic Recruiters, and Student Leaders must find ways to dodge the issue when trying to move the University forward.

- When potential Athletes visit UND they realize that we have scheduling issues because of the nickname controversy.
- When students mention what university they attend, people ask them about the logo issue rather than about their educational experience.

- When we try to recruit top notch faculty and administrators, the questions often reflect around how they will handle the nickname issue, rather than how they will improve our University as a whole.

All of these things, from the bottom-up, distract our University from fulfilling its mission.

Overall, I cannot speak on whether or not I feel the logo is discriminatory or honoring because it is not my place to do so. It's easy to get caught up in the debate claiming one way or the other, but there is no objective answer. In the end my only judgment can be on the negative consequences this legislation presents for the University of North Dakota.

- The first is that the University has begun the transition to retire the nickname and this re-ignites the divisions on our campus, our community, and our State.
- Students are ready to move on from this issue which is plaguing our advancement as a flagship institution in the region.
- The second is that this restricts the authority of the State Board of Higher Education in matters of the North Dakota University System, creating a precedent for the micromanagement of our University as well as other Higher Education Institutions in North Dakota.
- Another is that the University is in the process of transitioning to Division I Athletics, was recently accepted to the Big Sky Conference, and any further use of the Fighting

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Sioux nickname and logo could be a detriment to this process. Allowing teams to reject scheduling our athletic teams, and restrict us from hosting playoff games.

- The last is that the costs associated with a prolonged legal battle with the NCAA and other related costs, explicit or implicit, are unknown and unaccounted for.

Again, I express my concern for where our focus should be when talking about the University of North Dakota. I support the fighting Sioux nickname and logo, but I care more for the education, the teams, the friends, and the environment that the University of North Dakota provides because without those things the logo becomes obsolete.

I ask this Committee to take a step back from the politics of this issue, and truly listen to their constituents who deal with this issue every day. I respectfully ask, as a student and elected representative, that you vote no on this proposal because you set the standard when this is brought to the floor of the Senate and the ramifications for UND could be detrimental to the future success of our institution.

Thank You,

Grant Hauschild

Vice President

UND Student Government

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Mr. Chairman and members of the committee

My name is Evan Andrist, State Governmental Affairs Commissioner and registered lobbyist for the University of North Dakota Student Government. I represent UND Student Government in matters regarding the state of North Dakota. On behalf of the students of UND, we oppose the passage of House Bill 1263 as expressed in UND Student Senate Resolution SR1011-06, which are attached to the written transcript.

The Fighting Sioux nickname and logo has historically—and presently—caused much division between our students. This division is evident even in the UND Student Senate vote on resolution SR1011-06 which had a vote of ten for the resolution, eight against, and four not voting. Although we are unable to speak personally with all of UND's fourteen thousand students, UND Student Senate are the elected representatives for our student population. This is not an easy issue, but it is an issue that we needed to confront.

The majority of UND's students, nickname supporters and opponents alike, are ready for this issue end. Proponents of each side of the issue feel passionately about their reasons for their respective stances, and discussions of the logo certainly reflect that passion. That being said, we at the University of North Dakota are exhausted. Our campus has the potential to move on, heal, and unite to become a better and stronger place. This bill stand in opposition to that growth. It is not only detrimental to the wholeness of our campus, but also to our movement to Division I athletics as a member of the Big Sky Conference; these bills, if passed, would also impede our ability to schedule games with a number of athletic teams and host NCAA tournaments.

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When talking with Representatives, over and over again I was told the Legislature should stick it to the NCAA, saying don't let some organization tell is what to do. Well who is taking the punishment when the NCAA sticks it back? The House sends the message that they would let the students be punished because the people of North Dakota care more about what our student athletes are called than them being STUDENT athletes. They would force our students to travel to New York or Texas every weekend, instead of Minnesota or Iowa. Why? So they can wear a hockey jersey. They send the message that our school's nickname takes precedence over our school's mission: to educate our future.

We don't want this. We don't want to take away chance for home field in the playoffs and cheer on our girls hockey team, or volleyball team, or our football team. We don't want to restrict our athletes from competing with the best of the best. We don't want our classmates missing class because they have to travel so far. For the first time in over 5 years, students are unified. Some love being a fighting Sioux, some don't, but we are united to end this distraction.

During discussion of Student Senate's resolution, it became apparent that the Fighting Sioux nickname has served our university well, but instead of reflecting the pride it used to, it reflects personal biases and division. I would be lying to say this won't be a painful process—not only for students, faculty, and staff at the university, but also for Fighting Sioux fans around the world—we must move away from this division and towards unity. We students are ready to move on; let us retire the name, and begin a new tradition together. Please do not pass this bill.

Sincerely,

Evan Andrist
State Governmental Affairs Commissioner
University of North Dakota Student Government

#23

UND Student Senate

SR 1011-06

Senate Resolution

To: The Student Senate of the University of North Dakota

Author: Student Body Vice-President, Grant Hauschild; Student Body President, Matt Bakke; Governmental Affairs Commissioner, Evan Andrist; Education and Human Development Senator, Fred Burke; Greek Life Senator, John Kappel; Off-Campus Senator, Kevin Peters

CC:

Date: 1/19/2011

Re: Resolution opposing North Dakota House Bills 1208, 1257, and 1263

Whereas, the University of North Dakota has already begun the transition to retire the current "Fighting Sioux" nickname and logo and,

Whereas, North Dakota House Bills 1208, 1257, and 1263, restrict the authority of the State Board of Higher Education in matters of the North Dakota University System stated in the century code 15-10-11, and

Whereas, the University of North Dakota is transitioning to Division I athletics, was recently accepted to the Big Sky Conference ,and any further use of the "Fighting Sioux" nickname and logo could be a detriment to this process and allow teams to reject scheduling our athletic teams, and

Whereas, North Dakota House Bills 1208, 1257, and 1263 only re-ignite the division over the "Fighting Sioux" nickname and logo and further divides our University, the City of Grand Forks, and the State of North Dakota, and

Whereas, the costs associated with a prolonged legal battle with the NCAA and other related costs, explicit or implicit, are unknown and unaccounted for

Therefore, be it moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1208 and,

Therefore, be it further moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1257 and,

Therefore, be it furthest moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1263

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TESTIMONY BEFORE THE
HB 1263 – SENATE EDUCTION COMMITTEE
March 7, 2011
Robert H. Boyd, Transition Officer for Nickname and Logo
University of North Dakota

Mr. Chairman, members of the Committee, thank you for providing me with time to address this proposed legislation.

My name is Bob Boyd. Until last month I served as UND's Vice President for Student Affairs for 13 years. President Kelley has asked me to remain at UND and assist him with some projects, including the retirement of the UND Athletic nickname and logo. As Transition Officer for that process my responsibility is to see that it is fair, open, and sensitive to the various views held by those who have a stake in the end result which must be completed by August 15, 2011, as directed by both the settlement with the NCAA and the directive from the ND State Board of Higher Education.

The process has been underway since April 9, 2010, the date when UND was formally informed the retirement must take place. The process we have implemented is structurally demonstrated in the handout I provided. I will not take time to cover each item in the handout unless you want me to but I will call your attention to the three boxes at the bottom. The one to the far left, Honoring History and Traditions, has been functioning for several months. It is co-chaired by Bruce Smith, Dean of the John D. Odegard School of Aerospace Sciences and a former UND football athlete, and Kris Compton, Chief Operations Officer of Alerus Financial, and a member of the UND Association and Foundation Board of Directors. Its charge includes three primary tasks – the first is to recommend which non-athletic but UND related uses of the nickname and logo should be continued; the second is to recommend ways the history of the nickname and various logos can be appropriately documented; and the third is to recommend the appropriate way to bring closure to the retirement of the nickname and logo. A recommendation on the first part of the charge has already been submitted to President Kelley for his consideration and the second charge is currently being addressed.

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The next group – Communications – is co-chaired by Kathryn Rand, Dean of UND's School of Law, and Joshua Riedy, UND's Chief Information Officer and Dean of Outreach Services. It is charged with making sure that all persons who are interested in our process have access to timely and accurate information and have opportunities to provide input. In addition to other forms of communication, our website at (www.nickname.und.edu/logo) provides both information and a way to make comments and/or ask questions.

The last group – New Directions – is the group that would be charged to recommend a new nickname and logo. That group has not been activated by President Kelley as of yet.

In short the process to retire the current nickname and logo is in place and functioning well and the completion of its work by August 15, 2011 is obtainable.

When developing the process, four beliefs about change guided our decisions. First we recognized that there are both rational and emotional elements involved in any change. We think the process we are using is respectful of both. Second, we understand that generally people don't resist change as much as they resist being changed. Knowing this we have intentionally designed a process that allows for all interested stakeholders to have ownership in what is decided. Thirdly, when change takes place there is a temptation to concentrate on what is being lost instead of what is being gained. We are trying hard to make sure interested persons have a clear understanding of both. And lastly, when change arrives, each of us must make the choice of being resistant or helping shape it. For those who wish to shape it, our process allows many opportunities.

If I may, please allow me to be more personal. I am a native North Dakotan whose roots are deep in its soil. My maternal grandparents came to this state in 1898. I have been an educator for 45 years, and with the exception of two years in the military, all of my life has been spent in North Dakota. Of those more than four decades, 32 years have been spent serving at UND. I am a season ticket holder in all three of UND's major sports and I am very proud of our student athletes, their coaches, and staff. When I agreed to delay my formal

retirement and help with this project I had no hidden agenda, no ax to grind, nor any other motive but to help UND through a very difficult time. For the past three decades I have lived through the controversy associated with our current nickname and logo. I have seen our great university criticized and made fun of on a state and national level; I have personally seen American Indian Students who genuinely felt demeaned and harassed but remained on campus because UND still offers the best programs and services they can find anywhere; I have seen our campus divided and Presidents made less effective because of the unrealistic expectations of both those who are for and those who are against the nickname and logo; I have seen the opportunities for collaboration with our tribal colleges go unrealized because of the divisiveness the controversy has caused on the reservations; and as a senior administrator I have felt the frustration that comes with having to be distracted from our university's core mission to deal with this issue on a weekly, and sometimes daily basis.

I am an educator, one who believes in the value of research, and I have tried to find research that supports the premise that the use of such nicknames and logos either enhance student achievement or at least has no negative impact. I can find none. What research does exist clearly shows the opposite to be true – such use has a negative impact on student achievement. If for no other reason, I cannot be supportive of the continuation of our current nickname and logo. I wish it were not so, but it is.

Mr. Chairman, members of the Committee, I have a passion for UND. It is a place where dreams come true. President Kelley has challenged us to move our institution from great to exceptional. Help us by allowing our process for retirement to move forward. Thank you very much for your time.

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UND THE UNIVERSITY OF NORTH DAKOTA



PRESIDENT

PRESIDENT'S TRANSITION PARTNERS

TRANSITION OFFICER

PRESIDENT'S TRANSITION CABINET

STAFF GROUP

CHAIR

SUPPORT

CHAIR

SUPPORT

CHAIR

SUPPORT

HONORING HISTORY & TRADITIONS TASK GROUP

COMMUNICATIONS TASK GROUP

NEW DIRECTIONS: NAME & LOGO TASK GROUP

#24

Dear North Dakota Senate Education Committee,

I strongly urge you to vote NO on HB 1263, the bill which would force the University of North Dakota to keep the Fighting Sioux name and logo. I wonder how long the people who support this bill will stand by it when they see that their favorite team getting banned from play while they wait out an expensive lawsuit on their dime? The people that are going to be most hurt by this bill are student athletes that were recruited to UND thinking that they were going to be able to compete in a prestigious league. I realize that you represent all North Dakotans, but the people that are going to be affected by this bill are students on campus. The UND Student Government and the UND University Senate have voted to stand in opposition to these bills because they realized the burden it places on the university. We have started the transition away from the Fighting Sioux logo and for many students even those who love the logo, it is a relief. Reigniting this controversy is selfish and irresponsible.

If the North Dakota State Legislation passes a bill that is clearly unconstitutional, what does the legislature stand for? As a student of political science, I am dumbfounded by the North Dakota House of Representatives passing of this bill. As an American Indian student, I am realizing words like honor and respect are words that are thrown around but do not really mean anything. True honor would be respecting Standing Rock Tribal Council's decision to not support the logo, instead of people calling them "undemocratic" for not having a tribal vote which is against their constitution. As a student of the University of North Dakota and resident of this state for five years, I am becoming disillusioned with our leaders. I could not believe that after hearing former Standing Rock tribal council member Jesse Taken Alive talk about his son receiving death threats and almost not completing his degree at UND, that Chairperson Kelsch would say that if UND was so bad why do Indians go to school there. The fact is I could give you lists of American Indian students that transferred after a short time at UND and even more that just dropped out completely. Yes, some of these were students that were not prepared, but many were intelligent capable hard working individuals that by all rights should have been able to thrive here. Some have, at other academic institutions. I love my program at UND, I have amazing professors! I would however love it if I could be respected by my peers who have an opposing viewpoint than me. We can debate about health care, education, and foreign policy and come out friends. If I make it known that I am against the Fighting Sioux logo, my classmates no longer want to sit next to me or work with me.

My parents are both graduate of the University of North Dakota and yes they experienced some negative things because they were American Indians by their fellow students. Why did I come to the University of North Dakota? I came here because I have hope that people of North Dakota could change and overall were good people. I also came under the belief that an educational institution's purpose was to educate and its goal to provide a nondiscriminatory environment for all its students, conducive to learning. There was a time when one person's voice could make an impact which I hope is still the case and that my words are heard.

"Law and order exist for the purpose of establishing justice and when they fail in this purpose they become the dangerously structured dams that block the flow of social progress."-Martin Luhter King Jr.

Respectfully Your Constituent,
Margaret Scott
Senior, Political Science

#25

2011 HB 1263

DVD submitted by David Davidson available upon request

#26 Testimony

MPR newsQ
Minnesota's Online News Source

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NCAA upholds ban on Fighting Sioux mascot

by Bob Reha, Minnesota Public Radio
April 28, 2006

The NCAA has denied the University of North Dakota's appeal to continue using the Fighting Sioux nickname in postseason tournaments. It's the second time the University of North Dakota, or UND, has lost an appeal on this issue. The NCAA considers the nickname "hostile and abusive." The university is barred from holding postseason tournaments unless it gets rid of the American Indian logo and nickname.

Moorhead, Minn. — There seemed to be little room for debate after Walter Harrison, chairman of the NCAA executive committee, announced the ruling on the University of North Dakota. Harrison announced the name should go.

"We believe the use of the Fighting Sioux and the mascots and the imagery that represents are hostile and abusive," said Harrison. "We don't believe the university has made a case to the contrary."

Harrison said the NCAA recently received three letters regarding UND's appeal. One was from a district representative on the Standing Rock Sioux Reservation. The letter cited support by tribal members for the Fighting Sioux nickname. The second was from the university president. Harrison says the third was from Standing Rock Tribal Chair Ron His Horse is Thunder.

We believe the use of the Fighting Sioux and the mascots and the imagery that represents are hostile and abusive. We don't believe the university has made a case to the contrary.

- Walter Harrison, chairman of the NCAA executive committee

Harrison says the chairman's letter cited a resolution passed by the tribal council in 2005, stating the full tribe's opposition to the nickname. Harrison read from the resolution:

"Which officially and respectfully requests UND to discontinue use of it's nickname and logo and support the NCAA decision to bar the use of Native American tribal names in post season games by colleges and universities."

Harrison says that letter from the tribal chairman, persuaded the NCAA committee to deny UND's appeal. The announcement pleased the Standing Rock tribal chairman. Ron His Horse is Thunder says the ruling does not ban the Fighting Sioux nickname during regular season games, but does force the school to make a tough decision.

"It's just a matter of whether or not they want to participate in the tournaments afterward and also to host tournaments afterward," His Horse is Thunder said. "That's a decision that they're going to have to make. It does put pressure on them because I'm sure they do want to participate and if they want to participate then obviously they're going to have to abide by the ruling."

University President Charles Kupchella issued a written statement saying, he is disappointed and baffled by the decision. He said the NCAA policy is illegitimate and has been applied to UND inappropriately. Kupchella says the school's next step will be to consider legal and other options.

The decision has financial affects. It's unlikely the university would turn down a bid to play in any NCAA tournament. Tournament appearances help programs recruit players. They keep the alumni happy and bring in donations. UND's hockey program is considered among the elite in the country. However, the team plays in the Englestad Arena, which is adorned with thousands of Fighting Sioux logos that the NCAA says are offensive and abusive.

#26

In order to host NCAA tournaments, or have teams play in them, those logos must be covered or removed. UND officials have not said publicly how they would comply with such an order.

Leigh Jeanotte, director of American Indian services at UND, has worked for more than 20 years to convince the school to change it's nickname and logo. Jeanotte says the decision is a clear signal that logos and nicknames like the Fighting Sioux are becoming a thing of the past.

"In this day and age we don't see teams using Hispanic names, African American names," said Jeanotte. "And my guess is this decision sends a clear statement that American Indians should not be used in this manner."

UND officials have always indicated a legal challenege to the NCAA is their last option. After this NCAA ruling it appears that is the only option they have left.

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Broadcast Dates

All Things Considered, 04/28/2006, 5:19 p.m.

SPONSORS

News Story

Print

Settlement of lawsuit over Fighting Sioux nickname approved

By The Associated Press
10.29.07

GRAND FORKS, N.D. — North Dakota officials have three years to persuade Sioux tribes to support the Fighting Sioux nickname and logo, under a settlement approved last week with the NCAA. The president of United Tribes Technical College says the settlement shows contempt for tribal people.

The state Board of Higher Education voted unanimously Oct. 26 to approve the settlement after a closed-door briefing from Attorney General Wayne Stenehjem.

David Gipp, president of United Tribes Technical College in Bismarck, said leaders of the Standing Rock and Spirit Lake tribes, as well as other tribes and groups, were on record opposing the nickname.

"Allowing a three-year period to influence the tribes leaves open the door for UND and its agents to continue their meddling in the social and political affairs of tribal nations, causing untold damage in the lives of good people and families who only wish to have their ways and heritage respected," Gipp said in a statement.

Stenehjem, who had outlined the agreement earlier for tribal officials, said negotiations over the nickname and logo should be led by top-level state officials.

"There shouldn't be a huge number of people putting pressure on anyone," he said.

The NCAA in 2005 banned the use of the nickname in postseason play, labeling it hostile and abusive. UND sued to challenge the ban in October last year and got a temporary order allowing the continued use of the nickname and logo while the case moved through court.

"The settlement confirms that the Sioux people and no one else should decide whether and how their name should be used," said Bernard Franklin, an NCAA senior vice president, in a statement.

"The settlement is consistent with the NCAA's firm belief that Native American nicknames and imagery have no place in intercollegiate athletics," the NCAA statement said.

"We are not going to be fighting this in 10 years, in 20 years, in 30 years," Stenehjem said. "This is an issue that needs to be resolved, needs to be concluded."

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If approval of the nickname is withheld by either the Standing Rock or Spirit Lake Sioux tribes, the waiver allowing use of the name will be withdrawn, the agreement says. It also includes a statement by the NCAA saying UND is a "national leader in offering educational programs to Native Americans."

Sebastian Braun, an assistant professor in the UND Indian studies department, said the agreement seemed reasonable.

"I don't think the tribes are going to change their minds on this, but it will perhaps give everybody some time to come to terms with the inevitable," he said.

Samantha Plante, a freshman from Brooklyn Park, Minn., says she hopes an agreement can be reached with the tribes.

"I personally don't think the school uses it as a demeaning logo," Plante said. "I hope something can be worked out, but this has been going on for a long time."

Jackie Stebbins, a second-year law student from Bowman, said the logo should be retired. "I think our school has a dark cloud hanging over it because of the logo. It's time for it to go," she said.

Ron His Horse Is Thunder, chairman of the Standing Rock Sioux tribe, said University of North Dakota officials should use the three years to plan for changing the nickname and dropping the logo, rather than trying to coax the Standing Rock and Spirit Lake tribes into accepting them.

The settlement will bring pressure to bear on the governing councils of the two tribes from UND alumni and others who support the nickname, His Horse Is Thunder predicted.

"That takes the onus off UND, in terms of Wayne Stenehjem's having to battle a court suit, and it takes pressure off the NCAA ... and it puts all the pressure on tribes and tribal councils to somehow change their minds," His Horse Is Thunder said.

Previously, groups of tribal members have been bused to UND at the expense of nickname supporters for lobbying, the Standing Rock Sioux tribal chairman said.

"They've thrown a lot of money at individual tribal members, by taking them up to a hockey game and putting on a good face, and offering scholarship dollars ... to try to convince tribal members to go home and then lobby the tribal council to change it," His Horse Is Thunder said.

Eighteen schools originally were on a 2005 list of NCAA offenders using offensive American Indian nicknames and logos. A number of schools made changes while some won appeals with support from area tribes.

"I think it's important to remember that without this lawsuit, we would have been immediately subjected to the NCAA restrictions," Stenehjem said. "We had no options but to proceed to court."

The North Dakota lawsuit has cost an estimated $2 million in legal fees and services. Stenehjem said UND's costs were paid with private donations and "in my estimate, (the lawsuit) was worth the money."

If the nickname is changed, UND would have to remove most of its Indian

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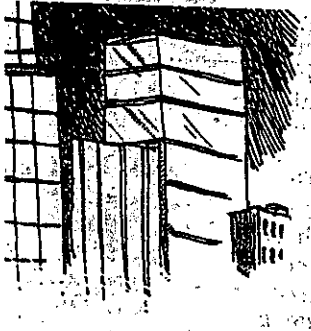
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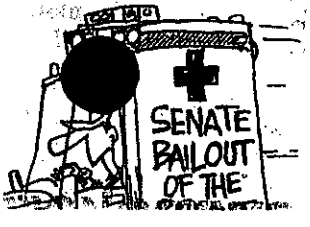
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Journal Mailbag

■Against bringing children into nickname controversy

Dear Editor,

What is wrong with Jody Hogson and the Ralph Engelstad people? Have they no sense of decency left in them? I can understand their commitment to the late Ralph Engelstad, because they are being paid well. What I do not understand is why they want to drag a K-12 reservation school (Four Winds Community School) into the controversy over the Fighting Sioux nickname.

Children in K-12 grades are very impressionable. We adults should stick to the job of educating instead of tricking them into taking a stand over a controversial issue by treating them to a hockey game.

Four Winds Community School is really two schools. K-8 is a tribal school while grades 9-12 is a district school. The schools have their own governing boards and jointly own a $380,000 charter bus.

Spirit Lake pro-logo tribal members approached the boards with a request to use the charter bus to transport students and tribal members to the event planned for Ralph Engelstad Arena on Oct. 5. I am president of the district board, and in order to protect the school and students from the controversy, I opposed the idea of loaning our bus to pro-logo tribal members. The two boards met on Sept. 28, 2008. Three members of the district board voted to deny the request, and they will need to make other transportation arrangements.

To those tribal members who are participating in the event Oct. 5, 2008, I ask these two questions: Who gave you the right to give permission for my tribe's flag to be displayed in the Ralph Engelstad Arena? Moreover, who gave you the right to sell our name? I know the Dakota/Lakota/Nakota tribal members who comprise the great Sioux Nation and who oppose the Fighting Sioux nickname and logo did not give you permission to sell our name. According to an article in the *Grand Forks Herald*, neither did Ron His Horse Is Thunder and Myra Pearson, Chairpersons of Standing Rock and Spirit Lake respectively.

Chief Joseph, Nez Perce said protesting the sale of his tribe's land to the government: "Suppose a white man should come to me and say, 'Joseph, I like your horses. I want to buy them.' I say to him, 'No, my horses suit me; I will not sell them.' Then he goes to my neighbor and says to him 'Joseph has some good horses. I want to buy them, but he refuses to sell.' My neighbor answers, 'Pay me the money and I will sell you Joseph's horses.' The white man returns to me and says, 'Joseph, I have bought your horses and you must let me have them.' If we sold our lands to the government, this is the way they bought them."

Similarly, if Jody Hodgson and the Ralph Engelstad people obtained permission to fly our tribal flag and keep the nickname and logo ". . .this is the way they bought them."

Dr. Erich Longie
Spirit Lake Nation Tribal Member

■ What to do with the billion dollar surplus

Dear Editor:

We are in for a hard winter. And we have a billion dollar surplus in the state treasury. [redacted]

#26

GrandForksHerald.com

By Joseph Marks, Published March 13 2008

Tribal college heads, UND grads bow out of Beyond Beads and Feathers photo shoot

A planned photo shoot of current and former tribal college presidents for UND's Beyond Beads and Feathers poster campaign won't take place, a UND vice president said, after about one-third of the participants bowed out because of their opposition to the school's Fighting Sioux nickname.

The first round of the Beyond Beads and Feathers campaign began about two years ago with posters of nine American Indian UND graduates who've gone on to successful careers. Posters of those nine were distributed to reservation high schools and tribal colleges and displayed in the American Indian Student Services house on campus, said Bob Boyd, UND vice president for student and outreach services.

The idea behind the posters, Boyd said, was to show the accomplishments of the school's American Indian graduates and to be a recruiting tool to bring more students from tribal high schools to UND, and to show them how far a college career could take them.

As part of a second round of the poster campaigns, UND had planned to send a photographer to the American Indian Higher Education Conference in Bismarck on Monday, to take a group photo of the 14 UND graduates who are past or present tribal college presidents.

Five of those presidents, however, declined to take part in the photo shoot, citing UND's continued use of the Fighting Sioux nickname, including presidents of three of the five tribal colleges in North Dakota.

Boyd described the group photo shoot as delayed rather than canceled and said he hopes the school can do it sometime in the future when tribal college administrators are willing to participate.

"I respect their right to make the decision they've made," Boyd said. "These are all people for whom I have a great deal of respect. (The photo shoot) is something that would have a great deal of impact on Native American students as they think about their own university careers and the kinds of things they can accomplish. These are people who have worked very hard to get to the point they're at."

When asked if the photo shoot could only happen if and when the controversial nickname is retired, Boyd said that would be up to the administrators themselves.

"The nickname is a complicating factor for many of our Native American students and graduates," he said. "And while they don't agree universally on the issue, it's clear that it remains divisive. Of course, we're always sorry and disappointed when circumstance arise such that it casts a shadow over an initiative that has the very best of intentions and is extremely worthwhile."

The school still plans to do a second round of the poster campaign with solo portraits of several American Indian UND graduates, Boyd said, but that group will not include any of the tribal college administrators. The school hopes to unveil those posters during its 2008 homecoming celebrations, he said.

United Tribes Technical College President David Gipp was one of the tribal college presidents who declined to participate in the photo shoot.

#26

In an e-mail Monday to AISS director Leigh Jeanotte, Gipp praised UND's programs for American Indians, but called the nickname "incessantly and increasingly a topic of dissension among the various communities — tribal and nontribal."

Gipp charged that the university and the state acted disrespectfully by making tribal approval the sole condition for whether UND can retain its nickname in an October legal settlement with the NCAA despite the tribes' stated opposition. The settlement, the result of a yearlong and multimillion-dollar legal challenge to the NCAA's 2005 policy banning most American Indian nicknames, requires the school to retire its nickname in three years if it cannot win the support of both the state's Sioux tribes.

That outcome looks unlikely based on strong resistance of some leaders at the Standing Rock Sioux reservation. North Dakota University System Chancellor William Goetz has downplayed the chance of the nickname being saved by a tribal vote of support, suggesting a vote always could be reversed in the future.

Gipp was in Washington on Wednesday and unable to speak with the Herald by phone. In a statement made through Dennis Neumann, UTTC's public information director, Gipp said the nickname "continues to corrode the relationship that we have had with UND, and gives rise to thoughts about how university and state leaders have abused the relationship and good will of American Indians."

The other tribal college leaders who declined to participate in the photo shoot were Cynthia Lindquist Mala, president of Cankdeska Cikana tribal college in Fort Totten, N.D.; Laurel Vermillion, president of Sitting Bull College in Fort Yates, N.D.; Donald Day, president of Fond du Lac tribal and Community College in Cloquet, Minn.; and Elizabeth Yellow Bird, former president of Fort Berthold (N.D.) tribal college. Yellowbird is the sister of Herald columnist Dorreen Yellow Bird.

Gipp also was featured in the first round of the poster campaign. He has not asked for that picture to be removed from the school's Web site, Jeanotte said.

There was some concern from Gipp and others during the first round of the photo campaign, that it would undermine the nickname opposition, Jeanotte said, but that was overcome.

"I tried to assure them (during the first campaign) that this was a reflection of our American Indian programs and had nothing to do with the nickname," Jeanotte said. "I tried to do that again this time, but the nickname issue is so prevalent in everyone's minds at this point. .?.?.? It's quite concerning to me that the name issue has taken its toll on a very worthy project. This is a project that would really bolster the image of American Indian programs here at UND."

Nobody had ever heard this quote before? I asked. THIS IS NEWS? Holy sh__, indeed.

We decided that it was newsworthy because it shows the kind of territory the nickname campaign on the reservation had entered. A person on the pro-nickname side would wonder about the depth to which anti-nickname people have sank to make such an allegation. A person on the anti-nickname side would wonder about the depth to which the pro-nickname side had sank to have said such a thing.

I then called **Jody Hodgson**, the Ralph Engelstad Arena general manager, to see if he had a response. He said he would try and get something from the Engelstad family the next day, Saturday. No surprise that he was extremely upset, though he understood why we felt this was a newsworthy thing.

After this, I went drinking and wondered how today was going to turn out. One thing we could not decide was whether we would repeat the quote that Ralph allegedly said. Our goal -- my goal -- was 1) to establish the origin of the quote and 2) to convey how hateful the quote while repeating as little of it as possible.

I talked with Jody this morning and later got a statement, which you can read about in the story. We decided not to put it on our Web site verbatim only because it made some counter-allegations against the anti-nickname side -- nothing on the scale of that quote, I can tell you -- and we decided that it wouldn't be fair without a statement from the anti-nickname side.

I then called Terry. His phone wasn't turned on, so I called Dr. **Erich Longie**. Terry and Erich are the main organizers of that rally I attended.

Erich called back in the afternoon and, at first he steered the conversation around the flyer toward the tactics of the Ralph Engelstad Arena, which he still believes is funding if not orchestrating the pro-nickname campaign on the reservation.

He wasn't exactly sure where the flyer came from, which didn't surprise me because my understanding is that both sides of the nickname controversy are fragmented. Not everyone is on the same page.

I pressed Erich on the use of the quote. Given the lack of certainty about it's origin, doesn't it seem kind of questionable to attribute it to Ralph?

Erich again focused on the alleged tactics of Ralph Engelstad Arena and I realized what he was trying to say was, in effect, the ends justifies the means. The flyer might be a questionable tactic, but given the overwhelming power of the arena and the weakness of the anti-nickname side, questionable tactics might be the only ones that have a chance of working. This is akin to asymetrical warfare, the kind of warfare that Indians armed mostly with bow and arrows once fought against the U.S. Cavalry armed with rifles.

Erich said something I thought was extraordinary: "Our ancestors faced overwhelming odds throughout their lives; we suffered all kinds of indignities.... Now, we're facing a foundation with millions and millions of dollars and they're coming on the reservation to cause all this turmoil. All we're doing is fighting back."

He feels they're in a corner and they have to do whatever they can to break out.

I want so say that, in spite of the controversy of this issue, I very much enjoy speaking to the different sides. Erich has a fascinating point of view even though I don't always agree with him, especially his

views on racism. Jody and **Sam Dupris**, Ralph Engelstad Arena's envoy, are also interesting characters with interesting points of views. They seem earnest in what they're striving to do and are trying to be as open as they can be, and I respect that.

Oddly enough, even though I get along quite well with Erich and Jody, the pro-nickname side on the reservation think I'm scum and so does the anti-nickname side at UND, which has complained about my coverage.

So, that's how the story came down. I tried to explore the points of view of both sides and, in doing so, avoid letting my personal opinion infringe on the story. I feel confident that I've done that, so it will be interesting to hear what readers have to say about the story in the next few days.

Posted by: Tu-Uyen on 4/18/2009 at 11:33 PM | Comments (60) | Permalink

Tags: fightint sioux nickname, tribal issues

Good news on new power lines

A big power line project that would connect Minnesota to North Dakota, at Fargo, and South Dakota, at Brookings, got the thumbs up from regulators today.

This is a big deal because more power lines are needed to get wind energy from up here down to the Twin Cities. Our electrical grid is stretched pretty thin. Unfortunately, only the line from South Dakota is mandated to transmit wind power. Wind energy advocates wanted both.

Hopefully, this doesn't mean that utilities will focus on coal power in North Dakota and wind energy in South Dakota. If there's going to be mandates, they really ought to be equal or they screw up the market.

Oh well, at least the NIMBYites lost out. I don't care much for NIMBYites.

Posted by: Tu-Uyen on 4/16/2009 at 9:58 PM | Comments (6) | Permalink

Tags: electricity transmission, nimby

Newsworthy day

Three separate newsy things happened on my beat today:

1. It looks like the nickname opponents at Spirit Lake are trying to get the referendum off the ballot. They're saying more than 85 of the 301 signatures needed to get the issue on the ballot were invalid. The last time I checked though, nickname supporters said they only needed about 200 and 301 minus 85 is 216. The numbers I'm getting from people have been so fluid I wouldn't be surprised if the real number needed was 290 like one nickname opponent thought.
2. The city got that landfill permit from the state, but I was probably wrong when I predicted there would be a lawsuit over it. Actually I didn't. It was the state health department's waste management division chief **Scott Radig** who was afraid of that. I called **Daryl Bragg**, the chairman of the Grand Forks County Citizens Coalition, the main opponents of the landfill, and he seemed suprisingly blase about it. Wasn't angry or sarcastic. No, GFC3's not OK with the permit,

In 1999, seven tribes, including the Spirit Lake Nation, called for the removal of "Fighting Sioux," according to BRIDGES, a student organization at UND.

From the Casper Star-Tribune, 9/3/05:

[redacted]ribal members reject 'Fighting Sioux' nickname

FORT TOTTEN, N.D. (AP) — Members of the Spirit Lake Sioux tribe, the closest tribe to the University of North Dakota campus, have declared the school's Fighting Sioux nickname and logo "an affront to the dignity and well-being" of the tribe.

More than 70 people packed a tribal administrative building about 90 miles west of Grand Forks to discuss the nickname Tuesday night, and approved a resolution calling on the school to drop them both the nickname and the Indian-head logo.

"(The tribe) finds that the use of the 'Fighting Sioux' and 'Sioux' names by the University of North Dakota is both dishonorable and an affront to the dignity and well-being of the members of Spirit Lake," the resolution read.

The matter is expected to go next to the Spirit Lake's tribal council for formal adoption, likely on Friday.

UND officials have said the school had support from the Spirit Lake tribe to use the nickname. But former Tribal Chairman Skip Longie said that authorization, granted to the university in 2000, came with a string of conditions, including required sensitivity courses for all incoming freshman at UND and visits to all North Dakota's Indian reservations.

"To my understanding, I don't think the university has done any of those things," Longie said.

Tuesday's strong showing of tribal opposition came on the same day that UND formally appealed an NCAA decision [redacted]cing the school on a list of schools barred from hosting tournaments or wearing Indian-related imagery in the [redacted]ostseason after Feb. 1.

From KXMC.com, 9/10/05:

Tribes ask UND to Ditch "Fighting Sioux"

Representatives of North Dakota's Indian tribes are asking the University of North Dakota to drop its "Fighting Sioux" nickname.

The United Tribes of North Dakota board of directors has approved a resolution — asking that the name be changed.

North Dakota has five tribes within its borders. They are the Standing Rock Sioux, the Spirit Lake Sioux, the Three Affiliated Tribes, the Turtle Mountain Band of Chippewa and the Sisseton-Wahpeton Sioux.

The resolution also asks the NCAA to prohibit UND from using the nickname and an Indian head logo during post-season tournaments.

UND President Charles Kupchella says the nickname and logo are used with respect and honor. He spoke this week at an inter-tribal council summit meeting in Bismarck.

But tribal leaders say Kupchella didn't convince them that the nickname and logo should be kept.

The[redacted]o word on whether the Spirit Lake tribal council passed the resolution approved by its members. But even if the trib[redacted]'t adopt the resolution formally, it adopted it informally. The wishes of the Spirit Lake people are clear.

So every tribe except the Spirit Lake Sioux has voted unambiguously against UND. The Spirit Lake people voted against UND, and so did the Spirit Lake tribal council as part of the United Tribes of North Dakota. UND's claims of tribal support rest on one ambiguous Spirit Lake resolution that's been superseded two different ways.

#26

Finally, the NCAA has called UND on its phony claims of support. From the Grand Forks Herald, 9/11/07:

NICKNAME LAWSUIT: NCAA asks judge to reconsider case order

[redacted] its "Motion for Partial Reconsideration," the NCAA argues UND itself may have violated NCAA bylaws, making it [redacted]ligible to bring its case.

The motion accuses UND of misleading the NCAA during its administrative appeals process by consistently claiming the Spirit Lake Sioux Nation supports UND's continued use of its nickname.

A 2000 Spirit Lake Tribal Council resolution states: "as long as something positive comes from this controversy, (the tribe is) not opposed to keeping the 'Sioux' name and present logo at UND."

UND consistently has maintained that the resolution should be read as a vote of support for the nickname, but tribal officials did not respond to several NCAA requests for clarification on the tribe's position.

In an Aug. 13 interview with the Herald, Spirit Lake Tribal Chairwoman Myra Pearson said she reads the resolution as neither supporting nor opposing the nickname. She said she does not expect the Tribal Council to clarify its position or to reconsider the nickname issue.

"Throughout the appeal process at issue, plaintiff consistently maintained that it had the endorsement and support of the Spirit Lake Nation," the NCAA motion states. "Those claims are also an integral part of the pending litigation. . . . Based on recent developments, it is becoming increasingly difficult to accept that plaintiff could have made these claims in good faith, much less 'utmost good faith.'"

Racist parties at North Dakota schools

Swastikas = mascots at UND
More [redacted]cism in North Dakota
Pa[redacted]ves UND prejudice

More on the UND settlement

Feeling bad about "Fighting Sioux"
"Sioux" supporter gives up
Jackson: Change "Sioux" nickname
UND debate is over
No win-win for Fighting Sioux
Sioux grads say no to UND
"Fighting Sioux" repels Indian students
Sioux to vote on "Sioux"
Some Sioux honored to be mascots
Mascots = civil-rights issue
Shirt links logo, casinos
Standing Rock says no, repeatedly
Traditional Indians are "lost"?
Sioux reject "Fighting Sioux"
Lose-lose situation for Sioux
No "Fighting Sioux" at Minnesota
UND supporters show hostility, abuse
Sioux say no to settlement
UND must put up or shut up

Mo[redacted] UND's lawsuit against the NCAA

"Fighting Sioux" judge was Fighting Sioux fan
"Fighting Sioux" violates UN declaration
UND fibbed about nickname support
Blowback changes vets' minds
Vets support "Fighting Sioux"

#26

NCAA denies UND's appeal
By Terry Vandrovec
The Forum - 09/29/2005

GRAND FORKS, N.D. The University of North Dakota will continue to fight for its Fighting Sioux nickname and Indian head logo, even after another ruling against their use in postseason play was handed down Wednesday.

An NCAA review committee denied a UND appeal by upholding an August edict that dubbed the Fighting Sioux nickname and logo and those at 17 other colleges' hostile and abusive. UND won't be allowed to use them during postseason play.

UND also won't be permitted to host postseason tournaments after February, although it received approval for Ralph Engelstad Arena to host the NCAA Division I men's hockey West Regional March 24-25. The arena is adorned with about 3,000 Sioux logos.

<snip>

View Article

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COLLEGE ATHLETICS: NCAA denies UND nickname appeal
Kupchella says 'hostile and abusive' steps over the line; university will continue appeal

By Tu-Uyen Tran
Herald Staff Writer

The NCAA has rejected UND's appeal for continued use of its "Fighting Sioux" nickname at postseason tournaments, the NCAA announced Wednesday.

There are, however, two other levels of appeal available, something university President Charles Kupchella said he would pursue. He said it's too early to speculate whether UND would take the issue to court if all appeals failed.

Opponents of the nickname said they're glad the NCAA decided as it did.

"I don't see it's anything to gloat over," said Leigh Jeanotte, director of American Indian Student Services at UND. "It's the moral and ethical thing to do."

UND does try its best to treat American Indians with respect, Jeanotte said, but the use of the Fighting Sioux nickname in sports only invites abuse.

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View Article

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Statement by NCAA Senior Vice-President for Governance and Membership Bernard Franklin on University of North Dakota Review

For Immediate Release
Wednesday, September 28 , 2005

#26

Sioux nickname and Indian-head logo.

Spirit Lake, the closest Sioux nation to the UND campus, is wrestling over whether to withdraw support for the controversial symbols in light of new NCAA guidelines that limit their use in postseason competition because they are, in the association's words, "hostile or abusive."

Kupchella said he's going to the meeting in Fort Totten, N.D., the tribal headquarters, to present a different side of the story than what the tribe was given nearly a month ago by opponents of the nickname and logo.

"They are told, by people with I don't know what kind of agenda, that the use of these things is hostile and abusive, and we're going to make the case that there is no such thing on this campus."

<snip>

View Article

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NCAA Extends Reach of Mascot Ban
Sept. 21
Inside Higher Ed

The National Collegiate Athletic Association does not control or manage the Bowl Championship Series, the set of bowl games through which the nation's big-time college football programs crown their champion. So when the association announced a crackdown last month on sports teams' use of Native American nicknames, mascots and other imagery in NCAA championships, football teams in the association's top playing level, Division I-A, were expressly omitted.

<snip>

View Article

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Spirit Lake official: Tribe is getting tired of nickname issue
Posted on Tue, Sep. 27, 2005
Herald Staff and Wire Report

The Spirit Lake band's tribal treasurer says the tribe won't be discussing the nickname issue with UND anytime soon and that they're getting tired of the issue.

KVLY-TV reported that Brian Pearson, the tribal treasurer, says it should already be clear that the tribe does not approve of UND's "Fighting Sioux" nickname.

The Spirit Lake tribe canceled a meeting tonight that was to include a visit by UND President Charles Kupchella to discuss the Sioux nickname and logo.

<snip>

View Article

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of the individuals who responded to the survey are members of Facebook or My Space, online social networks.

Fighting Sioux hockey and UND (Questions 11- 23). The next set of questions focused on the individuals' involvement at UND and with Fighting Sioux hockey. First, with regard to hockey, 8.5% (48) of the respondents said they are a member of the Sioux Boosters; 11.7% (67) report donating to one of the Fighting Sioux clubs; 58% (325) attend at least one hockey game each season; and 15% (85) are season ticket holders. A few of the respondents reported attending at least one away hockey game each season (60, 11%). Most of the individuals said they are Sioux hockey fans (400; 72%), consider themselves a fan of all Sioux sports (317, 56%), and when asked to react to the statement, "I am not interested in Sioux hockey," 384 (69%) disagreed.

Specifically regarding involvement with UND, 132 (23%) indicated they graduated from UND, and 220 (38%) said they had been a student for a period of time. Twenty-four percent (140) are or were employed at UND. Some (234, 43%) indicated their family has a strong history of supporting UND. Finally, in this section of questions, only 16% (91) agree that the UND nickname should be changed.

Ralph Engelstad Arena (Questions 24 – 30). The following questions tapped into feelings about the REA. A large percentage of respondents said they are proud of "the Ralph" (459, 82%). They believe it is the best athletic facility on UND's campus (487, 87%), that it is the most well-known landmark in Grand Forks (450, 84%), that "the Ralph" impacts the Grand Forks' economy (474, 85%), that "the Ralph" is a sense of pride for Grand Forks residents (485, 87%), and that Grand Forks does not focus too

MINUTES FROM STATE OF NORTH DAKOTA BOARD OF HIGHER EDUCATION MEETING MAY 14, 2009

Important Information on page #3 of 10 – Resolution passed by Board of Higher Education (30 year information in item #2 of resolution).

#26

ND STATE BOARD OF HIGHER EDUCATION

Minutes—May 14, 2009

The State Board of Higher Education (SBHE) met May 14, 2009 in the Dickinson State University Student Center Ball Room. The Board president called the meeting to order at 8:45 a.m. MT.

Members participating:

- Mr. Richie Smith, president
- Mr. Jon Backes, vice president
- Ms. Haylee Cripe
- Mr. Duaine Espegard
- Ms. Sue Andrews
- Mr. Mike Haugen
- Ms. Pam Kostelecky
- Mr. Grant Shaft
- Dr. Jon Jackson, faculty advisor

Presidents and campus deans participating:

- Dr. Larry Skogen, BSC
- Dr. Dick McCallum, DSU
- Dr. Mike Bower, LRSC
- Dr. Gary Hagen, MaSU
- Dr. David Fuller, MiSU
- Dr. Ken Grosz, MiSU-BC
- Dr. John Richman, NDSCS
- Dr. Joe Chapman, NDSU
- Dr. Robert Kelley, UND
- Dr. Steve Shirley, VCSU
- Dr. Ray Nadolny, WSC

Staff members participating:

- Mr. William G. Goetz, chancellor
- Ms. Debra Anderson, public affairs director
- Ms. Laura Glatt, vice chancellor for administrative affairs
- Dr. Michel Hillman, vice chancellor for academic & student affairs
- Dr. Marsha Krotseng, vice chancellor for strategic planning/executive director of CTEC
- Ms. Gina Padilla, secretary
- Mr. Pat Seaworth, general counsel
- Mr. Randall Thursby, chief information officer

Ms. Kostelecky requested a revision to the agenda to add Policy 604.1 – Performance Evaluations: Presidents and Policy 604.2 – Performance Evaluation: Chancellor; General Counsel for introduction and first reading. Without objection, the agenda was revised to add introduction and first reading of the two policies.

MINUTES

The minutes of the February 25, 2009, March 19, and April 6, 2009 SBHE meetings were presented for approval. **It was moved** by Haugen, seconded by Espegard to approve the minutes of the February 25, March 19 and April 6, 2009 SBHE meetings. Andrews, Cripe, Espegard, Haugen, Kostelecky, Shaft, Backes, and Smith voted aye. The motion carried.

BOARD PRESIDENT'S REPORT

Mr. Smith reported:

- He and several board members attended the Association of Governing Boards (AGB) conference in San Diego. Mr. Smith asked Dr. Krotseng to obtain a copy of the presentation made by Dr. Richard Chait for the SBHE Retreat.
- The legislative session was viewed as a success. Mr. Smith thanked the staff and presidents for their efforts leading up to and during the legislative session.

CHANCELLOR'S REPORT

Chancellor Goetz reported:

- The SBHE created its budget around key initiatives that would build a foundation for a cutting edge university system that is ready to address the needs of a diversified student population. The success of the legislative session is monumental to the future of the university system.
- It has been personally rewarding to have experienced the legislative session with the University System, presidents and staff.

NORTH DAKOTA STUDENT ASSOCIATION REPORT

Ken Story, the incoming NDSA president reported:

- On the NDSA activities from this past academic year.
- Exposure of students increased during the legislative session. A more diverse group of campuses were represented by the students.

Mr. Backes thanked the North Dakota Student Association (NDSA) for its hard work during the legislative session. He encouraged the association to continue to work with the interim committees.

COUNCIL OF COLLEGE FACULTIES REPORT

Dr. Jackson reported:

- The University of North Dakota Senate passed a resolution on the University of North Dakota nickname and logo. Dr. Jackson distributed the resolution to the board members.
- The Council of College Faculties will have a presentation during the board meeting to highlight some of the technology and learning systems being used in the classrooms.
- The new CCF President is Mr. Fernando Quijano from Dickinson State University, Vice President and liaison to Academic Affairs Council is Dr. Tom Petros from the University of North Dakota, and the Secretary is Ms.Ann Smith from the North Dakota State College of Science.
- Dr. Jon Jackson will again be the SBHE faculty advisor for the upcoming year.

Report from the University of North Dakota (UND) nickname/logo

Mr. Shaft gave a report on the activities of the UND nickname/logo committee. Mr. Shaft reported that attempts to schedule committee meetings with tribal council leadership have not been successful. Members of the Spirit Lake Sioux tribe, Ms. Eunice Davidson, Mr. John Chaske and an employee of the Englestad Arena, Mr. Sam Dupree, reported on recent events on the Spirit Lake and Standing Rock Sioux reservations in regards to a referendum to grant UND permission to keep the logo and nickname. The representatives of the Spirit Lake Sioux tribe asked the board to not shorten the current timeline for resolution of the nickname and logo. They stated that the original timeline is needed so the referendum can move through the voting process. Mr. Ron His Horse is Thunder, chairman of the Standing Rock Sioux tribe, provided testimony on the voting process for his tribe and his efforts in opposition to a referendum vote of the Standing Rock Sioux tribe.

Mr. Shaft said UND is transitioning into Division I athletics. UND would like to apply to the Summit League, but Summit League officials have stated that they will not accept UND's application until the nickname/logo issue is resolved. Mr. Shaft stated that on April 25, he and Mr. Espegard, Chancellor Goetz, Dr. Kelley, and the UND Athletic Director met with the commissioner of the Summit League. The commissioner stated that they already have six applications for the one available slot. Mr. Shaft said there is a chance that UND could be chosen if they were to apply, but would have to submit their application as soon as possible. Mr. Shaft said there is no guarantee that the university would be accepted, even if the nickname issue were resolved. Mr. Shaft said he and Mr. Espegard met with Dr. Kelley and the UND athletic director, and they indicated that an opportunity to apply for membership in the Summit League is important to UND. This league affiliation is the reason he is recommending that the SBHE shorten the timeline for nickname/logo resolution.

Mr. Shaft proposed the following resolution:

"Consistent with the terms and conditions of the October 26, 2007, Settlement Agreement entered into with the NCAA, the Board directs UND officials to retire the "Sioux" nickname and logo, effective August 1, 2009. Full retirement of the nickname and logo shall be completed no later than August 1, 2010. In the event a new nickname and logo is adopted by UND, they shall not violate the NCAA policy regarding Native American nicknames, mascots and imagery.

UND is further directed to undertake actions consistent with the Settlement Agreement to protect its intellectual property rights in the "Fighting Sioux" nickname and mark.

UND is further directed to address the imagery at Ralph Engelstad Arena and other venues pursuant to the terms, conditions and timelines set forth in the Settlement Agreement.

This directive shall be suspended, if, prior to August 1, 2009, the following should happen:

1. *The Standing Rock Sioux tribe and the Spirit Lake Sioux tribe give namesake*

approval consistent with the terms of the Settlement Agreement; and

2. *The namesake approval be binding upon the tribes for a period not less than thirty (30) years."*

Ms. Kostelecky asked for clarification from Mr. Seaworth, that the SBHE undertook the lawsuit with vested partners due to deficiencies in the process leading to adoption of the National Collegiate Athletic Association (NCAA) policy and public statements made by the NCAA relating to use of Indian names and imagery by UND and other institutions. Mr. Seaworth agreed with Ms. Kostelecky's statement.

In response to a question from Mr. Haugen, Mr. Seaworth said the agreement the SBHE entered into with the NCAA allows the board to make a decision sooner than the deadline established in the agreement.

It was moved by Kostelecky, seconded by Espegard to approve the proposed resolution with an amendment replacing the August 1, 2009 effective date and deadline for suspending the directive with October 1, 2009. Andrews, Cripe, Espegard, Haugen, Kostelecky, Shaft, Backes, and Smith voted aye. The motion carried.

BOARD BUSINESS

Board Policy Manual Revisions

Introduction and first reading

Policy 603.2 – Equal Employment Opportunities

It was moved by Andrews, seconded by Espegard to approve the introduction and first reading of Policy 603.2 – Equal Employment Opportunities. Andrews, Cripe, Espegard, Haugen, Kostelecky, Shaft, Backes, and Smith voted aye. The motion carried. Exhibit A.

Introduction and final passage

Policy 802.7 – Identity Theft Prevention

It was moved by Andrews, seconded by Kostelecky to approve the introduction and first reading of Policy 802.7 – Identity Theft Prevention. Andrews, Cripe, Espegard, Haugen, Kostelecky, Backes, and Smith voted aye. Shaft was absent. The motion carried. Exhibit B.

Second reading and final passage

Policy 805.1 – Tuition

It was moved by Espegard, seconded by Andrews to approve Policy 805.1 – Tuition on second reading and final passage. Andrews, Cripe, Espegard, Haugen, Kostelecky, Backes, and Smith voted aye. Shaft was absent. The motion carried. Exhibit C.

HR 6.3.1 – Annual Leave, HR 20.4 – Leave – Institution Closures, and HR 22 – Family Leave

It was moved by Andrews, seconded by Backes to approve HR Policy 6.3.1 – Annual Leave,

HR Policy 20.4, and HR Policy 22 on second reading and final passage. Andrews, Cripe, Espegard, Haugen, Kostelecky, Backes, and Smith voted aye. Shaft was absent. The motion carried. Exhibit D.

Legislative Summary and Review

Mr. Seaworth presented an overview of the legislative session and final bill status report. Chancellor Goetz stated that there are a number of studies coming forward that the office will be managing throughout the legislative interim committee process.

Budget, Audit, and Finance Committee Recommendations

Chancellor Goetz recommends approval of the following action approved and recommended by the Budget, Audit, and Finance Committee:

Mr. Backes reported that the BAFC met with the University of North Dakota School of Medicine and Health Sciences (SOMHS) to review the status of implementation of their performance audit recommendations. The committee reviewed annual budget guidelines. Given 2009-11 funding levels, the committee agreed that an effort should be made by the four-year campuses to hold tuition increases to 3.5%, and if they need to exceed the 3.5% they would need to receive approval from the board to increase rates up to 4% and both SBHE and Budget Section approval for anything over 4%. Mr. Backes stated that the rest of the annual budget guideline proposals were recommended as presented.

Ms. Glatt provided an overview of the items included within the approval of the NDUS 2009-10 Annual Budget Guidelines. In response to a question from Mr. Haugen, Ms. Glatt provided an overview of the STEM Initiatives process, beginning with the request for one-time funding, and concluding with the allocation of $1.5 million in base funding. Mr. Haugen expressed concerns that Mayville State University would not receive funding under the proposed STEM Teacher Education allocation, as the rules changed during the legislative process after the budget proposal was originally developed.

Chancellor Goetz said that he would like to retain the possibility of changing the recommended allocation of the Security and Emergency Preparedness Pool to retain a portion of the funding at the system level. He could bring back a proposed change at a future meeting.

It was moved by Espegard, seconded by Backes to approve the following Budget, Audit, and Finance Committee Recommendations:

- *Approval of a transfer of $133,467 from operations pool carryover ($107,293) and SBHE initiative carryover ($26,174) to North Dakota State College of Science to support a systemwide grant writing position.*
- *Approve 2009-10 annual budget guidelines including tuition rates and fees*
- *Approve State Grant Advisory Board recommendations for 2009-10*

Mr. Smith asked if the motion should be amended to remove the approval of the Security and Emergency Awareness funds. Ms. Glatt asked that the Security and Emergency Awareness funds be approved today in the current amounts listed so campuses can include this funding in their annual budget considerations. She stated that the item can be further reviewed, and

additional allocations can be made to the campuses at a future meeting if it is deemed necessary.

Espegard, Shaft, Cripe and Backes voted aye. Haugen, Andrews, Kostelecky and Smith voted nay. The motion failed.

It was moved by Espegard, seconded by Shaft to approve the Budget, Audit and Finance Committee Recommendations, with the exception of the tuition rates and the STEM Teacher Education Pool allocation. Andrews, Cripe, Espegard, Haugen, Kostelecky, Shaft, Backes, and Smith voted aye. The motion carried.

It was moved by Espegard, seconded by Haugen to require SBHE approval for tuition increases of more than 3.5% at the four-year institutions. Andrews, Cripe, Espegard, Haugen, Kostelecky, Shaft and Backes voted aye. Smith voted nay. The motion carried.

It was moved by Backes, seconded by Andrews to approve the STEM Teacher Education pool allocation to Dickinson State University, Minot State University and Valley City State University as recommended by the BAFC. Backes and Smith voted aye. Andrews, Cripe, Espegard, Haugen, Kostelecky, and Shaft voted nay. The motion failed.

Consent Agendas

Academic Consent Agenda

It was moved by Andrews, seconded by Espegard to approve the following academic consent agenda requests:

- Approve the Bismarck State College request to offer both an A.A.S. and program certificate in technical studies and to offer this program through distance education on an ongoing basis
- Approve the Mayville State University request to offer a communication major and minor program
- Approve the Minot State University request to offer a minor in international business
- Approve the North Dakota State College of Science request to offer a program certificate, diploma and A.A.S. program in micromanufacturing technology on-campus and through distance education on an ongoing basis
- Approve the North Dakota State University request to offer a M.S. degree and graduate program certificate in transportation and urban systems; a new degree program, Master of Transportation and Urban Systems; and to offer these programs through distance education on an ongoing basis
- Approve the North Dakota State University request to offer an online major, minor and new degree Master of Software Engineering (M.S.E.)
- Approve the University of North Dakota request to offer a graduate program certificate in middle school science and engineering for teachers and to offer this program through distance education on an ongoing basis
- Approve the University of North Dakota request to offer a minor program in dance
- Approve the University of North Dakota request to offer a B.S. in Aeronautics degree with a major in unmanned aircraft systems operation
- Approve the University of North Dakota request to terminate the B.S. Ed. with a

combined major in elementary education and early childhood education

- Approve the Valley City State University request to offer a master in education concentration in teaching English language learners, and to offer this program through distance education on an ongoing basis.

Andrews, Cripe, Espegard, Haugen, Kostelecky, Backes, and Smith voted aye. Shaft was absent. The motion carried.

Financial and Facility Consent Agenda

It was moved by Espegard, seconded by Cripe to approve the following financial and facility consent agenda requests:

- Approve the North Dakota State University request for authorization to proceed with the installation of a new incinerator and associated remodeling in Van Es Hall in the amount of $350,000.
- Approve the North Dakota State University request for authorization to proceed with the Minard Hall Renovation project - Phases I, II and III in the amount of $18,000,000.
- Approve the North Dakota State University request for authorization to proceed with an anticipated telecommunications platform upgrade at the North Dakota State University in the amount of $1,000,000.
- Authorize North Dakota State University to proceed with an anticipated telecommunications platform upgrade at North Dakota State College of Science in the amount of $250,000. This upgrade will be provisioned under a partnership between North Dakota State College of Science and North Dakota State University, with the North Dakota State University serving as a hosting site for the integrated Enterprise Telephony Solution.
- Approve the North Dakota State University request to proceed with and, subject to final SBHE approval of financing, initial resolution authorizing North Dakota State University to issue and sell self-liquidating, tax-exempt bonds in an amount not to exceed $27,000,000 for the purpose of financing the construction of the Niskanen Apartment Complex Expansion ($20,000,000) and West Dining Center Renovation and Addition and/or Auxiliary Enterprises Building Renovation ($7,000,000) on the North Dakota State University campus as per North Dakota Century Code Chapter 15-55, Construction of Revenue Producing Buildings at Higher Educational Institutions. Request further authorization to appoint the firm of Arntson and Stewart, P.C. as the bond counsel and Fieldman, Rolapp & Associates (Independent Financial Advisors to Government) as the financial advisor. North Dakota State University will request approval of financing including the terms of the financing and authorization to execute and deliver documents necessary for the issuance of the bonds at a future SBHE meeting, and no project contracts will be awarded until final financing documents are approved by the SBHE.
- Approve a new North Dakota University System master lease-purchase agreement with Wells Fargo Brokerage Services, for an initial term of five years, subject to terms as set out in the Wells Fargo Brokerage Services Governmental Lease-Purchase Agreement and subject to necessary and appropriate revisions and edits to that document recommended by legal counsel and approved by the chancellor, and also subject to a maximum financing rate of 7%.

Andrews, Cripe, Espegard, Haugen, Kostelecky, Backes, and Smith voted aye. Shaft was absent. The motion carried.

Personnel Agenda
It was moved by Espegard, seconded by Haugen to approve the following personnel agenda requests:

- Approve appointment of Robert Bahm for a second term on the North Dakota State Board of Agriculture Research and Education
- Approve appointment of John Bollingberg for a second term on the North Dakota State Board of Agriculture Research and Education
- Approve the Bismarck State College request to grant President Emeritus Status to Dr. Donna S. Thigpen, the fifth CEO of Bismarck State College

Andrews, Cripe, Espegard, Haugen, Kostelecky, Backes, and Smith voted aye. Shaft was absent. The motion carried.

SBHE Policy 604.1 – Performance Evaluations: Presidents and SBHE Policy 604.2 – Performance Evaluation; Chancellor; General Counsel
Ms. Kostelecky proposed amendments to policies 604.1 and 604.2 in an effort to have more comprehensive and objective evaluations for the positions for which the SBHE has direct hiring responsibility. Ms. Kostelecky said the amendments are consistent with the recommendations of the compensation consultant, Stan McKnight.

It was moved by Espegard, seconded by Kostelecky to approve introduction and first reading of Policies 604.1 and 604.2. Andrews, Cripe, Espegard, Haugen, Kostelecky, Shaft, Backes, and Smith voted aye. The motion carried. Exhibit E.

MAJOR POLICY DISCUSSIONS & SPECIAL REPORTS

Briefing on National Governor's Association (NGA) meeting on community colleges and industry partnerships
This item was removed from the agenda.

Review of State Workforce Initiatives
This item was removed from the agenda.

Demonstration of System Collaborative Technologies
Dr. Hillman and Mr. Randall Thursby provided a brief overview of the collaborative systems that the faculty members would be demonstrating. Rosi Kloberdanz, Patty Heisler, Jerry Rostad, and Tammy Belgarde demonstrated the WIMBA and Moodle systems.

Discussion with the Council of College Faculties
The Board met with members of the Council of College Faculties (CCF). In addition to Dr. Jackson, CCF members in attendance included:

- July 26, 27 - SBHE Retreat
- September 17 – University of North Dakota

The meeting adjourned at 2:55 p.m. MT

Executive Secretary

President

June 18, 2009
Date

Tribe likely to vote on UND nickname

- Story
- Discussion

BLAKE NICHOLSON Associated Press Writer | Posted: Saturday, February 2, 2008 6:00 pm | (0) Comments

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Members of the Spirit Lake Nation likely will vote on whether to support the University of North Dakota's "Fighting Sioux" nickname, the tribe's leader says.

Chairwoman Myra Pearson said Saturday that the tribe has grown tired of the issue.

"It's been something that's not as important as our health care or housing or everything we're faced with out here, but it's been popping up all the time, and I think we need to put it to rest here pretty quick," she said.

Under a settlement with the NCAA reached last October, UND has three years to win support of the state's Sioux tribes for its nickname and American Indian head logo. If that does not happen, the nickname and logo are to be retired.

The Standing Rock Sioux tribe in North Dakota has said it opposes continued use of the nickname and logo by UND.

Pearson could not say when a vote might be held on the Spirit Lake reservation. She said that if Tribal Council members gain enough feedback during upcoming district meetings, the wishes of the majority might be clear enough for the council itself to decide.

"Maybe it won't even have to go to a vote," she said.

Pearson said she personally opposes the nickname, but that "I represent all of these (tribal members), and I have to see what they decide." She said opinions about the nickname "seem to be split" on the reservation.

Spirit Lake is the closest reservation to the UND campus. A 2000 tribal resolution does not oppose the nickname, though it does not specifically endorse it. It states that, "As long as something

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positive comes from this controversy, (the tribe is) not opposed to keeping the 'Sioux' name and present logo at UND."

Pearson said she reads the resolution as neither supporting nor opposing the nickname. Tribal officials did not respond to NCAA requests for clarification, and the association later deemed it insufficient to grant UND a tribal namesake exception to its policy banning Indian nicknames and imagery. Other schools, such as the Florida State Seminoles, have received such exemptions by getting approval from tribes.

UND sued the NCAA over a 2005 mandate that bars schools with Indian nicknames and logos from using them in postseason play or hosting playoff games. The NCAA considered UND's nickname "hostile and abusive" to Indians. UND said it uses the nickname with respect.

Leaders at the Standing Rock Sioux reservation have been firm in their opposition to the nickname. Tribal Chairman Ron His Horse Is Thunder personally opposes it, and the Tribal Council has passed a resolution reaffirming its opposition.

His Horse Is Thunder sent a letter and a copy of the council's anti-nickname resolution to a state Board of Higher Education meeting late last year.

At the same meeting, board members endorsed Chancellor William Goetz's proposal that he meet personally with Pearson and His Horse Is Thunder to discuss the nickname issue. He is to report the results of his efforts at the board's Feb. 21 meeting in Mayville.

Goetz, who has said the board should not rely on resolutions and media stories in making decisions about the UND nickname and logo, did not immediately return a telephone call Saturday seeking comment on the possible Spirit Lake vote.

John Q. Paulsen, president of the Board of Higher Education, declined comment Saturday on Pearson's remarks.

UND spokesman Peter Johnson did not immediately return a telephone call seeking comment on Saturday.

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Subscription required to read the rest of this article.

Posted in State-and-regional on *Saturday, February 2, 2008 6:00 pm* Updated: 2:22 pm.

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Good morning,

Honorable Chairman and members of the Senate Education Committee

My name is David Davidson Sr. I have supplied my statement before the House Committee and in the interest of time I will not repeat it now.

Today I would like to address some misleading statements by Mr. Shaft and the State Board, before the House Committee.

First I have to correct Mr. Shaft, in his unprepared statement. He said in response to my statement that on April 16, 2009, that UND staff aided the opposition on Spirit Lake. Mr. Shaft said "IT DID NOT HAPPEN", so I have supplied a copy of the Devils Lake Journal and a DVD of WDAZ 10 PM news April 16, 2009

As to his prepared statement;

PAGE 1, NCAA ACTION;

Paragraph 3; procedures for exemption." Whether A sovereign tribe had provided formal approval" Spirit Lake members voted 67% in support and the Tribal Council voted unanimous. This would be the exemption that Florida State University was exempted by. Oklahoma Seminoles objections were over ruled in favor of the Seminoles in Florida. Michigan has 5 Chippewa Tribes located entirely in the state of Michigan, but the Saginaw Chippewa Tribe was the only one they Central Michigan needed.

POST SETTLEMENT ACTIONS; page 2

Number 2; Long-term agreement. "The 30 year requirement was added by the State Board 3 weeks after the Spirit Lake vote. A requirement Ass. Att. Gen. Doug Barr said the State Board could not sign, argued before the N.D. Supreme Court case #20100022 oral arguments 3/23/2010 2:45 PM " The Board CAN NOT sign away its ability to change any name"
THIS REQUIREMENT WAS NOT IN THE SETTLEMENT/AGREEMENT

Paragraph 3; the spirit of the agreement does not say at the highest level, it just say's UND is to seek and obtain approval.

It does say both tribes, but that is a requirement NO OTHER UNIVERSITY HAS HAD TO FUFILL PLUS IT REQUIRES TWO STATES, ANOTHER REQUIREMENT NO OTHER STATE UNIVERSITY HAS HAD TO FUFILL. Should the NCAA wish to sanction UND and the State, they will have to revisit Florida Seminole's, Central Michigan Chippewa's, Mississippi Choctaw's, Utah Ute's, North Carolina Catawba Indians and the Illinois Fighting Illini, also

NCAA procedures for exemption. Clearly Spirit Lake has gone well beyond any past NCAA requirements.

PAGE 3 Paragraph 3; By October, 2008 both Spirit Lake and Standing Rock Tribal Councils oppose the name and logo. TRUTH: October 5, 2008, Spirit Lake raises Tribal flag along side of Standing Rocks at the REA, a ceremony that had the blessing of the Tribal elders, Tribal Vet's, Tribal Council and the People. DID THE STATE BOARD ONLY TALK TO CHAIRWOMAN MYRA PEARSON WHO HAS BEEN ON RECORD SINCE 2005 IN OPPOSITION TO THE NAME?

Paragraph 4, The Board embraced the referendum process. TRUTH; Staff from UND as I showed you aided opposition in trying to influence enrolled members to reject support for the name and logo. QUESTION: did UND legal program or anyone help with the injunction submitted by the opposition to stop the vote on Spirit Lake, turned in on April 16, 2009?

The Tribe Council was not REQUIRED to adopt a resolution (although they would have a hard time justifying not supporting it) their resolution went beyond what the people asked for. Contrary to Mr. Shaft's statement to the House, the State Board had nothing to do with that resolution.

The State Board was not satisfied with Perpetual, they argued for a binding 30 agreement.

Last paragraph page 3; May 2009, what Mr. Shaft fails to mention is that the time allotted to supporter who were on the agenda (which was there one and only time to address the Board) , was cut short when Mr. Espergard called the Chairman up (he was not on the agenda)

I could go on and on but I will just finally say the North Dakota State of Higher Ed will not be able to produce one document where they reached out to supporters and having witnessed the process I believe the State Board actually avoided supporters.

I ask for your support on HB 1263...

Thank You,
David Davidson, Sr.

North Dakota University System
HB 1208, HB 1257 and HB 1263 –
House Education Committee
January 26, 2011
Grant H. Shaft, Vice President,
North Dakota State Board of Higher Education

Madam chair and members of the House Education Committee, good morning. For the record, my name is Grant Shaft, and I am the vice president of the North Dakota State Board of Higher Education. I am appearing today on behalf of the board.

As a member of the board, I had the primary responsibility for addressing the issue of the Fighting Sioux nickname and logo at the University of North Dakota. My purpose before your committee today is to provide you with information regarding what led the State Board of Higher Education to retire the Fighting Sioux nickname and logo and the process that led up to that decision.

NCAA ACTION

The University of North Dakota competes in athletics within the National Collegiate Athletic Association (NCAA). Accordingly, UND, like all other schools competing in NCAA-sanctioned events, is subject to the policies adopted by the NCAA.

In 2005, the NCAA adopted a policy that prohibited the display of Native American names or imagery deemed hostile or abusive on team uniforms and associated paraphernalia at NCAA championship events. Any school that continued to use Native American names and imagery was prohibited from hosting or bidding to host championship events. Further, the policy urged schools that were members of the NCAA to refrain from scheduling regular season competition with schools that use Native American names and imagery. The University of Minnesota is one institution that has taken this action against UND in all sports excepting hockey. UND was identified as a school using Native American names and imagery and was placed on the list of schools subject to the restrictions.

The NCAA provided a procedure to challenge a school's inclusion on the list and provided that a primary factor to be considered was whether a sovereign tribe had provided formal approval for the use of the name and imagery. This would be the exemption under which Florida State University is allowed to continue to use the Seminole name and imagery. UND appealed its inclusion on the list and exhausted the administrative appeal process afforded by the NCAA. On April 27, 2006, the NCAA issued a final decision rejecting UND's appeal.

With the administrative appeal options exhausted, the North Dakota State Board of Higher Education authorized the attorney general, on October 6, 2006, to initiate a lawsuit against the NCAA alleging breach of contract, breach of the implied covenant of good faith and fair dealing, and for violations of anti-trust law. Shortly after filing, the District Court issued a preliminary injunction prohibiting the NCAA from applying the restrictions against UND until trial.

On October 26, 2007, the attorney general briefed the State Board of Higher Education on the status of the lawsuit and his extensive negotiations with the NCAA toward settlement. Based on this briefing, both the State Board of Higher Education and the attorney general approved the terms of this negotiated settlement. The settlement agreement included the following terms:

1. **UND was provided a three-year period from November 30, 2007, to November 30, 2010, to secure approval from both North Dakota Sioux Tribes, (Spirit Lake and Standing Rock).**

2. **During the three-year period, UND would not be subject to the NCAA restrictions.**

3. **If UND obtained the consent of both tribes, they would no longer be subject to the NCAA restrictions UNLESS:**

   a. **The NCAA changed its policy and no longer allowed schools to be exempt from the restrictions, or**
   b. **Either North Dakota Sioux Tribe withdrew its approval, at any time.**

4. **The District Court lawsuit was dismissed, with prejudice, meaning the litigants are barred from relitigating the subject matter of the lawsuit.**

I have included with my statement a copy of the *STATEMENT OF ATTORNEY GENERAL WAYNE STENEHJEM ON THE SETTLEMENT OF THE LAWSUIT AGAINST THE NCAA dated October 26, 2007, and a copy of the Settlement Agreement dated October 26, 2007.*

It should be noted that the attorney general is a UND alumni, and five of the eight voting members of the board at the time of the settlement had attended UND and were supportive of UND's continued use of the nickname and logo. Further, with regard to the legal issues involved, three voting members on the board were also licensed and practicing attorneys.

POST SETTLEMENT ACTIONS BY THE BOARD OF HIGHER EDUCATION

With the Settlement Agreement in place, resolution of the matter shifted from the attorney general to the State Board of Higher Education. From the date of settlement forward, the board sought two resolves:

1. Written permission from both tribes in accordance with the Settlement Agreement, AND
2. A long-term agreement with the tribes so that UND's exemption from the NCAA restrictions would not be jeopardized each time there was a tribal election or referendum.

The board felt both components were necessary so that the issue would be stabilized for a period of years, and UND could plan accordingly.

Immediately following the NCAA settlement, the board unanimously supported an exhaustive effort to obtain tribal approval. The spirit of the Settlement Agreement intended meetings at the highest level of both higher education and tribal government. This effort involved engaging all

interested constituencies, including the Standing Rock and Spirit Lake leadership, Ralph Engelstad Arena, UND, alumni, local, state and federal officials.

The board initially instructed the chancellor of the North Dakota University System to contact both tribes' leadership to determine their positions as to UND's use of the name and logo. After several meetings and follow-up discussions with the leadership of both tribes, the chancellor reported to the board that both tribal councils emphatically opposed UND's continued usage of the name and logo. During this same time period, the board monitored private efforts at obtaining approval from the tribes. These, too, were not successful.

By October 2008, both the Spirit Lake and Standing Rock tribal councils continued their opposition to the nickname and logo and formally stated to the board that they would not participate in any further discussions or meetings, regardless of the level of the participants. The board resolved to continue making every effort to obtain their approval. In furtherance of this, a committee was formed to engage the tribal leadership. Considerable time and effort was spent insuring that the committee consisted of equal representation from nickname supporters and those opposed including members from both tribes, UND, REA, government officials and the Grand Forks community. The committee made several written requests to all members of both tribal councils to meet. NONE of our written requests were answered, nor were our phone calls. The committee was therefore unable to engage the tribal leadership.

Despite the committee's efforts being rejected by the tribal leadership, the board continued its resolve to obtain approval. Since the tribal leadership was not receptive, the board embraced the referendum process at Spirit Lake. Through the efforts of Spirit Lake tribal members, a successful referendum vote was held requiring the Spirit Lake tribal council to adopt a resolution authorizing UND to use the nickname and logo. An authorizing resolution was secured that conformed to the terms of the Settlement Agreement. It should be noted that, prior to expiration of the three-year NCAA Settlement period, petition efforts had been undertaken at Spirit Lake to revoke this authorization.

While the above process was ongoing, UND's president and athletic director notified the board that UND wished to seek league affiliation with the Division I Summit League. According to UND, their lack of solid league affiliation was jeopardizing UND's transition to Division I athletics. However, the Summit League refused to consider UND's application until the nickname and logo issue was resolved. Rather than wait for UND, the Summit League intended to continue seeking other interested schools in hopes of filling its league needs. Given the potential impact to the Fighting Sioux name and logo, the chancellor, board president and two board members traveled to the Summit League offices in Chicago and met with the league's director to confirm their position. He confirmed the information provided by UND including the possibility that the league would find another school to fill the opening sought by UND. Based on the urgency presented by UND and the Summit League's stated position on the nickname and logo, the board was forced to address whether it was in the best interest of UND and its athletic programs to delay application to the Summit League until November 30, 2010, or shorten the timeline for tribal approval so as to accommodate the Summit League application.

In May 2009, Standing Rock's leadership appeared before the board to formally express their continued opposition to the nickname and logo. They also informed the board that there was a tribal moratorium on the issue, and the referendum process was not available under the Standing

Rock constitution. This opposition was underscored in August 2009 when the Standing Rock leadership refused to schedule a referendum vote requested by members of the tribe. The Standing Rock leadership appeared before the board again on September 17, 2009, to restate its continued opposition.

Despite the urgency of UND's application to the Summit League and Standing Rock's clear opposition to name and logo approval, the board resolved to continue working for Standing Rock's approval in light of upcoming tribal elections in the fall of 2009. The elections were held, and a new chairman was elected along with several new council members. With hope of a change of posture on the part of the new tribal leadership, the chancellor and several board members immediately met with Chairman Murphy in order to clearly convey the urgency of the situation along with what approvals were needed. The new Standing Rock chairman clearly stated that the moratorium on referendum elections remained intact, that the name and logo issue was of low priority to the tribe, and, even if an agreement could be reached, it would not be binding on future elected councils. In other words, they could change their mind at any time.

Even in light of this disappointing position by the new chairman, the board continued to delay taking action on the name and logo while efforts among the tribal members at Standing Rock were underway to petition for a referendum, in spite of the existing moratorium on the same. On April 6, 2010, the Standing Rock Tribal Council received the signatures of 1,004 members supporting the nickname and logo and seeking a referendum vote. However, on June 12, 2010, the same Standing Rock Tribal Council received a petition signed by 1,010 tribal members urging the council to continue its opposition to the nickname and logo. On June 17, 2010, the tribal council voted 10-4 to refuse to consider the petitions, and stated that the council had reached a final resolution to not discuss or consider the Fighting Sioux nickname and logo further.

Overall, the Standing Rock tribal council has formally resolved on nine occasions between 1992 and 2010, under different chairmen and council makeup, to oppose UND's use of the nickname and logo or placing the issue on the ballot.

On April 8, 2010, based on the continued opposition from Standing Rock's leadership and information that UND's application would need to be submitted to the Summit League by June 1, 2010, to be considered for membership and competition in 2012, the board directed President Kelly to proceed with the process of retiring the nickname and logo. Immediately after taking this action, both the Division I Summit League and Big Sky Conference were in contact with UND regarding conference affiliation. UND has now joined the Big Sky Conference.

Between April 8, 2010, and November 30, 2010, the end date of the Settlement Agreement, the board continued to monitor Standing Rock's position with board members stating that if tribal approval was obtained by November 30, the board would reconsider the issue.

The final effort to obtain Standing Rock's approval was a Standing Rock Tribal Court action filed on October 18, 2010. Ten Standing Rock tribal members representing 1,004 petitioners filed an action against the Standing Rock Tribal Council and its individual members to compel the tribal council to give its support for UND's use of the nickname and logo or to allow a constitutional referendum vote. The tribal court denied their petition. An appeal was taken to the Standing Rock Sioux Supreme Court as case no. COMP-10-563 and, on November 15, 2010, the

Supreme Court dismissed the appeal and sent the matter back to the tribal court. The tribal court then dismissed the action in its entirety.

The above information is presented in summary fashion and cannot be specific to the hundreds of hours spent by board members attempting to secure approval from both tribes. The time and effort invested by board members greatly exceeds any reasonable expectations of such a board, and the time dedicated to doing so was often at the expense of other issues vital to UND and the other 10 institutions in North Dakota. However, during the entire process, contrary to public perception, all eight voting members of the State Board of Higher Education continued to believe that UND's use of the nickname and logo has always been respectful and dignified and that the tribes should be afforded every opportunity to give their approval.

As of November 30, 2010, the following strategies for retaining UND's use of the nickname and logo had been attempted:

1. NCAA administrative review and appeals;
2. Legal action against the NCAA in District Court;
3. Direct appeals to the tribal leadership;
4. Formation of a statewide committee to engage tribal leadership;
5. Tribal elections at Standing Rock;
6. Referendum efforts at both Standing Rock and Spirit Lake
7. Tribal court action and appeal.

This listing does not include other equally involved efforts undertaken by tribal members and private groups.

I am unable to think of any additional action, nor has anyone been able to suggest additional action, that the State Board of Higher Education or any government official or any tribal or private party could have taken to secure the approval of both tribes.

Thank you for the opportunity to appear before your committee today. The State Board of Higher Education hopes that my testimony will help the committee understand the efforts undertaken by the board and others to secure tribal approval for UND's continued use of the Fighting Sioux nickname and logo.

In the end, our constitutional obligation is to act in the best interest of the University of North Dakota. In deliberating this legislation, we ask that you do the same, even if that action differs from your personal feelings on this very emotional issue.

Thank you.

SETTLEMENT/AGREEMENT
OCT 26, 2007

administrators, employees and legal representatives, forever releases and discharges the NCAA and all insurers, officers, directors, employees, legal representatives, and all other persons from all claims, causes of action, and demands of every kind, including attorneys fees, arising out of, resulting from or in any manner pertaining to the Policy, except as expressly reserved in Section 3 below, which have been, or could have been, asserted by plaintiff as of the date of this Agreement.

2. In consideration for UND's release of its claims, the NCAA shall agree as follows:

a. **Effect of Namesake Approval.** UND will be provided a period of time until November 30, 2010 (the "Approval Period"), to seek and obtain namesake approval for its nickname and related imagery, during which time the Policy will not apply to UND and UND will not be restricted from hosting and bidding to host championship events for which it otherwise would be eligible to host. To secure approval qualifying UND for a namesake exemption from the Policy, UND must have clear and affirmative support for the "Fighting Sioux" nickname and logo, in the form set forth in Subsection 2(c) below, from both the Spirit Lake Tribe ("Spirit Lake") and the Standing Rock Sioux Tribe ("Standing Rock"). If UND obtains such support within the Approval Period, then the Policy will not apply to UND until such time as either (i) the NCAA abolishes the namesake exemption for all schools and makes the Policy apply, with all of its restrictions, to all exempted schools, or (ii) either of the tribes named in this Subsection withdraws or otherwise reverses its support for UND's use of the "Fighting Sioux" nickname and related imagery. The form of withdrawal or reversal, if any, is described in Subsection 2(c) below. The "Best Practices" portion of the Policy will apply to UND uniformly as it applies to all schools. No change or modification in the current namesake exemption will have any affect whatsoever on UND's rights under this Section, unless the namesake exemption is completely repealed so no member institutions are exempted from the Policy by that exemption. If the namesake exemption is completely repealed

By Sue Kraft Fischer
Journal Lifestyles Editor

There are some members of the Spirit Lake Tribe who are opposed to the Fighting Sioux nickname and they are determined to get voters on their side in next week's election.

That is, if the item remains on the ballot.

At a meeting yesterday in Fort Totten, those in favor of changing UND's nickname questioned the validity of the recent petition which placed the item on the ballot.

"I grabbed the petition last week and a friend and I picked it apart," said Terry Morgan, one of the leaders of the Change the Nickname Meeting. He said a court hearing will be held Friday afternoon to determine if the item will remain on the ballot for next week's election.

"There were non-enrolled members, members who do not live here and forgeries — one person signed six mem-

See Sioux/Page 12

Where it all came from

UND teacher explains history Fighting Sioux mascot – and why it is hurtful to Native Americans.

By Sue Kraft Fischer
Journal Lifestyles Editor

Amy Phillips, a teacher in the social work department at UND, visited with members of the Spirit Lake tribe yesterday to voice her opposition to their current Fighting Sioux logo.

"It embarasses me that you are being put in this position," Phillips said to the crowd yesterday in Fort Totten. "I'm embarassed that a predominantly white university... is putting this strife and tension on you."

Phillips and her husband have researched the history of UND's logo extensively and brought that information to the tribal members in attendance.

She said the UND athletic logo used to be known as the "Flickertails" or "No Daks" but the students were searching for a more powerful name for their football team.

"Football was becoming a very popular sport and Indian names were being chosen," she explained.

Tribal names, she said, "conjure up images of strength and overcoming diversity."



Journal Photo/Sue Kraft Fischer

UND educator Amy Phillips presented numerous slides on the history of the Fighting Sioux logo, including this snapshot of the mascots used through the years.

She showed clippings of the university's newspaper, which showed letters from students suggesting the name. A couple of students suggested "Sioux" because it was strong and because the Sioux Indians were the "pioneer conquerer of the bison."

She said before the name was officially adopted, students and others in the athletic department began using it for the football team. That includes caricatures of Native Americans, students dressing in Native clothing and mocking the Native culture. She also showed examples of how rival teams were using demeaning photos of Indians as part of their team's campaigning.

"They started using the logo because it was better to use in advertising," she said.

She said in 1930 the first annual Sioux pow-wow was held at UND and that same year, the homecoming festivities and floats all revolved around Indian themes. The basketball players were still known as the No Daks.

She said 1950 was the first

See From/Page 12

From/from page 1

year that an Indian head logo was used on a jersey.

"Interestingly enough, that's when Ralph Engelstad appeared," she noted.

In 1951, some of the university's jerseys read "No Daks" and others were "Sioux." The logo wasn't used university-wide until 1987.

Phillips showed numerous examples of how the campaigning by UND and rival schools reflected negatively on the Native culture. She showed photos of fraternity boys painting their faces red, cheerleaders in Native dresses and countless examples of hurtful language used through the years.

She even mentioned the Sioux Shop, a small gift store located in the arena, that sells pet bowls with the Fighting Sioux logo on the bottom.

"So, when your pet is licking the bowl, it's the Indian head logo in the bottom," she said.

Phillips concluded with a quote from Anne Marie Machamer from the Coastal Band Chumas Nation in California.

American Indian logos/nicknames/mascots are symbols that "reveal the latent attitudes whites harbor toward American Indians. These are symbols of dominance and superiority and expose feelings of entitlement not only to our land and resources but also to our religions and identities. In a way, it is the most fundamental issue facing Indian peoples."

Sioux/from page 1

bers of their family," he explained.

Morgan said there are also a couple cases of duplicated names and several illegible signatures.

"The most embarassing part," he added, "was that we got a report that this was taken to a house party and people were asked to sign there."

Morgan said they hope to have the item taken off the ballot, but that doesn't mean the debate is finished.

creating a Civil War of sorts on the reservation.

"UND should be ashamed of itself and the NCAA should be ashamed of itself," he said. "The bottom line is they need to put their foot down. Why are Spirit Lake and Standing Rock the deciding factors?"

Morgan cited several examples of UND students mocking the Native culture and showed posters from rival schools that mimi[redacted]tive Americans.

He[redacted]o appealed to the vet-[redacted] the crowd, showing an

favor of keeping the name and questioned if the Ralph Engelstad Foundation provided funds for their campaign.

"Someone from Ralph Engelstad said we didn't pay for that, but it was paid for by somebody," he said. "Nobody does anything for nothing."

He continued, "I have today's copy of the *Grand Forks Herald* and the article says nobody got paid, but I can't believe that."

He then reflected o[redacted]e negative images shown [redacted]er in the meeting and the [redacted]gative

Honorable Chairwoman Kelsch and Honorable Members of the house and Education Committee...Good Morning.

My name is David Davidson and I have been married to Eunice Davidson for 42 years, and closely connected to the Spirit Lake Tribe for over 50 years. But with all that, I would not presume to talk for the Sioux. I am here to talk to you as a white man who carries many black eyes. Black eyes caused by white man manipulating a few tribal members at the expense of the whole tribe. I feel this is such a case...

TIMELINE

Starting back in September 2008, when Spirit Lakes plan to raise the tribal flag next to Standing Rocks at the REA, in the press chancellor Goetz starts talking about changing deadlines.

After the Oct 2008 flag raising ceremony, statements from the State Board are the need to hurry and change the deadline date and the Summit League is brought into the debate.

By March 2009, its clear Spirit Lake will vote on the issue and more statements from the Board on the need to hurry because of Summit League!

April 16, 2009, Knowing of the vote staff from UND aid opposition leaders on Spirit Lake to convince members to reject the name & logo, also opposition leaders turn in their injunction against the people voice the same day.

April 21, 2009, 67% of Spirit Lake voice support and within hours UND staffs question the intellectual ability of the people of Spirit Lake.

(level headed individuals would not support the name and logo)

May 10, 2009, at a forced meeting with Chancellor Goetz at the Att. Gen. Office in Bismarck, he admits threw his attorney, of unofficial meetings between the Board and the opposition, but he gives no response to why they have not meet with supporters.

May 14, 2009, at the meeting in Dickenson ,Duaine Espergard call the chairman of Standing Rock to rebut supporters views, a speech that Grant Shaft said they heard many times. It was supporters first and only time to voice their views.

May 14, 2009, the Board votes unanimously to retire name & logo, 18 months early. Reason "Summit League."

By July of 2009, it was clear on Spirit Lake, that they now were fighting not just the NCAA, but also the State Board and UND administration. And that the Sioux were going to be blamed for a decision, that they had no input into.

They fought this though District Court and on to the North Dakota Supreme Court. Where both courts agreed reluctantly, that under the Boards authority, they have the power to change the name & logo any time for any reason they choose. And the Sioux were not part of the agreement and had no rights on this issue.

It was also stated by Ass. Att. Gen. Doug Barr at the North Dakota Supreme Court, the Board could not sign an agreement that would forfeit they power to change the name at any time, yet they demanded just that from two sovereign nations.

Nov. 2010, UND's scheduled meeting for acceptance in the

Summit League was cancelled and they joined the Big Sky League. (Was the Summit League just a farce?)

Because the Sioux are still being blamed for a decision they had no input into brought about by statements from the State Board of Higher Ed.

I feel the Board forfeited its right to change the name, without the voice of the majority of Sioux of North Dakota.

Your actions here today if successful do not silence the Sioux's voice it requires the voice of the Sioux, a sign of respect and honor!

Thank you for allowing me time to testify....

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News Story

Print

Settlement of lawsuit over Fighting Sioux nickname approved

By The Associated Press
10.29.07

GRAND FORKS, N.D. — North Dakota officials have three years to persuade Sioux tribes to support the Fighting Sioux nickname and logo, under a settlement approved last week with the NCAA. The president of United Tribes Technical College says the settlement shows contempt for tribal people.

The state Board of Higher Education voted unanimously Oct. 26 to approve the settlement after a closed-door briefing from Attorney General Wayne Stenehjem.

David Gipp, president of United Tribes Technical College in Bismarck, said leaders of the Standing Rock and Spirit Lake tribes, as well as other tribes and groups, were on record opposing the nickname.

"Allowing a three-year period to influence the tribes leaves open the door for UND and its agents to continue their meddling in the social and political affairs of tribal nations, causing untold damage in the lives of good people and families who only wish to have their ways and heritage respected," Gipp said in a statement.

Stenehjem, who had outlined the agreement earlier for tribal officials, said negotiations over the nickname and logo should be led by top-level state officials.

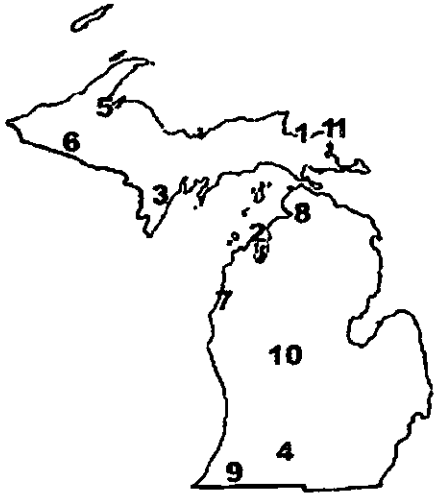
"There shouldn't be a huge number of people putting pressure on anyone," he said.

The NCAA in 2005 banned the use of the nickname in postseason play, labeling it hostile and abusive. UND sued to challenge the ban in October last year and got a temporary order allowing the continued use of the nickname and logo while the case moved through court.

"The settlement confirms that the Sioux people and no one else should decide whether and how their name should be used," said Bernard Franklin, an NCAA senior vice president, in a statement.

"The settlement is consistent with the NCAA's firm belief that Native American nicknames and imagery have no place in intercollegiate athletics," the NCAA statement said.

"We are not going to be fighting this in 10 years, in 20 years, in 30 years," Stenehjem said. "This is an issue that needs to be resolved, needs to be concluded."



1 Bay Mills Indian Community:
Rt 1 Box 313
Brimley, MI 49715
http://www.baymills.org/

2 Grand Traverse Band of Ottawa and Chippewa Indians:
2605 NW Bayshore Dr
Suttons Bay, MI 49682
http://www.gtb.nsn.us/

3 Hannahville Indian Community:
N14911 Hannahville B1 Rd.
Wilson, MI 49896
http://www.hannahville.com/

4 Huron Potawatomi Nation:
2221 1-1/2 Mile Road
Fulton, MI 49052

5 Keweenaw Bay Indian Community:
795 Michigan Ave
Baraga, MI 49908
http://www.ojibwa.com/

6 Lac Vieux Desert Band of Chippewa:
PO Box 249, Choate Road
Watersmeet, MI 49969

7 Little River Bay Band of Ottawa Indians:
409 Water Street
Manistee, MI 49660

8 Little Traverse Bay Band of Ottawa Indians:
PO Box 246
Petoskey, MI 49770
http://www.ltbbodawa-nsn.gov/

9 Pokagon Band of Potawatomi Indians:
714 N. Front St
Dowagiac, MI 49057
http://www.pokagon.com/

10 Saginaw Chippewa Indian Tribe:
7070 E. Broadway Road
Mt. Pleasant, MI 48858
http://www.sagchip.org/

11 Sault Ste. Marie Tribe of Chippewa:
532 Ashmun St
Sault Ste Marie, MI 49783
http://www.sootribe.org/

Teaching and learning activities about Michigan Native Americans:

Feel free to print these out for classroom use!

- **Michigan Indian Tribes Word Search:** Printable puzzle hiding the names of Michigan's Indian tribes.
- **Michigan Language Greetings:** Learn to say "hello" in several Native Michigan languages.
- **Michigan Native Animals:** Learn the Native American names of Michigan animals.
- **Michigan Indian Facts for Kids:** Answers to frequently asked questions about the Indian tribes of Michigan.

We currently have pages for the Fox and Sauk, Kickapoo, Potawatomi, Miami, Menominee, Huron, Ojibwe and Ottawa tribes.

Recommended books about Michigan Native Americans:

- **Michigan Indians:** Introducing Michigan's Native American history and culture to kids.
- **Michigan Native Peoples:** Another good book on Michigan tribes for kids.
- **Aube Na Bing:** A pictorial history of Michigan Indians.
- **Ottawa and Chippewa Indians of Michigan:** History of the Anishinabe tribes of Michigan state.

NCAA nixes nicknames (Central Michigan and Saginaw Chippewas balk)

Mt Pleasant Morning Sun ^ | 8-6-05

Posted on **Saturday, August 06, 2005 12:34:48 AM** by **Dan from Michigan**

NCAA nixes nicknames
Use of Native American mascots, logos banned in postseason play

By MATTHEW B. MOWERY
Sun Sports Writer

In response to yet another outside body trying to influence whether or not Central Michigan University and other schools should employ Native American nicknames, the Saginaw Chippewa Indian Tribe issued a sharply-worded rebuke: **Stay out of our business.** Advertisement

After the NCAA announced Friday afternoon that it would prohibit its member institutions from displaying mascots, nicknames or imagery during any of its 88 postseason championship tournaments, the Tribe issued a joint press release with CMU.

The rich relationship that the Saginaw Chippewa Indian Tribe has with CMU cannot be determined by an outside entity without contacting the institution and the government involved, said Tribal spokesman Joseph Sowmick in the release. Any arbitrary decision made from an outside source regarding the university-Tribal relations is not acceptable, and certainly the Saginaw Chippewa Indian Tribe would welcome a dialogue to discuss this further.

Since the school adopted the Chippewa nickname in 1942, there have been several attempts to force it to be changed, but always from outside sources, never from the two primary parties in what has been a long-standing, mutual agreement.

The university has revisited the issue several times, always keeping the nickname in place, pending the continued approval of the Tribe. This time is no different, with the school reserving the Board of Trustees right to make that decision again, as it did last back in 1992.

"CMU's continued use of the name is dependent on whether the Chippewa people in our region continue to feel that CMU's use of the name is in fact a proud reflection and is used with dignity and respect," the university said in the joint statement.

Other than the nickname, the school eliminated the majority of the other potentially-derogatory references to Native Americans in 1989 or earlier, changing the logo, eliminating all mascots as well as depictions of spears from the football teamms helmets, the football field, and the basketball floor.

Every CMU athletic media guide has a carefully-written note about the nickname, urging the mediams help in maintaining the delicate agreement with the Tribe by eliminating linappropriate and inaccurate images of Native Americans.

Only four teams last year even had the Chippewa name on them - football's home and away jerseys, and alternate jerseys for softball, baseball and women's track and field.





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Jock Jams Raises Over $17,000 For Charity

The second annual Illini Jock Jams event was a huge success, raising over $17,000 for local, national and international charities. FULL STORY


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#6 Purdue Tops Illini


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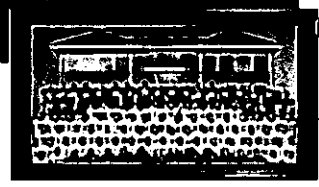
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Florida State, ESPN3.com and ESPNU are collaborating to provide Seminole fans a chance to not only watch the 2011 Spring Football Game live on ESPN3.com and re-broadcasts on ESPNU. This will mark the first time the Florida State spring football game will be carried to a national audience.



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(2/17/11)

Football to Play FCS Playoff Qualifier Coastal Carolina in 2011



Catawba College has announced it will play Coastal Carolina University in football this fall, signing a contract to play in Conway, S.C., on Sept. 10.

FULL STORY

(2/10/11)

Join Us for Blue-White Weekend April 1-2, 2011

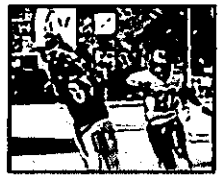


It's been cold and winter seems to last forever! But, spring will soon arrive along with warmer weather and Catawba's 2011 Football Indians will be on display in the annual Blue-White Spring Football Game. The weekend begins on **Friday, April 1st at 7pm in the Hayes Field House,** where we will offer Ladies Night to our female friends and fans. Our special program will feature Jerry Hester, mother of our Coach Chip. Jerry has written a children's book, *Beach Bunnies*, and is also a professional artist, with her speciality oil paintings. She will talk about her book and how she came to write it and will also bring some copies to be given away that night.

FULL STORY

(2/4/11)

Football Commitment List Moves to 21



Catawba coach Chip Hester has added several new commitments after signing day. The list also includes four transfers. Please check back for updates throughout the remainder of the recruiting season. Below is a listing of the new players. Updated Feb. 11.

FULL STORY

(1/3/11)

Catawba Alumnus Leads San Francisco 49ers to a Win in Final Game of Season



The San Francisco 49ers had a 38 to 7 win over the Arizona Cardinals on Sunday, Jan. 2, and much of the credit for that goes to the 49ers interim head coach Jim Tomsula, a 1990 Catawba College alumnus. Tomsula's appointment as interim head coach was announced during a press conference on Monday, Dec. 27, and came on the heels of the firing of the 49ers' former head coach Mike Singletary.

FULL STORY

MORE NEWS

- **Catawba Alum Named Interim Coach for San Francisco 49ers**
- **Rolle and McCray Earn All-Region Football Honors**
- **Ten Earn All-SAC Football Honors, Dennis Named Scholar Athlete**
- **Football Comes Up Short In Season Finale at Lenoir-Rhyne**
- **McCray Sets NCAA II Record in Football's Loss to Tusculum**
- **Dennis Named to ESPN Academic All-District Football Team**

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- '10 Media Guide
- '09 Media Guide

2010 SAC Standings

Choose Season...

School	SAC	Overall
Wingate	6-1	9-3
Carson-Newman	5-2	7-4
Lenoir-Rhyne	4-3	7-4
Catawba	**4-3**	**6-4**
Mars Hill	3-4	5-6
Newberry	3-4	4-6
Tusculum	2-5	6-5
Brevard	1-6	4-7

Full Standings

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Utes Hire Norm Chow as Offensive Coordinator

1/22/2011

Norm Chow, recognized as one of the top offensive coaches in college football, is Utah's new offensive coordinator, head coach Kyle Whittingham announced today.



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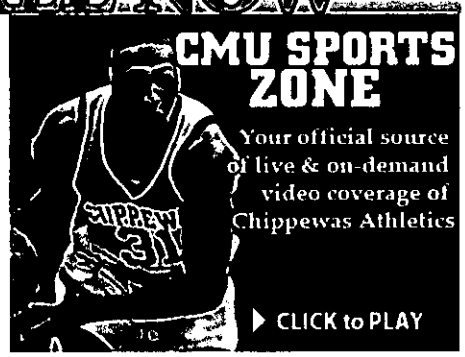
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MAC Announces Women's Basketball Tournament Bracket

MAC Announces Women's Basketball Tournament Bracket

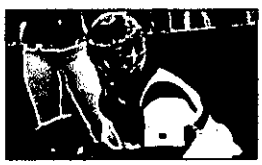
[Mar 03, 2011] CMU is the No. 3 seed and received a bye through the opening round to the quarterfinals at Quicken Loans Arena on Wednesday, March 9, at 2:30 p.m. (Read More)



More News



[illegible]11] CMU senior Mike Miller, a two-time All-American, has overcome multiple injuries to prepare for his final appearance at the...



Softball
[Mar 03, 2011] The Chippewas will play five games over three days in Clearwater, Fla., as a part of the tournament hosted by South Florida.



Track and Field (W)
[Mar 03, 2011] Seven Chippewas will be competing at the Alex Wilson Invitational in South Bend, Ind. this weekend for one last shot to earn...



Women's Basketball
[Mar 02, 2011] UT turned 20 CMU turnovers into 25 points to pick up an 85-75 decision. Jalisa Olive led the Chippewas with 19 points.

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Mar 04	Track and Field (W)	Alex Wilson Invitational	at South Bend, Ind.	TBA
Mar 04	Track and Field (M)	Alex Wilson Invitational	at South Bend, Ind.	TBA
Mar 04	Softball	College of Charleston	at Clearwater, Fla. (Field #3)	10:00 AM
[illegible]	[illegible]ball	Radford	at Clearwater, Fla. (Field #1)	12:30 PM
Mar 04	Baseball	Illinois	at DeLand, Fla.	1:00 PM

Live Stats | Video | Audio

Composite Schedule | Sports Calendar

Good morning, Honorable Chairman, and Senate Education Committee,

My name is David Davidson, Sr. I testified before the house committee but in the interest of time I will only submit a statement that addresses misleading statements made by Mr. Shaft and the State board. I have also supplied backup material newspaper clippings and a DVD.

I ask for your support on HB 1263,

Thank You

STATE OF NORTH DAKOTA | IN DISTRICT COURT

COUNTY OF GRAND FORKS | NORTHEAST CENTRAL JUDICIAL DISTRICT

STATE OF NORTH DAKOTA BY AND THROUGH THE NORTH DAKOTA STATE BOARD OF HIGHER EDUCATION AND THE UNIVERSITY OF NORTH DAKOTA, Plaintiff, v. NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, Defendant.	**PLAINTIFF'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION** **Civil No. 18-06-C-01333**

INTRODUCTION

Because of the unfortunate tone and approach taken by the NCAA in its opposition memorandum, this Reply must begin by stating what this case is not about. This case is not about:

- Whether the Policy is good or bad.
- Whether this Court should "substitute its own judgment" about the wisdom of the Policy.
- Whether there was "substantial evidence" to support the decision of the Executive Committee as if this Court were an appellate court reviewing a decision of some lower tribunal.
- Whether the "Fighting Sioux" name and logo is hostile or abusive.

Were this Court the proper forum, UND would readily demonstrate its arguments as to why the "Fighting Sioux" name and logo are not hostile or abusive simply because some oppose their use. But this Court is not being asked to decide that. Therefore,

despite repeatedly being called a racially discriminatory institution, UND will resist the temptation to respond to irrelevant issues and say only this: As the NCAA concedes, reasonable people disagree about the use of Native American imagery. In its Report, the NCAA MOIC concluded that even the use of Native American mascots by member institutions, which UND does not have, ranges from "respectful to offensive." The only courts to address the novel assertion that the mere use of a name or image is a hostile, abusive, or discriminatory practice have rejected it out of hand. Member institutions of the NCAA have considered and will continue to consider the subject, and UND seeks only to compel the NCAA to proceed correctly, free from attempts by the Executive Committee to take unilateral action bypassing the contractually-mandated process, and to be dealt with in a manner consistent with good faith and fair dealing and the laws of unfair competition.

Instead of responding to the NCAA's ad hominem attacks on UND's institutional integrity, UND will limit this Reply to what this case is about and, more particularly, what this Motion is about. This is a motion for a preliminary injunction to preserve the status quo while the litigation is pending. Before this case is done three issues will ultimately have to be decided:

1. Under the Contract, did the Executive Committee have the power to enact and enforce the Policy?
2. Did the Executive Committee violate the duty of good faith and fair dealing in adopting and applying the Policy?
3. Does the Policy adopted by a monopolist NCAA violate North Dakota's antitrust laws?

In the context of this Motion, the Court is not now being asked to decide any of these ultimate questions. At most, the Court need only decide the degree of UND's likelihood of success on these claims. In fact, because the NCAA does not contest any of the 143 factual assertions in UND's opening memorandum, particularly those showing the irreparable harm being done to UND, the Court does not even have to decide whether UND is likely is prevail on its three claims. Because of the undisputed irreparable harm, under North Dakota law UND need only demonstrate that a "substantial question" exists on the merits in order for the Court to preserve the status quo pending the outcome of the litigation. As detailed below, under the law and undisputed facts, UND has not only shown that a substantial question exists, it has shown that it is likely to succeed on the merits of each of its three claims.

ARGUMENT

I. UND IS SEEKING A PROHIBITIVE INJUNCTION TO PRESERVE THE STATUS QUO.

The NCAA asserts that UND requests a mandatory injunction (as opposed to a prohibitory injunction), and further implies that such a request requires that a higher standard be met. Neither contention is correct. First, UND does not seek a mandatory injunction that requires affirmative action; rather, it seeks a prohibitory injunction that enjoins the NCAA from enforcing its Policy against UND. Moreover, even if UND were seeking a mandatory injunction, its burden would not extend beyond what is required when requesting a prohibitory injunction. *Holcomb v. Hamm*, 42 N.W.2d 70, 72 (N.D. 1950) (stating that same showing of harm is required whether party is seeking mandatory or preventative relief).

The purpose of injunctive relief—prohibitory or mandatory—is to prevent irreparable injury. *Canal Auth. v. Callaway*, 489 F.2d 567, 576 (5th Cir. 1974) ("The purpose of a preliminary injunction is always to prevent irreparable injury . . . ."); *Viestenz v. Arthur Twp.*, 54 N.W.2d 572, 578 (N.D. 1952) ("to warrant injunctive relief, it must clearly appear that some act has been done, or is threatened, which will produce irreparable injury . . . ."). To achieve this objective, courts' general practice is to maintain the status quo. *Union Mgmt. Corp. v. Koppers Co.*, 366 F.2d 199, 204 (2d Cir. 1966) ("the general purpose of a preliminary injunction is to preserve the status quo . . . .") (citation omitted); *see also Ferry-Morse Seed Co. v. Food Corn, Inc.*, 729 F.2d 589, 593 (8th Cir. 1984). "Preserving the status quo is taken to mean not merely freezing the situation as the court now finds it but to mean figuratively the restoration of the parties to the last, actual, peaceable, noncontested status which preceded the pending controversy." *State ex rel. Schoenbacher v. Kelly*, 408 S.W.2d 383, 388 n. 2 (Mo. Ct. App. 1966) (quotation and citation omitted); *see also Transport Co. of Tex. v. Robertson Transports, Inc.*, 261 S.W.2d 549, 553-54 (Tex. 1953) (same).

The NCAA would have this Court believe that UND seeks to alter the status quo by having the Policy struck and thereby affirmatively changing recent NCAA decisions. This assertion represents nothing more than an attempt to confuse the issue through semantics. The true status quo is UND's designation as the "Fighting Sioux," which has been in effect for over seventy years. The status quo is also that the Bylaws give home field advantage to the top-seeded teams and do not mention Native American imagery as a consideration in awarding the bid to host championships at pre-determined sites. UND simply seeks to enjoin the NCAA's enforcement of its Policy which extra-contractually

overrides those Bylaws. It is the NCAA that wants to change the status quo by forcing UND to either change its name and logo or be banned from fully competing in and hosting NCAA championships while branding UND a discriminatory institution in the process. The overwhelmingly harmful effects of such action by the NCAA are the very type of irreparable injury that injunctive relief is intended to prevent.

Moreover, if the NCAA's argument were accepted, it would mean that in order to obtain a "prohibitory" injunction, UND would have had to have sought relief prior to the NCAA's announcement of the Policy, and prior to exhausting its administrative remedies.[1] Since UND had no notice that the Executive Committee intended to circumvent the Constitution and Bylaws and promulgate the Policy prior to the time it did so, UND could not have moved for an injunction prior to the announcement of the Policy to preserve the "status quo." Such an interpretation of "status quo" is plainly inconsistent with established law.

In addition, even if Plaintiff's far-reaching mischaracterization of the status quo—that is, the Policy being in effect—could be accepted, it must be considered that

> there is [no] particular magic in the phrase "status quo." The purpose of a preliminary injunction is always to prevent irreparable injury . . . . It often happens that this purpose is furthered by preservation of the status quo, but not always . . . . The focus always must be on prevention of injury by a proper order, not merely on preservation of the status quo.

Canal Auth., 489 F.2d at 576. This principle is well illustrated in the *Ferry-Morse* case, where the Eighth Circuit Court of Appeals upheld an injunction that prohibited a party's

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[1] Even if UND had sued the NCAA in May 2006, an injunction would still need to be issued in November to preserve the status quo and prevent the irreparable injury of UND losing the home field advantage its football team has earned. That is, even if filed in May, this case would still be in the early stages of complex litigation and the Court would be asked to preserve the status quo prior to the ultimate merits being resolved.

inaction because the status quo was actually one of continuous action which that party had wrongfully halted. 729 F.2d at 593. Thus, even if UND's request were seen as one for affirmative action, the status quo should not be seen as the state of injury that the Policy imposes. Accordingly, UND needs only to raise a "substantial question" on the merits of its claim to qualify for injunctive relief. *Dataphase Sys., Inc. v. C L Sys., Inc.*, 640 F.2d 109, 114 (8th Cir. 1981); *see also F-M Asphalt, Inc. v. N.D. State Hwy. Dept.*, 384 N.W.2d 663, 665 n.1 (N.D. 1986) (approving of *Dataphase*).

II. UND IS LIKELY TO PREVAIL ON ITS CONTRACT CLAIM AND HAS CERTIANLY ESTABLISHED A "SUBSTANTIAL QUESTION."

A. The Executive Committee has Willfully Breached the Contract.

Notwithstanding the NCAA's lengthy and heated rhetoric regarding UND's name and logo, the only issue relevant in adjudicating UND's breach of contract claim is this: did the Executive Committee exceed its contractual authority in unilaterally banning UND and other members from post-season competition.

"The interpretation of a written contract to determine its legal effect is a question of law." *City of Bismarck v. Marineer Constr., Inc.*, 2006 ND 108, ¶ 11, 714 N.W.2d 484. Where the written language is plain and unambiguous, the interpretation of the contract is a pure question of law for the court. *Executive Bd. of Missouri Baptist Convention v. Carnahan*, 170 S.W.3d 437, 447 (Mo. Ct. App. 2005) ("The constitution and bylaws of an association, much like corporate articles and bylaws, are construed according to the general rules of contracts, and extrinsic evidence is not admissible to vary, add, or contradict the terms of an unambiguous and complete written document."). In North Dakota, as in every jurisdiction, a court must review a contract in its entirety to give effect and meaning to all of its provisions. N.D. Cent. Code § 9-07-06 (2006). In

this case, the Contract is unambiguous, and its provisions, read together, do not permit the Executive Committee to promulgate the Policy.

Apparently believing that its violations of the NCAA Constitution and Bylaws are excusable because they are "technical," the NCAA has not even attempted to refute the exhaustive and detailed analysis of the Constitution and Bylaws contained in UND's opening memorandum, which demonstrates that the Executive Committee does not have the power to promulgate the Policy. Instead, the NCAA simply re-asserts an argument already addressed in UND's opening memorandum: that the unelected Executive Committee's responsibility to "identify core issues" and "act to resolve" them permits it to promulgate any policy, regulation, or penalty it sees fit. The only support for this position is the conclusory assertion in the affidavit of Walter Harrison, the chair of the Executive Committee, that the NCAA membership "cannot make or ratify all decisions necessary for operation of the Association." (Def. NCAA's Mem. Opp'n to Pl.'s Mot. for Prelim. Inj. at 5; Harrison Aff. ¶ 8).

This is another straw man. UND is not arguing that all Executive Committee decisions need to be made by the adoption of bylaws. Rather, UND has demonstrated that the "action" the Executive Committee is entitled to take is limited, and certainly does not extend so far as to permit it to enact "policy" which is the equivalent of legislation. This is clear from both: (1) the express language and structure of the Constitution and Bylaws, which unambiguously vest all legislative authority in the Association membership, which the membership has exercised to extensively regulate NCAA championships; and (2) the express provisions of Article 4.1.2 of the Contract, which

assigns only very limited and specific duties and responsibilities to the Executive Committee.

As explained in depth in UND's opening memorandum,[2] under the clear, unambiguous language of the Constitution and Bylaws, only the NCAA membership can adopt "policies" to advance the "principles" set forth in the Constitution, and this must be done through the legislative process, which is very detailed and demanding.[3] Exercising this power, the NCAA membership has adopted thousands of bylaws, governing even the most minute details of intercollegiate athletics.[4] In particular, the NCAA membership has adopted very detailed and specific bylaws governing the administration of NCAA championships, the eligibility of member institutions for participation in those championships, and the criteria used for determining the hosts of such championships. (*See* Pl.'s Mem. in Supp. of Mot. for Prelim. Inj. at 50-52). The NCAA membership has declined to adopt any polices or regulations, much less any Bylaws, prohibiting member

[2] In order to avoid unnecessary duplication, UND will not restate its entire analysis here, but instead directs the Court to Section II(A) of its opening memorandum.

[3] The NCAA Constitution and Bylaws make it crystal clear that while the NCAA Constitution "sets forth basic purposes, fundamental policies, and general principles that generally serve as the basis upon which the legislation of the Association shall be derived," "*all regulations governing the administration of intercollegiate athletics appear in the bylaws.*" Contract, Art. 5.2.1, at ix (emphasis added). The Constitution and Bylaws further make it clear that "*all* legislation of the Association that governs the conduct of the intercollegiate athletics programs of its member institutions shall be adopted by the membership in convention assembled." Contract, Art. 5.01 (emphasis added).

[4] By definition, this legislation is designed to advance the "principles" contained in the Constitution. *See* Contract, Art. 5.01.1 (all legislation "shall be designed to advance one or more principles such as those set forth in Constitution 2").

institutions from competing in or hosting championship competition based upon the institutions' use of Native American imagery.[5]

In short, the facts that (1) the Contract expressly and exclusively vests the Association membership and divisional bodies with the power to adopt any legislation they deem advisable; (2) the Contract sets forth a detailed and exhaustive legislative process and enforcement program; and (3) the membership has expressed its legislative intent on virtually every issue relevant to the administration of intercollegiate athletics, including championship events, clearly indicate that it is the Association membership, not the Executive Committee, that is entitled to decide how to best promote the "principles" set forth in the Constitution. In particular, the foregoing facts demonstrate that it is the membership, not the Executive Committee, that is empowered to decide whether member institutions who use Native American imagery should be banned from competing in or hosting NCAA championship contests.

Although the duties and responsibilities assigned to the Executive Committee are comparatively narrow,[6] this does not mean that the Executive Committee does not have

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[5] Indeed, it is clear that this is not a mere oversight on the part of the NCAA membership. When asked, the NCAA governance structures expressly charged by the Bylaws with the duty to administer NCAA championships openly opposed any action which would "prevent or eliminate championship opportunities" for member institutions who use Native American imagery. *See* MOIC Oct. 2002 Rep. & Ex. G thereto.

[6] In contrast to the virtually unlimited authority granted to the Association membership to adopt any legislation it believes will advance one or more of the principles set forth in the Constitution, the Executive Committee is vested with only a relatively limited set of duties and responsibilities. These include the duty to employ a "chief executive officer" who may "employ such other persons as may be necessary to conduct efficiently the business of the Association," "provide final approval and oversight of the Association's budget," provide "strategic planning for the Association" and "initiate and settle litigation." Whereas other executive bodies, such as the divisional presidential groups, are expressly vested with some limited legislative and rule-making authority, the Executive Committee is not expressly vested with any such powers. (*See* Pl.'s Mem. in

the power to take certain types of actions without going through the legislative process. For example, the Executive Committee may certainly take ministerial acts necessary for the day-to-day operations of the Association. The Executive Committee may hire and fire staff, enter into contracts on behalf of the Association, provide long-term planning, and retain professionals when necessary to provide financial, legal, or business advice.

With regard to identifying and acting to resolve "core issues," the Contract can be reasonably read to permit the Executive Committee to use its judgment in identifying important issues that affect the Association. However, any "action" the Executive Committee takes in order to "resolve" the issue must be action that is within its power under the express terms of the Contract and its structure. Accordingly, when "acting" to resolve perceived social or organizational issues, the Executive Committee could ask the staff it oversees to research the issue, seek input on the issue from NCAA committees who report to it, or develop a recommendation to the membership on the issue.

Under subsection (j), the Executive Committee is also expressly empowered to forward "dominant legislation to the membership for a vote" if it believes the issue requires action which would be binding upon all members of the Association. If the issue involves actions by members of a division that it believes are "contrary to the basic purposes, fundamental policies and general principles set forth in the Association's constitution," subsection (j) authorizes the Executive Committee to go so far as to "[c]all for a vote of the entire membership on the action." If a two-thirds super-majority of

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Supp. of Mot. for Prelim. Inj. at 49-50). Likewise, while the Constitution and Bylaws have established a detailed and comprehensive process for enforcement of the Contract and imposition of penalties for violations, the Executive Committee is not vested with any such enforcement or disciplinary authority.

Association members agree with the Executive Committee, the action complained of can be overridden. *Id.*

However, nothing in the express provisions of the Constitution and Bylaws, much less the structure of the Contract, would authorize the unelected Executive Committee to act as a sort of "super-legislature," imposing by administrative edict rules, regulations, and "policies" governing issues the Constitution and Bylaws dictate must be addressed, if at all, by the membership through legislation. Such a reading of the Constitution and Bylaws would transform the NCAA from a "bottom-up organization in which the members rule the association" to one ruled by the Executive Committee.[7] If the Executive Committee actually had the power it now asserts it has, it would have no need to "forward . . . dominant legislation to the membership for a vote" because it could simply enact the proposed legislation itself as a "policy." There would be no need to expressly empower the Executive Committee to "call for a vote of entire membership" to override action of a division that the Executive Committee believes is inconsistent with the Constitution because it could simply override the action itself by promulgating a "policy." Since all possible legislation ultimately must relate to a constitutional principle, and accordingly in some manner to a "core issue," there would be virtually no rule, regulation, or penalty the Executive Committee could not impose if its urged reading of the Constitution and Bylaws is correct. Such a reading would be absurd, as it would completely contradict the carefully constructed and detailed mechanism for membership control over the NCAA created by the Contract.

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[7] NCAA's website (http://www2.ncaa.org/about_ncaa/overview/).

Ignoring all of this, the Executive Committee seems to believe that as long as it is convinced that its extra-contractual action "furthers the fundamental purposes and core principles of the NCAA," it is free to ignore the Constitution and Bylaws and take any action it pleases. Regardless of how benevolent the Executive Committee may believe its motivations are, or how "consistent" with the principles of the constitution and bylaws the Executive Committee may believe its actions are, the Contract cannot reasonably be read to afford the Executive Committee the power to take "action" which amounts to legislation, and which the membership itself could not take without adopting a bylaw by a two-thirds majority vote.[8]

The NCAA's utter failure to even attempt to reconcile its asserted basis of authority to promulgate the Policy (the power to "identify" and "act to resolve" core issues") with the other clear and unambiguous provisions of the Constitution and Bylaws identified in UND's opening memorandum can only be interpreted as a concession that such a reconciliation is not possible. The NCAA's argument ignores the plain language of the Contract and is contrary to the basic requirement that all provisions of a written document be construed to give effect and meaning to all of its provisions.

In short, the Executive Committee's strong feelings or good intentions do not entitle it to openly breach its contractual obligations and ignore UND's rights under the Contract. Accordingly, UND is likely to prevail on its breach of contract claim.

B. North Dakota Law Does Not Permit Associations to Breach Their Contractual Obligations to Their Members.

[8] In order to pass legislation which applies to all divisions of the NCAA ("Dominant" legislation), a two-thirds majority vote of member institutions is required. Contract, Art. 5.02.1.1.

The NCAA next attempts to excuse its blatant violations of the Contract's terms by asserting that UND's claim for breach of contract "is properly viewed as a judicial challenge to an Association policy which UND dislikes," and that the Court should be "reluctant to interfere" with the NCAA's adoption of the Policy. (Def. NCAA's Mem. Opp'n to Pl.'s Mot. for Prelim. Inj. at 23). This assertion is not entitled to serious consideration.

By repeatedly arguing the merits of the Policy in the abstract, the NCAA seeks to distract the Court from the fact that UND's breach of contract claim has nothing to do with the wisdom of the Policy.[9] Rather, UND has demonstrated that under the Constitution and Bylaws, the Executive Committee has acted in breach of contract in promulgating the Policy in the first place. Accordingly, UND is not requesting that the Court overturn a properly enacted policy with which UND disagrees.[10] Rather, UND is requesting that the Court enjoin the Executive Committee from violating the NCAA Constitution and Bylaws by promulgating a Policy it does not have the power to adopt.

Indeed, the very case the NCAA cites in support of its argument, *Crandall v. North Dakota High School Activities Association*, 261 N.W.2d 921, 925-26 (N.D. 1978), actually supports UND's breach of contract claim. As the Court explained in *Crandall* "'it is the duty of courts, regardless of personal views or individual philosophies, to uphold regulations adopted by'" voluntary associations. *Id.* at 928 (quoting *Brown v. Wells*, 181 N.W.2d 708, 711 (Minn. 1970)). In this case, the NCAA Constitution and

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[9] Accordingly, none of the cases cited by the NCAA regarding the propriety of judicial involvement in evaluating the propriety of bylaws and rules is apposite.

[10] Given this, the court need not reach the issue of whether the Policy itself can be struck down as "arbitrary or unreasonable" or "discriminatory" in considering UND's breach of contract claim.

Bylaws unambiguously provide that only the NCAA membership, not the Executive Committee, can regulate eligibility to participate in and host NCAA championships. *See supra,* § II(A). It is accordingly the "duty" of the court to uphold the Constitution and Bylaws by precluding the Executive Committee from acting in violation of them.

Courts considering the issue have repeatedly held that the constitution and bylaws of voluntary member associations constitute a contract that is enforceable against both individual members and the association itself.[11] In fact, courts addressing this question in cases involving the NCAA have determined that the NCAA and its members are in a contractual relationship. *Hall v. Nat'l Collegiate Athletic Ass'n*, 985 F. Supp. 782, 796 (N.D. Ill. 1997) (treating "NCAA's constitution, bylaws, and regulations" as contract between NCAA and its members); *Bloom v. Nat'l Collegiate Athletic Ass'n*, 93 P.3d 621, 623-24 (Colo. Ct. App. 2004) (affirming decision that plaintiff was third party beneficiary of contract between NCAA and members); *Trustees of the Cal. State Univ. & Coll. v. Nat'l Collegiate Athletic Ass'n*, 147 Cal Rptr. 187, 192 (Ct. App. 1978) (affirming that "the relationship between the parties was one of contract, between the

[11] *See Austin v. American Ass'n of Neurological Surgeons*, 253 F.3d 967, 968 (7th Cir. 2001) ("Ordinarily, a dispute between a voluntary association and one of its members is governed by the law of contracts, the parties' contractual obligations being defined in the charter, bylaws, and other rules or regulations of the association that are intended to create legally enforceable obligations."); *Employee's Benefit Ass'n v. Grisset*, 732 So.2d 968, 975 (Ala. 1998) ("The constitution, bylaws, and regulations of a voluntary association constitute a contract between the association's members which is binding upon each member.") (quoting *Scott v. East Ala. Educ. Found., Inc.*, 417 So.2d 572, 573 (Ala. 1982)); *Valkenburg v. Liberty Lodge No. 300 A.F. & A.M.*, 619 N.W.2d 604, 610 (Neb Ct. App. 2000) ("The constitution and bylaws of a voluntary association constitute a contract between the members of that association.").

NCAA as a voluntary association and CSUH as a member, evidenced by the constitution and bylaws").

The Executive Committee has breached the plain and unambiguous terms of the NCAA Constitution and Bylaws in attempting to usurp the legislative power of the NCAA membership and promulgate the Policy. Courts in North Dakota and elsewhere have not hesitated to enforce the properly adopted constitution and bylaws of voluntary associations, and this court should not hesitate to enforce the NCAA Constitution and Bylaws in this case by enjoining the Executive Committee's clear breach to prevent irreparable harm to UND.

III. UND IS LIKELY TO PREVAIL ON ITS CLAIM FOR BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING.

Contrary to the NCAA's assertion that the implied duty of good faith and fair dealing is not inherent in traditional contracts, the vast majority of authority to expressly consider the issue has recognized the covenant. Restatement (Second) of Contracts § 205 (2006) ("Every contract imposes upon each party a duty of good faith and fair dealing in its performance and its enforcement."); 17A Am. Jur. 2d *Contracts* § 370 (2006) (Generally, there is an implied covenant of good faith and fair dealing in every contract, whereby neither party shall do anything which will have the effect of destroying or injuring the right of the other party to receive the fruits of the contract."). The doctrine is not a judicial extension of the law, but a common-law principle recognized in almost every state and in the federal courts. It is therefore highly likely that the North Dakota Supreme Court, if faced with this issue, would join the vast majority of jurisdictions that find that an implied covenant of good faith and fair dealing is inherent in the Contract.[12]

[12] The mere fact that the North Dakota Supreme Court has not yet had occasion to address the issue of the duty of good faith and fair dealing in this context does not change

This is especially true considering that North Dakota has already codified the implied duty of good faith and fair dealing in the UCC, and North Dakota courts have recognized that the implied duty of good faith and fair dealing is inherent in insurance contracts. *See Fetch v. Quam*, 2001 ND 48, ¶ 12, 623 N.W.2d 357. These authorities demonstrate that the North Dakota Supreme Court has not "consistently declined" to read an implied duty of good faith and fair dealing into traditional contracts, as the NCAA claims.[13]

The NCAA enjoys virtually unchecked monopoly power over the conduct of intercollegiate athletics and championship competition. UND's association with the NCAA is largely one of adhesion, but it is necessary to reap the substantial financial, economic, and intangible benefits that flow to a member institution conducting intercollegiate athletics. The NCAA is, simply put, the only game in town, and given the tremendous financial attributes of membership, a duty of good faith and fair dealing is quite clearly implied under North Dakota law. UND is thus likely to prevail on the issue

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the analysis on whether UND has demonstrated a likelihood of success on the merits. This court's pronouncement of North Dakota law at the merits stage is of the same controlling effect.

[13] In two of the three cases cited by the NCAA for this proposition, the North Dakota Supreme Court did not even reach the issue of whether the plaintiff had stated a cause of action for breach of an implied covenant of good faith and fair dealing. In *Barnes v. St. Joseph's Hosp.*, 601 N.W.2d 587, 590 (N.D. 1999), the court expressly stated that it was not reaching the issue of whether the plaintiff had stated a *tort* cause of action for breach of an implied covenant of good faith and fair dealing. In *Aaland v. Lake Region Grain Coop.*, the court declined to consider the plaintiff's tort cause of action for breach of the implied covenant of good faith and fair dealing in the employment context because the issue was not adequately briefed. 511 N.W.2d 244, 247 (N.D. 1994). And in the third case cited, *Jose v. Norwest Bank N.D., N.A.*, 599 N.W.2d 293, 297 (N.D. 1999), the court found that there was *no contract* between the at will plaintiffs and their employer and further rejected the plaintiffs' contention that an implied covenant of good faith and fair dealing should nonetheless independently apply in the limited context of at will employment.

of whether there is an implied covenant of good faith and fair dealing inherent in the Contract that obligates the NCAA to treat UND fairly and reasonably.[14]

A. The NCAA Has Breached the Implied Covenant of Good Faith and Fair Dealing.

UND's claim for breach of the implied covenant of good faith and fair dealing is based upon the following: (1) the Executive Committee's willful violation of the Constitution and Bylaws in promulgating the Policy when it clearly had no authority to do so; (2) the Executive Committee's *post-hoc* creation of an "exemption" from the Policy inconsistent with the stated goals of the Policy for the primary benefit of a single member institution; 3) the Executive Committee's intellectually dishonest and arbitrary application of the "hostile and abusive" standard it claimed it had adopted, and its repeated alteration of the evidentiary standards applied in the appeals process.

Much as is did in issuing its final decision rejecting UND's appeal, the NCAA attempts to dismiss its arbitrary, outcome-oriented actions by asserting that these substantive and procedural infirmities are irrelevant because there is "substantial evidence" to support the Executive Committee's ultimate conclusion that the Policy should be applied to UND. As with UND's breach of contract claim, the NCAA apparently believes that if it can persuade the Court of the merits of the Policy in the abstract, the Executive Committee's arbitrary and unreasonable actions in implementing the Policy and carving out inconsistent exceptions to placate a powerful member will be overlooked. Unfortunately, no matter how strongly the NCAA believes in the correctness

[14] Moreover, UND does not have to make a "clear showing," as the NCAA claims, that it will likely succeed on the merits in order to warrant injunctive relief. *Dataphase Sys., Inc. v. C L Sys., Inc.*, 640 F.2d 109, 113 (8th Cir. 1981).

of the Policy, it cannot escape the obligations imposed by the implied covenant of good faith and fair dealing.

1. The Executive Committee Willfully Violated the Constitution and Bylaws in Promulgating the Policy.

As discussed at length in Section II(A), *supra*, the Constitution and Bylaws expressly charge the Association membership with the responsibility to determine how best to advance the "principles" set forth in the Constitution. The legislative process is very detailed and exhaustively treated in the Bylaws. *See* Contract, Art. 5. Under this thoughtfully created legislative process, Bylaws which would affect all members of the NCAA require a two-thirds super-majority vote to become effective. Contract, Art. 5.02.1.1. Pursuant to this authority, the membership has formally adopted thousands of Bylaws and every year votes to accept or reject hundreds of additional proposed Bylaws. *See, e.g.*, Pl.'s Mem. in Supp. of Mot. for Prelim. Inj., Ex. 2, 2006 NCAA Convention Proceedings.

The Executive Committee was well aware that despite adopting incredibly detailed and exhaustive rules and regulations regarding eligibility for participation in and hosting of NCAA championships, the Association membership has thus far declined to adopt any rules, regulations, or bylaws prohibiting or penalizing the use of Native American imagery by member institutions. The Executive Committee was also aware that the divisional governance structures vested with responsibility for NCAA championships have advised the Executive Committee that they oppose any such prohibition or penalization. (Pl.'s Mem. in Supp. of Mot. for Prelim. Inj., Ex. E, MOIC Oct. 2002 Rep. & Ex. G thereto). The Executive Committee was further aware that in order for any legislation it recommended to the Association membership imposing such

prohibitions or penalties to become effective, it must be approved by a two-thirds majority of all members. Contract, Art. 5.02.1.1.

Despite this knowledge, the Executive Committee opted to promulgate the Policy itself, without going through the legislative process, likely because the Executive Committee perceived that there was insufficient support within the Association membership to adopt the Policy as a Bylaw. Given the NCAA's utter failure to respond to UND's analysis of the Contract, and its only tepid attempt to defend its assertion that its conduct was authorized by its responsibility to "act to resolve" "core issues," it is plain that the Executive Committee did not and could not have had a good faith belief that its action was proper under the Constitution and Bylaws. By willfully exceeding its authority to the great harm of UND, the Executive Committee has acted in bad faith and in breach of the implied covenant of good faith and fair dealing.

2. The Creation of a Special Namesake Exemption for FSU and Others Demonstrates the Executive Committee's Bad Faith.

The NCAA does not even attempt to rebut UND's evidence concerning the inconsistencies inherent in the Policy and the Namesake Exemption other than to say that "the NCAA will not substitute its views for those of the sovereign Tribes most affected." (Def. NCAA's Mem. Opp'n to Pl.'s Mot. for Prelim. Inj. at 39).[15] The NCAA also

[15] For the reasons set forth in its opening memorandum, the Spirit Lake Tribe Resolution No. A05-01-041, which is still in effect, satisfies the Executive Committee's requirement that only one "'namesake' tribe" consent to UND's use of the Sioux name and imagery. The NCAA attempts to distinguish UND's situation from CMU's by stating that it "*received no* Resolutions or other official statements in opposition from Chippewa Tribes in connection with use of the name by CMU" (emphasis added) while not denying that it has been on actual notice that in fact five other Chippewa Tribes in Michigan actually do oppose CMU's use of the name, which UND pointed out to the NCAA in its Nov. 4, 2005 UND Memo. (Def. NCAA's Mem. Opp'n to Pl.'s Mot. for Prelim. Inj. at 41-42). The NCAA's disparate treatment of CMU and UND constitutes bad faith.

glosses over the fact that while it took the NCAA four years to study the issue and decide that the use of Native American imagery in sports created a hostile and abusive environment for Native Americans, it took the NCAA only a little more than *four days* to create a blanket exception to the Policy that exempts one of the most prevalent users of inaccurate and stereotypical Native American imagery, FSU. Since that time, the NCAA has also granted Namesake Exemptions to Central Michigan University, the University of Utah, San Diego State, and Catawba College. Far from demonstrating the NCAA's "flexibility," the adoption of the Namesake Exemption demonstrates its bad faith.

FSU submitted its letter suggesting that the NCAA create an exception to the Policy based on the blessing of a namesake tribe on August 12, 2005. A week later, an Executive Committee press release dated August 19, 2006, announced just such an exception. Just four days after that, on August 23, 2005, the Executive Committee announced that it had granted a Namesake Exemption to FSU. Given the sequence and timing of these events, there can be no doubt that the Namesake Exemption was created specifically for FSU, at its request, and to avoid a confrontation with the large and powerful school.

Moreover, because FSU is the most prominent and publicly visible user of the type of stereotypical Native American imagery that the NCAA claims the Policy is intended to prevent, as UND argues at length in its opening memorandum, the application of the Namesake Exemption to FSU swallows the Policy whole and renders its application to UND—who has no stylized Hollywood mascot and whose logo accurately depicts an authentic American Indian drawn by a well-respected Native American

artist—arbitrary, capricious, and a breach of the NCAA's duty of good faith and fair dealing.

The NCAA places UND at an extreme competitive disadvantage, denies UND significant financial benefits of membership, and extinguishes UND's very identity in post-season play. Yet, powerful members like FSU are given free reign to engage in stereotypical behavior beyond the mere use of a name (which the Executive Committee believes harms the Association and other member institutions). This is outrageous and a clear act of bad faith.

3. The Executive Committee Arbitrarily Labeled UND "Hostile and Abusive" and Arbitrarily Modified the Evidentiary Standards in the Appeals Process.

The use of Native American imagery in sports has become controversial because while some small but very vocal groups assert that they are "offended" by the use of such imagery, it is clearly recognized that the mere use of such imagery does not violate federal or state civil rights laws. Indeed, courts who have considered the issue have repeatedly held that in order to demonstrate a civil rights violation, it must be shown that conduct is "hostile or abusive," and not "merely offensive." *See e.g., Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21 (1993). Those courts which have specifically considered the use of Native American imagery in sports have expressly held that while the use of Native American imagery in sports may be "offensive" to some, it in no way rises to the level of being discriminatory or "hostile and abusive." *See Munson v. State Superintendent of Public Instruction*, 577 N.W.2d 387, 1998 WL 61018 (Wis. Ct. App. 1998) (holding that sports team's Native American name and logo were not "discriminatory," despite the fact that plaintiff was "offended" by them); *Illinois Native American Bar Ass'n v. University of Illinois*, 2006 WL 2684269, *6-7 (Ill. App. Ct. Sept.

19, 2006) (dismissing complaint alleging University of Illinois' use of Native American mascot violated state civil rights act, explaining that the mascot was not "discriminatory" and did not create a "hostile environment," even though plaintiff found them "offensive" and felt "exploited"). While, as the NCAA concedes, "reasonable minds differ regarding use of Native American nicknames in sports,"[16] there is no legal authority for the proposition that such use is unlawful. (Def. NCAA's Mem. Opp'n to Pl.'s Mot. for Prelim. Inj. at 2).

Although it is well-aware of this authority,[17] throughout its opposition memorandum and in the appeals process, the NCAA has repeatedly attempted to impugn UND's institutional integrity by asserting that UND is "hostile and abusive" to Native Americans. The NCAA has repeatedly smeared UND as "exploitive" and "discriminatory," all based upon its allegation that UND's name and logo are "hostile and abusive" to Native Americans. The motivation for such distortion is made clear from the NCAA's opposition memorandum: if it can label UND as racially discriminatory by repeating the allegation frequently enough, it hopes the Court will overlook the unlawful nature of the NCAA's conduct in promulgating and applying the Policy.

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[16] Not only do reasonable people disagree... reasonable Native Americans disagree as well. In fact, polls indicate that Native American opposition has been highly overstated. S.L. Price, "The Indian Wars," SPORTS ILLUSTRATED (March 4, 2002)("Indeed, a recent SI poll suggests that although Native American activists are virtually united in opposition to the use of Indian nicknames and mascots, the Native American population sees the issue far differently. Asked if high school and college teams should stop using Indian nicknames, 81% of Native American respondents said no."). Associated Press, "Poll Finds Support for Fighting Sioux Nickname," GRAND FORKS HERALD (N.D.), 2005 WLNR 1425932, (September 9, 2005)("When asked if they are offended by the nickname, 61 percent of North Dakota's American Indians said they are not.").

[17] The NCAA was certainly aware of the *Munson* case at the time it decided UND's appeal, as it was cited repeatedly in UND's appeals memoranda. Although *Illinois Native American Bar Ass'n* had not yet been decided at the time of UND's appeal, it was cited in UND's opposition memorandum.

Such tactics should not be rewarded by the Court. The NCAA willfully ignored the authority cited by UND in its appeals documents, even going so far as to create a "presumption" that all use of Native American imagery is "hostile and abusive" in order to avoid a case-by-case application of the legal standards for determining whether UND's actual conduct is "hostile and abusive" that the Executive Committee originally claimed it had adopted. *See* Pl.'s Mem. in Supp. of Mot. for Prelim. Inj., at 57-60. All the while, the Executive Committee was well aware that the only "evidence" it had adduced in support of its assertion that UND's name and logo are "hostile and abusive" were subjective feelings and opinions from activists, entities known to take political positions like the American Psychological Association, and Native American leadership groups (but not a majority of actual Native Americans) that all use of Native American imagery in sports was "offensive" to them.[18] While such entities are entitled to their opinions, the Executive Committee was well aware that such opinions were insufficient to satisfy the legal standard of "hostile and abusive." By arbitrarily modifying and redefining the "hostile and abusive" standard, and then arbitrarily creating a "presumption" when it became clear that even the modified standard could not be satisfied, the Executive Committee acted in bad faith and in breach of the implied covenant of good faith and fair dealing.

IV. UND IS LIKELY TO PREVAIL ON ITS ANTITRUST CLAIMS AND HAS CLEARLY ESTABLISHED A "SUBSTANTIAL QUESTION"

[18] Although the Executive Committee at some point claimed to rely on an unpublished "study" performed by Dr. Stephanie Fryberg, it quickly backtracked from this reliance when UND demonstrated that the study was riddled with methodological and intellectual inconsistencies. (Pl.'s Mem. in Supp. of Mot. for Prelim. Inj. at 60-61). The NCAA has also now attached a number of offensive T-shirts and other materials as exhibits to its opposition memorandum. However, there is no evidence that such materials were created, endorsed or in any fashion connected with UND, or that they are even authentic.

The NCAA has attempted to sidestep the core issues by mischaracterizing UND's pleadings and raising ancillary issues which are a distraction from the primary analysis the Court must undertake.[19] The bulk of the NCAA's antitrust discussion is aimed to establish unremarkable antitrust principles. UND has no issue with these principles themselves. The cursory and inaccurate application of these principles made by the NCAA, however, does not withstand scrutiny.

A. A Clear Relevant Market Has Been Pled.

The NCAA would like to invoke a classic antitrust defense: failure to state a relevant market. It expends many pages to make this argument, but such effort is misplaced. First, case law involving the NCAA indicates that a detailed analysis of the relevant market is unnecessary. Second, a relevant market has clearly been alleged. Multiple relevant markets are actually implicated, but the most obvious is the market for hosting at pre-determined sites. The NCAA accepts bids based exclusively on economic forecasts and ability to host the event, evaluates those bids, and then awards a contract to the best bid. The relevant market of hosting pre-determined sites is clear and easily defined; the NCAA's arguments regarding relevant market must be rejected outright.

B. The Policy Is Commercial and Subject to Antitrust Scrutiny.

The NCAA spends many pages discussing the "trade or commerce" requirement, but the case law lays out a relatively simple test. For ease of analysis, courts have divided NCAA rules into two categories: commercial and noncommercial. Some rules,

[19] The NCAA argues that UND has somehow admitted the antitrust legality of the Policy in its Breach of Contract argument. (Def. NCAA's Mem. Opp'n to Pl.'s Mot. for Prelim. Inj. at 47). Nonsense. Even if the NCAA had followed the proper procedure in enacting the policy, that does not equate to *per se* legality under the anti-trust laws.

like NCAA rules requiring student athletes to attend class or limiting the number of calls a college coach can make to a high school athlete, are sufficiently non-commercial that a court can comfortably determine that the antitrust laws do not apply.[20] Other rules have a commercial impact that subjects the rules to antitrust analysis.

To lay out the applicable test, the NCAA cited a recent Sixth Circuit opinion, which stated that the antitrust laws would apply only if the "rule itself is commercial in nature." *Worldwide Basketball & Sports Tours, Inc. v. Nat'l Collegiate Athletic Ass'n*, 388 F.3d 955, 958 (6th Cir. 2004). After doing so, however, the NCAA failed to discuss the facts of the case or the court's actual holding. The NCAA rule at issue in *Worldwide* limited the number of certified tournaments in which basketball teams could participate during any four year span. *Id.* at 957-58.[21] In deciding whether the rule was sufficiently commercial, the Sixth Circuit determined "that the Two in Four rule has some commercial impact insofar as it regulates games that constitute sources of revenue for both the member schools and the Promoters." *Id.* at 959. For this reason, it affirmed "the district court's implicit finding that the Two in Four rule is commercial." *Id.*

The decision to treat the Two in Four Rule as commercial is consistent with the treatment accorded in *Nat'l Collegiate Athletic Ass'n v. Board of Regents of University of Oklahoma*, 468 U.S. 85 (1984) and *Law v. Nat'l Collegiate Athletic Ass'n*, 134 F.3d 1010 (10th Cir. 1998). In both cases, the suspect rules were created to fulfill a noncommercial

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[20] *See, e.g., Smith v. Nat'l Collegiate Athletic Ass'n*, 139 F.3d 180, 185 (3d Cir. 1998), reversed, in part, on other grounds, 525 U.S. 459 (1999) (finding that rule prohibiting graduate students from participating in intercollegiate sports other than at institution from which they received their undergraduate degree was noncommercial).

[21] Teams desire to participate in certified tournaments because it allows them to play three or four games (and gain game experience) but only have one count against the NCAA-imposed season limit of 28 games.

intent. Ultimately, however, the rules were deemed commercial because of their clear commercial impact.[22] In *Board of Regents,* the dissent argued that the NCAA's television plan should be allowed because it was designed with the noncommercial objective of "maintaining some balance of strength among competing colleges and of minimizing the tendency to professionalism in the dominant schools." *Board of Regents*, 468 U.S. at 100-01 (White, J., dissenting). In *Law*, the NCAA argued that antitrust laws should not apply because its rule was a product of the noncommercial intent to retain entry-level coaching positions and help maintain the competitive balance between teams. *Law,* 134 F.3d at 1021-24.

While the Policy may have a noncommercial intent, like those rules in *Board of Regents*, *Law*, and *Worldwide Basketball*, the commercial impact is significant. On its face, the Policy is more commercial than the Two in Four Rule. In enforcing the Policy, the NCAA will deny member institutions the opportunity to present an economic bid to host the lucrative NCAA championship events. As detailed in UND's opening brief, the NCAA itself trumpets the economic benefit of hosting. *See* Pl.'s Mem. in Supp. of Mot. for Prelim. Inj., Ex. V, NCAA Bid Invitation. Prohibiting UND from bidding definitely reduces the number of suppliers in the market for hosting pre-determined sites. In addition, the Policy promises to carry other extensive economic impacts. A ban on

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[22] The case relied on by the defense, *Adidas America, Inc. v. NCAA*, 40 F. Supp. 2d 1275 (D. Kan. 1999), is inapplicable to the case at hand, because the members indirectly benefiting from UND's exclusion are direct competitors of UND. *See Adidas*, 40 F. Supp. 2d at 1286 ("In sum, the court concludes that the NCAA and its members are not competitors of Adidas and do not realize any financial or competitive advantage by limiting the amount of advertising on the backs of student-athletes."). Furthermore, the Adidas court recognized that economic impact was part of the commercial analysis. *Id.* at 1285 (finding that bylaw at question "has neither the purpose or the effect of giving the NCAA or its member institutions an advantage in any commercial transaction").

home-field advantage in the post-season will impose a significant commercial impact. So too will being forced to sit out post-season competition altogether or to purchase new uniforms at a cost in the hundreds of thousands of dollars. The combined commercial impact is potentially devastating, and it is significantly greater than that contemplated in *Worldwide Basketball*. Antitrust scrutiny is appropriate.

C. UND Has Shown a Group Boycott.

The NCAA's claim that the Policy is a vertical, rather than horizontal, restraint is surprising and unsubstantiated.[23] By establishing a rule in which members (acting through the NCAA) refuse to deal with some of the other members, "the NCAA member institutions have created a horizontal restraint." *Board of Regents*, 468 U.S. at 99 (emphasis added). The NCAA arguments about the value of association behavior are misplaced. If an association can show sufficient procompetitive effects, then courts may allow a group boycott restraint to survive an antitrust attack, but this does not mean the association is not a group boycott. Furthermore, the NCAA assertion that UND's argument "rests entirely" on its group boycott claim is simply wrong. Although UND has shown a group boycott, such showing is not necessary to satisfy its burden. *See* Def. NCAA's Mem. Opp'n to Pl.'s Mot. for Prelim. Inj. at 71. A showing of obvious anticompetitive effects satisfies the burden, and UND has put forward such a showing. *See* Pl.'s Mem. in Supp. of Mot. for Prelim. Inj. at 72-76.

D. UND Has Alleged and Shown Widespread Harm to Competition.

Somewhat confusing is the NCAA's contention that "UND has made no showing – or even any attempt to show – that the Policy injures competition as a whole, rather

[23] Just because the Executive Committee has usurped the authority of the membership in promulgating the Policy does not mean the Policy is transformed into a vertical restraint.

than simply injuring UND itself." (Def. NCAA's Mem. Opp'n to Pl.'s Mot. for Prelim. Inj. at 53). A quick review of UND's initial memorandum reveals that the opposite is true.

UND discussed, at length, anticompetitive effects on three separate and distinct groups of consumers in multiple relevant markets.[24] Rather than completely restate these arguments, a few simple examples are sufficient. If the Policy is enforced, an athlete on a hockey team in another state will not be able to compete in the Engelstad Arena during an NCAA championship event; a fan of Division II football will not be able to watch a NCAA event at the Alerus Center; and a center-fielder on the UND softball team, wearing the same jersey she has worn all year, will be unable to take the field in a NCAA play-off game.

E. North Dakota Antitrust Law Is Consistent With the Commerce Clause.

This Court may address the Policy without fear of abridging the dictates of the Commerce Clause. UND is not trying to impose special or unique restrictions upon the NCAA; it is merely asking the Court to enforce the NCAA's own Constitution and Bylaws and to evaluate antitrust principles which would apply uniformly across the entire United States. Because there is no conflict between the antitrust laws of North Dakota and those of the United States, the Commerce Clause is not even implicated.

The NCAA's reliance upon *NCAA v. Miller*, 10 F.3d 633 (9th Cir. 1993), is entirely misplaced. In *Miller*, the Commerce Clause was clearly implicated by direct

[24] *See* Pl.'s Mem. in Supp. of Mot. for Prelim. Inj. at 72-76 ("The obvious adverse effects impact at least three distinct groups of consumers: (1) all member institutions affected by the Policy; (2) current and prospective college athletes, particularly those attending or considering attending UND; and (3) fans of intercollegiate sports, particularly UND fans.").

conflict between the NCAA bylaws and state legislation. 10 F.3d at 637 ("Many of the procedures required by the Statute are not included in the NCAA enforcement program."). Allowing the Nevada law to stand would have forced "the NCAA to regulate the integrity of its product in every state according to Nevada's procedural rules." *Id.* at 639. The court found that such an assertion of extra-territorial jurisdiction was a violation of the Commerce Clause.

No such concern exists here. North Dakota law, to the extent it is implicated in this lawsuit, is entirely consistent with federal antitrust law. The discussion and cases cited in UND's antitrust argument are indicative of this consistency. "Where state law prohibits the same, or less than the federal antitrust laws, there is, therefore, no general difficulty in giving effect to the state's commands." Phillip Areeda & Donald F. Turner, ANTITRUST LAW, AN ANALYSIS OF ANTITRUST PRINCIPLES AND THEIR APPLICATION, ¶ 208 (1978). UND is asking the Court to apply the same antitrust principles that would be applied in a federal court. Accordingly, the Commerce Clause is not implicated.

F. <u>The NCAA Has Failed to Show Sufficient Procompetitive Effects.</u>

Antitrust analysis in cases involving the NCAA is relatively straightforward. The basic framework, established by the United States Supreme Court in *Nat'l Collegiate Athletic Ass'n v. Board of Regents of University of Oklahoma*, 468 U.S. 85 (1984) was set forth in UND's initial memorandum. First, UND has the initial burden to show a clear anti-competitive effect of the challenged NCAA regulation. Now that UND has met this burden, the burden shifts, and the NCAA must show sufficient procompetitive effects to justify its Policy. Because UND has shown obvious anticompetitive effects and the

NCAA has not presented meaningful procompetitive effects, UND is likely to prevail on its antitrust claim. At the very least, it has certainly shown a "substantial question."

After a great deal of discussion on ancillary issues, the NCAA finally addressed the pivotal question of procompetitive effects with a short discussion at the end of its antitrust section. (*See* Def. NCAA's Mem. Opp'n to Pl.'s Mot. for Prelim. Inj. at 57-58.) It offers only two possible procompetitive effects; it claims that the Policy "ensures that participating institutions do not use racial imagery and nicknames that demoralize a segment of the student population or the public at large" and "serves to provide a clean, wholesome environment for intercollegiate athletics." *Id.* To prevail on the merits, the NCAA must do more than just claim a procompetitive effect; it must show that the rule in question actually produces such an effect on the NCAA product.[25] To defeat UND's request for a preliminary injunction, the NCAA must show clear procompetitive effects which will almost certainly outweigh the anticompetitive effects of the Policy.

First, if the NCAA was seriously addressing the supposed problem of hostile or abusive Native American imagery, then it would not exempt large member institutions while enforcing the Policy against other relatively small institutions. The Florida State University Seminoles, the University of Utah Utes, the Central Michigan University Chippewah, and the San Diego State Aztecs are all Division I schools that have been

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[25] The NCAA cannot salvage the Policy from antitrust scrutiny because of good intentions. Social welfare arguments, based on subjective perception, are insufficient procompetitive justifications for violations of the antitrust laws. *See, e.g., Nat'l Soc'y of Prof'l Eng'rs*, 435 U.S. 679, 695 (1978) (rejecting argument based on safety considerations and professional ethics); *Indiana Fed'n of Dentists*, 476 U.S. at 462 (rejecting defendants "noncompetitive 'quality of care' justifications"); *Law*, 134 F.3d at 1021-22 ("While opening up coaching positions for younger people may have social value apart from its affect on competition, we may not consider such values unless they impact upon competition.").

exempted from the Policy. These schools have much larger audiences; they have a much larger impact on the NCAA product. The NCAA cannot claim that the Policy improves the NCAA product when it allows these institutions to act inconsistently with the Policy. Any claim of product improvement is dissipated by the Namesake Exemption. Inconsistent application is a definitive rejection of the very procompetitive effects now offered to justify the Policy.[26]

Second, the NCAA has never explained how UND's use of its "Fighting Sioux" nickname and logo actually "demoralize[s] a segment of the student population or the public at large." The NCAA has never put forth any evidence, or any argument, that anything but "a clean, wholesome environment" exists at UND athletic events.[27] To the contrary, the NCAA has repeatedly dodged this request and relies solely on general opposition voiced by third parties. Because the NCAA has not, and cannot, meet its responsibility to show a sufficient procompetitive effect, the Policy is likely a violation of the antitrust laws of the State of North Dakota. At the very least, there is a "substantial question" and the injunction should issue.

V. THE NCAA'S ARGUMENTS REGARDING IRREPARABLE HARM, PUBLIC INTEREST, AND BALANCING OF THE HARMS, ALL HINGE ON THE SAME FAULTY PRESUMPTION.

The NCAA's arguments addressing the elements of irreparable harm, balancing of the harms, and the public interest are entirely based on the same faulty presumption

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[26] *See Los Angeles Mem'l Coliseum Com'n v. Nat'l Football League*, 726 F.2d 1381, 1396-98 (9th Cir. 1984) (recognizing restraint was unreasonable because of possibility that personal animosity towards one owner could motivate inconsistent application of restraint).

[27] Buried in the NCAA exhibits are examples of crude and wholly distasteful distortions of the UND name. The NCAA rightfully does not rely on those unusual instances which (1) occurred off campus and out of UND's control, (2) occurred long ago, and/or (3) met with immediate and stiff reaction from the UND administration.

which afflicts the NCAA's arguments on the merits of UND's claims: that UND's name and logo are hostile and abusive in violation of state and federal law.

The NCAA calls upon the authority of the North Dakota Human Rights Act and related federal legislation to affirm its naked assumptions. (Def. NCAA's Mem. Opp'n to Pl.'s Mot. for Prelim. Inj. at 59.) As already explained in Section III(A)(3), *supra*, there has been no finding by any court or administrative agency that UND's name and logo violate these statutes. To the contrary, those courts to specifically consider the use of Native American imagery in sports have expressly held that, while the use of Native American imagery in sports may be "offensive" to some, it in no way rises to the level of being "hostile and abusive." *See Illinois Native Am. Bar Ass'n v. University of Ill.*, 2006 WL 2684269 (Ill. App. Ct. Sept. 19, 2006) (dismissing plaintiffs' complaint alleging that performance by Indian Chief mascot at university football games violated Civil Rights Act); *Munson v. State Superintendent of Public Instruction*, 577 N.W.2d 387, 1998 WL 61018 (Wis. Ct. App. 1998) (unpublished) (dismissing plaintiff's complaint alleging that Native American name and logo created hostile or abusive environment).

A. UND Will Suffer Irreparable Harm in the Absence of a Preliminary Injunction.

In its opposition memorandum, the NCAA does not dispute that UND will suffer irreparable harm. To rebut this admitted harm, the NCAA only advances two arguments: (1) UND's use should not be protected because it violates federal and state "policy"; and (2) UND "delayed" in bringing this action. The first argument is dependent on the false presumption addressed above in Section III(A)(3).[28]

[28] Moreover, the cases cited by the NCAA are inapplicable or actually support issuance of an injunction. The NCAA cites *Freedom Holdings, Inc. v. Spitzer*, 408 F.3d 112 (2d Cir.

The NCAA's second argument raises what is, essentially, an equitable defense to its decision to inflict irreparable injury. It invokes the equitable doctrines of "clean hands" and "laches" to argue that UND should not be able to claim irreparable harm. Its arguments stretch the limits of credibility. Not only do the cases cited by the NCAA reach contrary results to that requested by the NCAA,[29] but more applicable law supports the position of UND. *Gilder v. PGA Tour, Inc.*, 936 F.2d 417, 423 (9th Cir. 1991) (rejecting assertion that pro golfer could have simply complied with association rule at an earlier time to prevent irreparable harm flowing from the immediate application of the rule).

UND participated in an ad hoc appeals process which finally ended with a letter of the NCAA Executive Committee to UND, dated May 15, 2006. After being denied its appeal, UND was faced with a difficult decision: (1) initiate a lawsuit with an entity that not only continues to govern athletic events in which UND participates, but also has a budget of over $500 million dollars at its disposal; or (2) submit to the dictates of the Executive Committee and the injustices of the Policy.

2005), for the proposition that UND cannot claim irreparable harm in complying with non-discrimination requirements. This court actually recognized, however, that even an injunction against government enforcement of a law would be appropriate if plaintiff could show "irreparable harm absent the injunction." *Id.* at 114. The decision of a private association should be given significantly less deference.

[29] Preliminary injunctions were actually granted in the primary cases the NCAA cites. In rejecting the delay arguments, the court looked to factors other than the delay itself. *Ty, Inc. v. Jones Group, Inc.*, 237 F.3d 891, 903 (7th Cir. 2001) ("Jones has not presented any affirmative evidence that Ty's delay in seeking a preliminary injunction caused Jones to be lulled into a false sense of security or that Jones in any way relied on Ty's delay."); *United States v. Local 6A, Cement & Concrete Workers*, 663 F. Supp. 192, 195 (S.D.N.Y. 1986)("Injunctive relief looks to the future, and if I were to find the Government's application to be untimely, I would have to be 'satisfied that there is no reasonable expectation of future injurious conduct.'") (quoting 11 Wright & Miller, *Federal Practice and Procedure:* Civil § 2942 at 371-72 (1973)).

To reach a final decision, UND was forced to conduct serious deliberations with multiple decision-making bodies. First, UND had to make an internal decision as an institution. Next, UND had to seek permission from its governing body, the North Dakota Board of Higher Education, to proceed. Finally, UND had to demonstrate to the office of the North Dakota State Attorney General – who would ultimately be responsible – that such a lawsuit was appropriate.

Even if UND has unnecessarily expended time, any delay was irrelevant to the present motion. Had UND initiated this lawsuit earlier, in the summer for example, and immediately asked for a preliminary injunction, the NCAA would have argued that UND's irreparable harm was too speculative, as the Policy would not be applied until the end of the fall sports season. UND has not "sat on its rights" – it has deliberated on the costs and benefits of litigation and timely filed a lawsuit as soon as harm to it from the Policy became imminent.

As discussed in its initial memorandum, UND will suffer irreparable harm to its reputation and to its ability to recruit top students and athletes if the Policy is applied. (*See* Pl.'s Mem. in Supp. of Mot. for Prelim. Inj. at 40-46.) The impending Division II play-offs highlight the potential irreparable harm. If the "Fighting Sioux" football team is denied home field advantage because of this Policy, it will suffer irreparable harm. If the football team is forced to forfeit a game because of noncompliant uniforms; it will suffer irreparable harm. These games can not be replayed. The decisions of the NCAA cannot be undone. No amount of monetary damages can compensate for that loss. If the football team is forced to affix patches of dark tape over its "Fighting Sioux" name and logo, the ensuing negative stigma that would attach to UND would constitute irreparable

harm. Harm to UND's reputation cannot be undone and monetary damages cannot possibly adequately compensate UND.[30]

B. Balance of Harms.

In its opposition memorandum, the NCAA has exaggerated the harms to it, other members, and student athletes. Much of the alleged harm is based on the false assumption that the use of Native American imagery is legally cognizable as "hostile" or "abusive," a flaw sufficiently addressed above in Section III(A)(3). In addition, the NCAA's claims of harm are exposed as pretextual when the impact of the Namesake Exemption is considered.

The thrust of the NCAA's argument is that, if an injunction is issued, NCAA championship events will be marred by the presence of offensive Native American imagery. The NCAA cannot now claim such harm, however, when its own Namesake Exemption will create the same exact alleged harm. FSU, CMU, San Diego State University, and the University of Utah are Division I schools with much larger fan bases and potential audiences. Any "harm" incurred by the presence of the "Fighting Sioux" at NCAA events is minimal compared to the combined impact of these schools' Native American imagery.

The NCAA's other arguments alleging harm are equally unavailing. An injunction preserving the status quo, which existed prior to the Executive Committee's breach of contract, does not harm the NCAA's institutional integrity or diminish its authority. On the contrary, a determination by this Court of the boundaries and proper

[30] Likewise, if not permitted to bid or host pre-determined sites, UND cannot be adequately compensated with money damages since damages would be difficult to establish in that there would inevitably be proof issues as to whether UND would have been awarded the bid in any event.

interpretation of the Contract will provide the NCAA greater stability and give future actions of the NCAA membership greater legitimacy. An injunction would actually reinforce the preeminence of the Constitution and Bylaws, affording members comfort in the enforceability of these provisions.

As discussed above, the potential irreparable harm to UND is great, while, in light of the Namesake Exemption, purely illusory for the NCAA. When the two are weighed against each other, the balance of harms factor supports issuance of an injunction.

C. Issuance of an Injunction is in the Public Interest.

The NCAA's claim of acting in the public interest is also premised on the false presumption discussed above in Section III(A)(3). Moreover, issuing a preliminary injunction effectuates North Dakota's strong public interest in upholding contracts and ensuring that voluntary associations such as the NCAA adhere to their own constitutions and bylaws. *See Crandall v. North Dakota High Sch. Activities Ass'n*, 261 N.W.2d 921, 926 (N.D. 1978) (recognizing that constitution and bylaws of voluntary association make up valid and enforceable contract); *Basin Elec. Power Coop. v. MPS Generation, Inc.*, 395 F. Supp.2d 859, 867 (D.N.D. 2005) (finding that public interest weighed in favor of issuance of preliminary injunction in breach of contract case). Issuing a preliminary injunction also serves North Dakota's strong public interest in protecting the reputation of its state university. The fact that the decision to request an injunction was made initially by a public university, was affirmed by a unanimous vote of the Board of Higher Education of North Dakota, and is currently being prosecuted by the Attorney General of North Dakota is highly indicative of the public interest involved.

Moreover, UND is not seeking to interfere with a lawful decision of a private association, as the NCAA claims. Rather, UND is requesting that this Court enforce the NCAA's constitution and bylaws. By enforcing the Contract, this Court is not, as the NCAA asserts, creating inconsistent rules for nationwide competition. If that were the case, no court would ever be able to enforce the Contract and stop the Executive Committee from breaching it. The solution to the NCAA's perceived problem is simple: to ensure uniform application of its internal regulations in the fifty states, the NCAA should abide by its own constitution and bylaws. In sum, the public interest factor weighs heavily in favor of UND's request for an injunction.

VI. THERE ARE NO FIRST AMENDMENT ISSUES.

The NCAA's First Amendment argument is fatally flawed. UND is not asking the Court to tell the NCAA "how to organize its athletic championships," or contesting the propriety of a properly enacted constitutional provision or bylaw. Rather, UND is requesting that the Court enforce the properly enacted Constitution and Bylaws of the Association, prevent the Executive Committee from usurping the Association membership's power to determine how NCAA championships are organized, and preclude the NCAA from violating its duty of good faith and fair dealing and state antitrust laws. Accordingly, the NCAA's "right of association" claim should be rejected out of hand.

The First Amendment is a shield to governmental action, not a sword to excuse a breach of contractual and legal obligations that arise independent of any expressive activity. UND is not asking this court to mandate an association between UND and any other member institutions or take sides in the underlying social debate. UND is simply

asking that this Court require the NCAA to fulfill its express contractual obligation under the Constitution and Bylaws, fulfill it duty of good faith and fair dealing, and comply with state antitrust laws. To contort this into a case impacting the First Amendment crosses the line of fair argument.

CONCLUSION

For the reasons set forth above and in its initial memorandum, Plaintiff's Motion for Preliminary Injunction should be granted.

Dated this 7 day of November, 2006.

State of North Dakota
Wayne Stenehjem
Attorney General

Tag C. Anderson
Attorney General
State Bar ID No. 04858
Office of the Attorney General
600 East Boulevard Ave
Bismarck, ND 58505-0040
Telephone (701) 328-2210
Facsimile (701) 328-2226

Peter W. Billings
Kevin N. Anderson
Christian D. Austin
FABIAN & CLENDENIN, P.C.
215 South State Street, Twelfth Floor
P.O. Box 510210
Salt Lake City, Utah 84151-0210

Attorneys for Plaintiff

WRITTEN TESTIMONY
SEAN M. JOHNSON
PRIVATE CITIZEN AND UND ALUMNI, CLASS OF 1991
HB 1263

My name is Sean Johnson of Bismarck, ND and of the Fighting Sioux Class of 1991. I testify today on behalf of myself, as well as other University of North Dakota alumni. I also testify in support of the disenfranchised members of the Standing Rock Sioux Nation, the majority of Spirit Lake Sioux Nation members who have registered by referendum their support for the Fighting Sioux name and logo, and North Dakotans everywhere who also support UND's use of the Fighting Sioux name and logo.

You no doubt have received or will receive emails from many representing the people of two proud nations; to whom the name "Fighting Sioux" means so much more than those of us not of that culture could ever fathom. I find it ironic and inspiring all at once that a fight initially picked primarily by the NCAA and certain UND faculty is being countered hardest by those they were arrogant enough to think they were protecting. It is because of these real Fighting Sioux that I have been motivated to choose to stand and fight with them for what is right and good about this name and logo, and against the disinformation spread by a vocal minority of elitists. I also choose to stand and fight because no man, woman, or organization has the right to characterize me or others arbitrarily as "hostile and abusive" simply because we share the pride of the members of our tribal nations in the Fighting Sioux name and likeness. Yet the NCAA, UND, and Board of Higher Education would have you believe otherwise. If this is not the true definition of prejudice... or just judging without fact or cause, than I don't know what it would be called.

UND was a wonderful experience, and it has helped me build a foundation for success and fulfillment in life. It has also instilled in me a sense of honor, integrity, and selfless service to others that has helped me be successful as military officer, civil public servant, husband, son, brother, brother-in-law, cousin, uncle, and friend. Yet, like so many things you experience in your young formative college years, you can take a lot for granted. You don't clue into how important an impact something has been on your life until it looks like you may lose it. The Fighting Sioux name and logo.... and more importantly the positive things they represent, are such an example for me and so for many other alumni. In other words, there is no other foreseeable way a guy who grew up in Eden Prairie, MN could have come to know and respect the culture of the Sioux people without the Fighting Sioux name and logo, and I am not alone. This understanding and respect has served me well in many of the roles I previously mentioned.

I mentioned earlier that the NCAA and select UND faculty, alongside a very small vocal minority of Native Americans, picked a fight which was motivated by little else than political correctness. Political correctness is not founded in such things as legal precedent, the will of the majority, or the decisions of an elected body; like many of the logical arguments to retain the Fighting Sioux name and logo are. Instead, political correctness is founded primarily in nothing more than personal opinions repeated over

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and over again by an elite few in select positions of power. Yet, we all know that when opinions are repeated over and over again, and there is no real opportunity for honest debate, those opinions can become a perceived reality. That unfortunately is what is happening with this issue, and why the legislative assembly has been approached ... to help right a terrible wrong because you have the authority to right that terrible wrong. That is part of why we have a "peoples branch" in our legislature.

For indeed, many may say "why have you waited until now to act"? Honorable members of the Senate, I assure you we have all acted persistently, but our arguments and concerns have been disregarded by a university administration who did not want to hear them, and a Board of Higher Education possibly acting to protect that administration and its new President from an unpopular decision. The people of Standing Rock have also been disregarded by those who are supposed to represent them, as their own emails have and will continue to demonstrate. Indeed, this Legislative Assembly, through entertaining this bill, is providing the first real, honest, opportunity that many nickname and logo supporters have had to be fairly heard, without prejudice, and without the course of action predetermined in advance.

There has been, as you have heard and will continue to hear, a lot of myth and mantra in the arguments of those who want to see the name changed, and to strip UND of a positive image that so many of both Native American and other cultures identify with and find a sense of unity from. One such myth is that the name and logo are divisive. Ladies and gentlemen, I ask you to judge for yourself.... How can the Fighting Sioux name and logo truly be divisive if the threat of losing it has brought together so many from such a diverse background to fight for its survival? This name... this logo.... **IS NOT DIVISIVE.** There is simply no tangible proof of this, unless we wish to define truth as fallacy repeated over and over and not challenged. In reality, the name and logo have truly done a better job uniting so many people from diverse walks of life under a common identity than any talking point or initiative rooted in political correctness ever could hope to accomplish.

This logo, this name.... Fighting Sioux.... And what it represents.... Were given to UND via spiritual ceremony by the people of Standing Rock Nation, and they have no right to change it out of reasons founded in fallacy and self righteous indignation. It is a shared part of the proud history of the Sioux Nations represented in our state today, and it is also an integral part of our state's history and identity. Our very state name is rooted in Native American culture, as are the names of places inside and outside of Tribal Nations collocated with our state. These names have been used respectfully and honorably to recognize the contributions of Native American culture to North Dakota, and the interdependence that exists between our State and Tribal Nations. I do fear that it is not beyond reason for all other Native American names and likenesses to be challenged across our state if we do not reaffirm in law UND's respectful use of the Fighting Sioux name and logo. This would be a tragedy, and all in the name of political correctness.

The Fighting Sioux jersey, or sweater for those of you hockey purists; was voted the best of 100 pro, minor league, college, and junior hockey uniforms. While the name and logo as displayed on the sweaters is stunning, the real reason you rise to the top of such a prestigious pack is because of the inspiration the name and logo provide, and traditions which you seek to honor. That inspiration can only come from the positive traditions rooted in the culture of the Sioux people.

Our team also forms one of the biggest road draws of any other team in college hockey. A "hostile and abusive" name and logo would not be so well received on the road, especially if there is any real validity to the claims that other teams don't want to face us because of it. We must also remember

the ultimate road trips taken by our North Dakota service members, with jerseys and flags and hats and anything else bearing that proud name and image of a Sioux warrior carefully packed in their rucksacks and duffle bags as they moved out to protect us in the Global War on Terrorism. Pictures have been sent back, and even published in the UND Alumni Review, of our troops proudly displaying the Fighting Sioux name and logo while deployed in harm's way. Of the many things they could have brought to remind them of North Dakota, and provide inspiration to persevere against all odds... it was the Fighting Sioux name and logo they chose. That can only be because that it is much more than a name and a design. It is the roots of that name and image in a proud Native American culture that provides inspiration to the warriors of today.

I mentioned earlier that myth and mantra repeated over and over by the PC crowd can lead to perceived reality. One such mantra is a negative impact of NCAA sanctions. Our beautiful hockey arena already cannot host a major championship due to seating capacity, and the matter of uniforms during playoffs is easy enough to work around. Past that, do you really think the NCAA has the stomach for another lawsuit against a financially secure state, and more importantly an alumni base that will gladly fund a legal fight to save this name as they have in the past?

The recent revelation of the Big Sky Conference's concern over the nickname is highly suspect at best. It triggers the skeptic in me, and I hope in you all as well. Why did they wait until now to speak? If the name was truly was a genuine concern, why did it come to light the day prior to this hearing versus right away when the bills were filed? Why was nothing mentioned about the nickname and logo when UND first joined the Big Sky? Do we really want to be part of any conference who would want us to change our identity to fit their preferences, versus finding a conference who will accept us and the proud name we have chosen to identify with for all the right reasons? Do we not think there will be opportunity to work with the Big Sky on their concerns? Most importantly, is this nickname issue really the concern of the conference, or was it expressed at the request of UND administration in the hopes of influencing you all to kill this bill? Right now all we have is a Grand Forks Herald article. We don't know what was said in the interview and possibly taken out of context. A news article is not an official policy statement from any organization; we don't have that now. We do know the Herald has acted more as a trusted agent of the University administration, and not as an unbiased media source reporting ALL the facts. That has been apparent in their coverage and editorials on this issue in the Legislative Assembly, as well as throughout the entire nickname and logo issue since 2005. The bottom line is we have confidence the Legislative Assembly will base their decision making on what the desires of the people of North Dakota are, not what an undeniably biased newspaper chooses to report on the matter, and not what outside organizations think we in North Dakota should be doing.

Another point based in myth is the alleged "hostile and abusive" environment that supposedly has been created by the name and logo. I have never personally witnessed these things, nor have many who have spent a decent part of their life on campus. I ask a very simple question.... **Where is the PROOF of a direct, causal relationship between the name and logo and these acts?** There is not one. The myth and mantra has clouded a very basic truth. Blaming the name and logo for any alleged, isolated and unfortunate occurrences is akin to a person blaming getting older, the availability of bad food, and silverware to weight gain. No matter what, at the end of the day the reality is it is personal behavior and choices that cause a person to gain weight. Similarly, it is the alleged behavior and choices willfully made by others that caused any disrespect of or other unfortunate occurrences to Native Americans on campus. Those alleged behaviors and actions are the responsibility of the individual who committed them, not the use of a proud name or logo by the university. It is these individuals we must sanction, not a name and logo.

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In close, I ask for your support to the Fighting Sioux bill which is before you. Please support HB 1263.

Sincerely,

Sean M. Johnson
6405 Preston Loop
Bismarck, ND 58504
701-391-5326

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11.0349.01003
Title.

Prepared by the Legislative Council staff for
Senator Hogue
March 4, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1263

Page 1, line 2, after "Dakota" insert "and to require reports to the legislative management"

Page 1, line 6, after "**logo**" insert "**- Report to legislative management**"

Page 1, after line 6, insert:

"1."

Page 1, line 13, remove "If the national collegiate athletic association takes any action to penalize the university"

Page 1, replace lines 14 and 15 with:

"2. Neither the state board of higher education nor the university of North Dakota may use any public or private funds to take any action to change the fighting Sioux logo.

3. Neither the state board of higher education nor the university of North Dakota may take any action to transfer the intellectual property rights or licensing rights of the fighting Sioux nickname, mark, or logo to any other person without first receiving approval from the legislative assembly.

4. The university of North Dakota shall report to the legislative management at least once each biennium regarding whether the university of North Dakota or any athletic team at the university of North Dakota was eligible to host a national collegiate athletic association championship competition, whether the university of North Dakota applied or bid to host the competition, and whether the application or bid of the university of North Dakota was accepted or denied."

Renumber accordingly

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ARTICLE VIII

EDUCATION

Section 1. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

Section 2. The legislative assembly shall provide for a uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including schools of higher education, except that the legislative assembly may authorize tuition, fees and service charges to assist in the financing of public schools of higher education.

Section 3. In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind.

Section 4. The legislative assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific, and agricultural improvements.

Section 5. All colleges, universities, and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school.

Section 6.

1. A board of higher education, to be officially known as the state board of higher education, is hereby created for the control and administration of the following state educational institutions, to wit:

   a. The state university and school of mines, at Grand Forks, with their substations.

   b. The state agricultural college and experiment station, at Fargo, with their substations.

   c. The school of science, at Wahpeton.

   d. The state normal schools and teachers colleges, at Valley City, Mayville, Minot, and Dickinson.

   e. The school of forestry, at Bottineau.

   f. And such other state institutions of higher education as may hereafter be established.

2. a. The state board of higher education consists of eight members. The governor shall appoint seven members who are qualified electors and taxpayers of the state, and who have resided in this state for not less than five years immediately preceding their appointments. These seven appointments are subject to confirmation by the senate.

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The governor shall appoint as the eighth member of the board a full-time resident student in good academic standing at an institution under the jurisdiction of the state board. Except for the student member, no more than two persons holding a bachelor's degree from a particular institution under the jurisdiction of the state board of higher education may serve on the board at any one time. Except for the student member, no person employed by any institution under the control of the board shall serve as a member of the board and no employee of any such institution may be eligible for membership on the state board of higher education for a period of two years following the termination of employment.

The governor shall nominate from a list of three names for each position, selected by action of four of the following five persons: the president of the North Dakota education association, the chief justice of the supreme court, the superintendent of public instruction, the president pro tempore of the senate, and the speaker of the house of representatives and, with the consent of a majority of the members-elect of the senate, shall appoint from the list to the state board of higher education seven members. The governor shall ensure that the board membership is maintained in a balanced and representative manner. The term of office of members appointed to fill vacancies at the expiration of said terms shall be for four years, and in the case of vacancies otherwise arising, appointments shall be made only for the balance of the term of the members whose places are to be filled. A member may not be appointed to serve for more than two terms. If a member is appointed to fill a vacancy and serves two or more years of that term, the member is deemed to have served one full term.

b. In the event any nomination made by the governor is not consented to and confirmed by the senate, the governor shall again nominate a candidate selected from a new list. The nomination shall be submitted to the senate for confirmation and the proceedings shall continue until an appointee has been confirmed by the senate or the session of the legislature has adjourned.

c. If a term expires or a vacancy occurs when the legislature is not in session, the governor may appoint from a list selected as provided, a member who shall serve until the opening of the next session of the legislature, at which time the appointment must be certified to the senate for confirmation. If the appointee is not confirmed by the thirtieth legislative day of the session, the office shall be deemed vacant and the governor shall nominate another candidate for the office. The same proceedings shall be followed as are set forth in this section. If the legislature is in session at any time within six months prior to the date of the expiration of the term of any member, the governor shall nominate a successor from a list selected as above set forth, within the first thirty days of the session and upon confirmation by the senate the successor shall take office at the expiration of the incumbent's term. No person who has been nominated and whose nomination the senate has failed to confirm is eligible for an interim appointment. On or before July first of each year, beginning in 1995, the governor shall appoint a student member from a list of names recommended by the executive board of the North Dakota student association for a term of one year, beginning on July first. A student member may not serve more than two consecutive terms.

3. The members of the state board of higher education may only be removed by impeachment for the offenses and in the manner and according to the procedure provided for the removal of the governor by impeachment proceedings.

4. Each appointive member of the state board of higher education, except the student member, shall receive compensation set by the legislative assembly for the time actually spent devoted to the duties of the member's office. All members shall

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receive necessary expenses in the same manner and amounts as other state officials for attending meetings and performing other functions of their office.

5. The legislature shall provide adequate funds for the proper carrying out of the functions and duties of the state board of higher education.

6. a. The state board of higher education shall hold its first meeting at the office of the state board of administration at Bismarck, on the 6th day of July, 1939, and shall organize and elect one of its members as president of such board for a term of one year. It shall also at said meeting, or as soon thereafter as may be practicable, elect a competent person as secretary, who shall reside during his term of office in the city of Bismarck, North Dakota. Said secretary shall hold office at the will of the board. As soon as said board is established and organized, it shall assume all the powers and perform all the duties now conferred by law upon the board of administration in connection with the several institutions hereinbefore mentioned, and the said board of administration shall immediately upon the organization of said state board of higher education, surrender and transfer to said state board of higher education all duties, rights, and powers granted to it under the existing laws of this state concerning the institutions hereinbefore mentioned, together with all property, deeds, records, reports, and appurtenances of every kind belonging or appertaining to said institutions.

b. The said state board of higher education shall have full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions. In furtherance of its powers, the state board of higher education shall have the power to delegate to its employees details of the administration of the institutions under its control. The said state board of higher education shall have full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions.

c. Said board shall prescribe for all of said institutions standard systems of accounts and records and shall biennially, and within six (6) months immediately preceding the regular session of the legislature, make a report to the governor, covering in detail the operations of the educational institutions under its control.

d. It shall be the duty of the heads of the several state institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said state board of higher education; and said state board of higher education shall consider said budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state; and thereafter the state board of higher education shall prepare and present to the state budget board and to the legislature a single unified budget covering the needs of all the institutions under its control. "Said budget shall be prepared and presented by the board of administration until the state board of higher education organizes as provided in subsection 6a." The appropriations for all of said institutions shall be contained in one legislative measure. The budgets and appropriation measures for the agricultural experiment stations and their substations and the extension division of the North Dakota state university of agriculture and applied science may be separate from those of state educational institutions.

e. The said state board of higher education shall have the control of the expenditure of the funds belonging to, and allocated to such institutions and also those appropriated by the legislature, for the institutions of higher

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education in this state; provided, however, that funds appropriated by the legislature and specifically designated for any one or more of such institutions, shall not be used for any other institution.

7. a. The state board of higher education shall, as soon as practicable, appoint for a term of not to exceed three (3) years, a state commissioner of higher education, whose principal office shall be at the state capitol, in the city of Bismarck. Said commissioner of higher education shall be responsible to the state board of higher education and shall be removable by said board for cause.

   b. The state commissioner of higher education shall be a graduate of some reputable college or university, and who by training and experience is familiar with the problems peculiar to higher education.

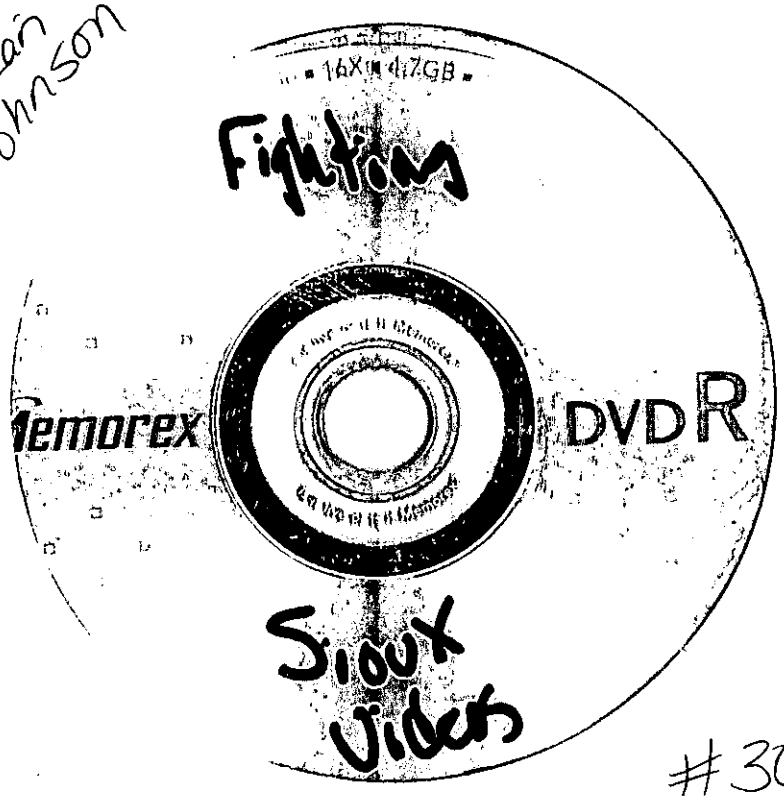
   c. Such commissioner of higher education shall be the chief executive officer of said state board of higher education, and shall perform such duties as shall be prescribed by the board.

8. This constitutional provision shall be self-executing and shall become effective without the necessity of legislative action.

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Availalde upon request

Sean Johnson



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HB 1263

Sitting Bull statue
Sioux Flag
Sioux Pride

March 7, 2011

To: North Dakota Senate Education Committee:

Senator Layton Freborg – Chairman
Senator Donald Schaible- Vice Chairman
Senator Tim Flakoll
Senator Joan Heckaman
Senator Gary Lee
Senator Larry Luick
Senator Richard Marcellais

As representatives of the many concerned faculty members at the University of North Dakota who have tried for many years to address the **educational dimensions** of the controversy over the "Fighting Sioux" name and logo, **we urge you to recommend a Do Not Pass** as a result of your careful consideration of the many issues surrounding HB 1263.

Enclosed you will find the following documents, which we offer as selected documentation from just the last several years of efforts by national and tribal educational organizations, and by faculty and staff within the NDUS, to address significant educational problems and concerns related to UND's use of the "Fighting Sioux" name and logo in its athletics program.

1. **Summary** of Academic organizations, tribal governments, tribal organizations and UND American Indian Programs on record as raising concerns or objections to name/logo.

2. *Grand Forks Herald Ad* placed by UND faculty, staff and concerned community members concerned about the controversy and its toll on UND and the community.

3. American Psychological Association Resolution.

4. UND University Senate Resolutions (2009/2011).

5. 2006 UND Faculty Petition to Retire the Name/Logo, made to the North Dakota State Board of Higher Education.

The documents we are including here are not comprehensive, but are meant to illustrate to you the seriousness of issues raised by educators regionally and nationally. We remain concerned that public and media debate about the longstanding controversy continues to neglect the serious educational dimensions of this issue.

Dr. Sharon Carson
UND Department of English
Merrifield Hall 110
276 Centennial Drive Stop 7209
Grand Forks, ND 58202-7209
701.777.2764

Professor Lucy Ganje
UND Department of Art and Graphic Design
Hughes Fine Arts Center
3350 Campus Road Stop 7099
Grand Forks, ND 58202-7099
701.777.2670

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Following is a summary of academic organizations, tribal governments, tribal organizations and UND American Indian Programs that have asked the University of North Dakota to end the use of its "Fighting Sioux" nickname and logo. It includes:

I. The Commission of the North Central Association of Colleges and Schools' (NCA) 2004 Re-Accreditation Report on the University of North Dakota
II. Research conducted on the University of North Dakota campus regarding the nickname/logo
III. UND American Indian Programs opposing the nickname/logo
IV. A request to convene the UND University Council to discuss the nickname/logo
V. Resolutions/requests asking UND to discontinue use of the nickname/logo
VI. Other organizations calling for an end to the use of American Indians as sports team names, logos and mascots:

I. The Commission of the North Central Association of Colleges and Schools' (NCA) 2004 Re-Accreditation Report on the University of North Dakota.

2004

Following are sections of the report that refer to the "Fighting Sioux" nickname and logo and its impact on UND:
ASSURANCE SECTION
Criterion Four, "The institution can continue to accomplish its purposes and strengthen its educational effectiveness."
Salient Evidence of Fulfillment of Criterion
2. Evidence that demonstrates the criterion needs institutional attention:
d. It is the considered judgment of the visiting team that continued use of the Indianhead logo and the "Fighting Sioux" nickname reduces the university's ability to accomplish its purposes and diminishes its educational effectiveness.

Before and during the visit, team members studied the long history of this issue and learned of the deep campus divisions on the subject and of the President's and the campus's deep commitment to assure that the use of logo and nickname were proper and respectful. At the outset, team members were prepared to conclude that the issue was not significant enough to be given attention in the team's report, did not wish to intrude into a campus matter, and were prepared to consider it closed by the decision of the State Board of Higher Education in December 2000. By the end of the visit, however, the team unanimously came to a different conclusion for compelling reasons. The issue was clearly not at rest. It continues to be raised by those who consider it a moral issue as well as by those who do not object to the symbols but who deplore what is happening to the campus. It is clear that it will simmer on, until it boils over again openly, while in the meantime diminishing collegiality and learning for many in the campus community. It will not go away.

The team has the following comments to offer the institution and its board:

i. This persistent controversy has a negative impact on the learning environment at the University of North Dakota. It adversely affects student participation in the classroom and the laboratory. It adversely affects student relationships in residence halls and in sports and other recreational activities. It encourages disrespectful treatment of some students by other students and by some faculty and staff. Team members also hear that it adversely affects student recruitment and retention. It is an issue which distracts students, faculty, staff, and administration from the very important business of higher education.

ii. Continued use of the logo is manifestly inconsistent with the university's goal of being the foremost university in the nation in the programs it offers for and about American Indians, a goal as important to the state and university as it is to those served by it.

iii. It is particularly awkward for an American university, which endeavors to teach and model respect for others and sensitivity to their perspectives, to widely and prominently employ a logo and nickname that a substantial number of American Indians and their organizations have said and continue to say is offensive and demeaning.

iv. Times change. Values and practices change. As the nation has moved over the last century to de-legitimize and reduce discrimination against minorities, it has become less tolerant of the use of stereotypes and language regarded as offensive by minorities and many others. There was a reason to change the nickname from Flickertails in 1930. There is reason to change the nickname from "Fighting Sioux" today. If UND continues on course, it will be increasingly out of step with the times.

v. In the short run, there is no win-win resolution to this controversy. In the long run, if use of the logo and nickname were discontinued, everyone would win. In the long run, if use of the logo and nickname is not discontinued, everyone loses.

vi. Ultimately, the University of North Dakota is too good an institution, and its leadership is too important to the State of North Dakota, to let this issue continue to weaken its performance and impede its full development. The state board should revisit its earlier decision and direct the campus to develop and implement an orderly plan for discontinuing use of the Indianhead logo and the "Fighting Sioux" nickname.

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ADVANCEMENT SECTION
REPORT OF A COMPREHENSIVE EVALUATION VISIT
II. CONSULTATIONS OF THE TEAM
B. Athletic Teams' Logo and Nickname

The team strongly recommends appropriate action by the State Board of Higher Education to support the campus unequivocally in providing honorable retirement for the "Fighting Sioux" nickname and logo and appropriate replacements. The team also recommends that, with such support, UND strenuously seek to achieve resolution and reconciliation throughout campus and state constituencies regarding the logo and nickname. The team encountered such strong disagreement and negative feelings among students, faculty, staff, and regional community about the "Fighting Sioux" name and logo in its interactions throughout the visit that it strongly believes resolution of the matter is necessary to move the campus forward. The controversy clearly has a negative impact on the campus climate for majority and minority students, faculty, and staff. The negative consequences cast a shadow on the considerable institutional efforts and successes to advance excellence through diversity in the learning environment.

There is clear evidence that there are strong views on both sides of the issue, and neither point of view seems to be content with the current University system decision about the logo and nickname. While these are critical matters, it may be the case that these positions are also symptomatic of basic social issues in our society. The controversy did not begin with the name and the logo and it will not be resolved through administrative fiat.

A long time member of the University community stated the belief that there needs to be a reconciliation between the Indian and White communities in order to begin to build bridges of understanding among all in the majority and minority communities in the University and regional communities. A proposal to begin the reconciliation process might begin by requesting the State Board to invest trust in the institution to bring together people of good will on both sides of the issue to begin a dialog to address the historic basis for their feelings.

The basic premise would be that the citizens and the Board would agree to live with whatever outcome resulted from a thoughtful, considerate, and compassionate exploration of the issues in a spirit of reconciliation similar to the South African Reconciliation Process. All would have to agree that there may be no perfect solution and that the solution is a continual process of introspection, trust, and compromise to create an inclusive community that understands and appreciates the historic continuity of the symbols in the seal of the University of North Dakota and how they relate to the cultures that inhabited the territory at the founding of the institution. The process would be arduous but should not be interminable. Both sides would have to agree at the outset that in the final analysis all would have to reconcile.

II. Research conducted on the University of North Dakota campus:

Emotional reactions to the Fighting Sioux logo and nickname among Indian and non-Indian students

LaRocque, Angela, McDonald, Doug, & Ferarro, Ric

(ABSTRACT)

The purpose of the study was to investigate to what extent, the "Fighting Sioux" Nickname and Logo affects American Indian and Majority Culture college students emotionally. This study compared American Indian and Majority Culture students' differences of emotional reactions and distress to two different slide presentations using images of the "Fighting Sioux" Nickname and Logo found on the campus of the University of North Dakota (UND). One set of slides was deemed "Neutral", which included posters or items such as pens, or book-bags with the words or images. The second set of slides was labeled "Controversial" and included posters and t-shirts with derogatory depictions (i.e. "Sioux Suck"), and vandalized images and slogans that had occurred on the UND campus. Participants consisted of 36 Majority Culture and 33 American Indian College students in attendance at UND. Each participant filled out an informed consent form, a demographic questionnaire, and a Multiple Affect Adjective Checklist-Revised (MAACL-R) before seeing either the Neutral Images slide presentation or the Controversial slide presentation. After viewing the first presentation, the participants filled out another MAACL-R and then viewed the second presentation. They then filled out another MAACL-R and the Nickname and Logo Distress Scale (NLDS) to measure changes in affect from one condition to the next. Data analyses revealed that American Indian participants had significantly higher levels of negative affect than Majority Culture participants after viewing even the Neutral slide show and that their affect reached an even higher state after viewing the Controversial slide show. The Majority Culture participants' level of affect, on the other hand, did not significantly change after viewing the Neutral slide show, and did moderately after viewing the Controversial slide show. The findings suggest that American Indian students at UND experience higher levels of psychological distress by being exposed to images of the "Fighting Sioux" nickname and logo – be they Neutral or Controversial, whereas non-Indian students react with less emotional distress upon exposure to these images. These findings refute the common argument that American Indian students as a group find the logo and images, and the issue overall, to be "honoring" them. Indeed, these results suggest the images, words and associated issues contribute to adversely impacting Native students.

American Indian images in college/university athletic mascots and logos

McDonald, J.D., McDougall, C., Bercier, H., Storey, A.

(ABSTRACT)

It is no secret that cross-cultural, ethnic, and racial conflicts and misunderstandings regarding American Indians still abound in the United States (McDonald & Chaney, 2002). Nowhere are the lines in the cultural sand more decisively drawn than in the use of American Indian images, names and logos for athletic teams. More than 150 high schools, colleges, and universities retain athletic team names or mascots reflecting American Indian symbols, words, names, or images. Many American Indian leaders and groups suggest this practice represents a form of institutional racism and systematic oppression. The counter argument, typically espoused by majority culture member fans, alumni, athletic team boosters and other supporters, suggests these names, logos, and images "honor" American Indian

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tribes, individuals or groups. An additional argument against changing American Indian names, logo, and mascot claims a broad rage of negative impacts that will potentially befall their institution. This study investigated the changes experienced by 22 institutions of higher education that had changed their athletic teams' American Indian-related nick-name, logo, and/or mascot. Pre- and post-name change status on a variety of institutional variables including enrollment, alumni contributions, team win/loss records, counseling center visits, campus arrests, and federal, state and local funding were obtained. A series of correlated-samples t-tests demonstrated no significant differences on any of these variables. Clearly, there is no empirical support for the argument against changing Indian-related mascots and logos because of potential adverse impact on these variables, at least among this sample of colleges and universities. The study is somewhat limited by small sample size (although it represents roughly 80% of colleges and universities in this category).

McDonald, J.D., & Chaney, J (2003). Resistance to multiculturalism: The "Indian problem", in Mio, J. S., & Iwamasa, G. Y. (Eds.). Multicultural mental health research and resistance: Continuing challenges of the new millennium. New York: Brunner-Routledge.

Sports Fan Identification and American Indian mascots

Jollie-Trottier, T., McDonald, J.D., Baker, Laiell, & Baker, Allison

(ABSTRACT)

The controversial use of American Indian mascots, nicknames and logos by athletic teams has resulted in a variety of reactions by fans and other supporters. Although these reactions are varied and complex, there are some underlying patterns and processes. This study measured sports spectator identification and sports fan motivation among University of North Dakota (UND) students. Participants consisted of 57 Northern Plains American Indian students and 90 Caucasian students. Participants completed the Sports Spectator Identification Scale (SSIS) and the Sports Fan Motivation Scale (SFMS). It was predicted that Caucasian students would report higher levels of spectator identification with UND "Fighting Sioux" athletic teams than American Indian students. It was further hypothesized Caucasian students would be more likely to contest changing the "Fighting Sioux" nickname, mascot, and logo. It was also predicted that motivation for attending UND sporting events would differ between Caucasian and American Indian students. It was also hypothesized Caucasian students would score higher on all SFMS subscales including: eustress, entertainment, family, self-esteem, group affiliation, economic, aesthetic, and escape. A series of independent t-tests revealed support for each hypothesis. More specifically, it was found that Caucasian students reported higher levels of spectator identification with UND athletic teams, were more likely to oppose changing the "Fighting Sioux" nickname, mascot, and logo, and were more motivated to attend UND sporting events than were American Indian students. Caucasian students indicated significantly higher levels of motivation than American Indian students on the following SFMS subscales: eustresss, entertainment, family, self-esteem, group affiliation, and escape. Discriminant function analysis suggested SSIS total score and two of the SFMS subscale scores (aesthetic and eustress) were strong predictors of ethnic group membership. Nearly sixty percent of the Caucasian students endorsed Hockey as their favorite UND sport. Interestingly, 25% of the American Indian students wrote in "None" even though "None" was not an actual choice.

Bicultural orientation and the UND "Fighting Sioux" Nickname controversy

LaRocque, A., McDonald, J.D., Poitra, B., McDougall, C.

(ABSTRACT)

The purpose of this study was to compare the effect of cultural affiliation on attitudes, beliefs, and reactions to the "Fighting Sioux" Nickname for 60 Northern Plains American Indian and 61 non-Indian students at the University of North Dakota. Participants completed a demographic questionnaire and the University of North Dakota Fighting Sioux Nickname Attitudes, Beliefs, and Reactions (UNDFSNABR) survey. In addition, American Indian participants completed the Northern Plains Biculturalism Inventory (NPBI) to identify cultural identification. Hypotheses were: 1.) American Indian responses on the UNDFSNABR survey would differ from non-Indians. 2.) Traditional Indians would oppose the use of the "Fighting Sioux" nickname, whereas more assimilated Indians would have attitudes, beliefs, and reactions more similar to non-Indians. Descriptive and correlation analyses were conducted. After analyzing the descriptive analysis of the means of the items on the UNDFSABR between American Indians and non-Indians, a series of selected t-tests were conducted. The first hypothesis was supported. Selected t-tests revealed that American Indian students had significantly different attitudes, beliefs, and reactions to the use of the "Fighting Sioux" nickname and its related issues than non-Indians. American Indians were negative toward the nickname while non-Indians were positive toward the nickname. The second hypothesis was partially supported. For the most part, Assimilated Indians did not react to the nickname the same way as non-Indians. Instead, they tended to view the issue similarly as Traditional American Indians. This study revealed that American Indian students and non-Indian students significantly differ on their attitudes, beliefs, and reactions to the "Fighting Sioux" nickname controversy, although this study did not reveal why these differences exist. Hopefully, this study will contribute to the issue, provide a basis for further research in this area, and help in finding a resolution to the issue.

Discriminatory Affects of Native American Mascot Endorsement or In-Group/Out-Group Dynamics

John Gonzalez, J.Doug McDonald

(ABSTRACT)

This study demonstrated that the multiple social categories created by manipulating the endorsement/opposition of Native mascots by Native and European American students at a university with a Native mascot allowed for the identification of discrimination based on the mascot issue. The manipulation of Native American Mascot Endorsement (NAME) in Native and European American confederates created a multiple in-group/out-group dynamic influenced discriminatory behavior.

RESULTS

In general, it was hypothesized that the Native American students would be subjected to more prejudice and receives more discrimination than White students (by White UND students) receive. Furthermore, it was hypothesized this prejudice and discrimination would vary because of the students' public opinion on the use of the Fighting Sioux name and logo. Specifically, SIT predicts the Native student who openly opposed the use of the Fighting Sioux name and logo would receive the most prejudice and discrimination, while the White confederate who openly supported the use of the Fighting Sioux name and logo would receive the least amount of prejudice and discrimination. Moreover, the additional natural (Ethnicity) and manipulated (NAME) in-group/out group.

For the prejudice ratings, the significant main effect of ethnicity suggests the Native confederates at UND do experience prejudice, regardless of the opinion about the Fighting Sioux name and logo. From the ratings, this translated into the participants being less likely to want to meet the Native confederate and having an overall less favorable reaction to him. This supports the hypothesis in which SIT predicted that Natives are an out-group and evaluated less favorably. The non-significant interaction between Ethnicity and NAME was also predicted by Social Identity Theory in that an additive combination of tendencies occurred, with double in-groups receiving the most positive rating, double out-groups the most negative, and partial groups somewhere in the middle. If the above statement is true, then the non-significant main effect of NAME does not support the hypothesis. A profile plot of the in-group/out-group ratings provides a visual description of this relationship (See Figure 5). Examination of the profile plot suggests the non-significant effect of NAME is a result of the Native confederate who is pro-logo (partial in/out-group) AND the White confederate who is pro-logo (double in-group) receiving similar ratings. One interpretation of this is the Native

confederate who supports the Fighting Sioux name/logo is considered a "good Indian" and confederates are as likely to want to meet him as the White confederate who supports the Fighting Sioux name and logo. The White confederate who supports the name/logo is "expected" to do so, and therefore not rated more favorably. Finally, the profile plot does indicate the Native confederate who is anti-logo (double out-group) does receive lower ratings than the Native confederate who supports the name/logo, which is socially significant and appears to be a trend throughout the data.

The discrimination rating analysis resulted in a similar pattern of the Native confederate who is anti-logo receiving lower scores than the Native confederate who is pro-logo. In this case, it translates into being less likely to receive a scholarship or less likely to be hired for a job – discrimination. However, the significant interaction between Ethnicity and NAME is contrary to the hypothesis and suggest the discrimination received is a function of Ethnicity AND opinion of the name/logo. Figure 2 (page X) shows the Native confederate who is pro-logo receiving the least discrimination and more likely to receive a scholarship or job than all others are. Not predicted, is the White confederate who is pro-logo receiving the most discrimination and least likely to be given a scholarship or job. Again, one interpretation is the pro-logo Native confederate being evaluated as a "good Indian" and the pro-logo White confederate as being evaluated as "average Joe" or fitting the "expectation" and nobody special. Furthermore, the social significance in the data profile is that the Native confederate who is pro-logo receives better outcomes than the Native confederate who is anti-logo.

Really? You don't look like an American Indian: Social Representations and Social Group Identities

Fryberg, Stephanie Ann

(ABSTRACT)

Social representation refers to ideas and meanings that help individuals orient themselves and communicate with others in particular social contexts (Moscovici, 1988). Social representations provide the structure and language for understanding such questions as "Who am I?" and "Who are we?" Social group identities carry with them a set of meanings and ideas that inform the interpersonal context for both in-group and out-group members. The purpose of this dissertation is to examine the psychological costs and benefits of social representations of minority groups, in this case American Indians, when the widely shared representations are limited in scope. The present research answers the following questions: 1) What are the prevalent social representations of American Indians' and how frequently do they appear in mainstream American contexts? 2) What are the consequences of explicitly priming these social representations for American Indians' self-esteem, collectively self-efficacy, and achievement-related possible selves? 3) Does ethnic identification mediate this relationship? and 4) What are the consequences of explicitly priming representations of minority groups for European Americans' self-esteem? In Study 1, one year of articles from two major newspapers and a decade of Hollywood movies were coded for representations of American Indians. This content analysis revealed that representations of American Indians were relatively scarce and fairly limited in scope, so that all representations could be categorized into three major categories: the romanticized Indian, the broken Indian, and the Progressive Indian). In Studies 2 and 3, American Indian high school students were primed with prevalent social representation of their group (i.e., Pocahontas, Chief Wahoo, or Negative Stereotypes), and then completed state self-esteem or collective self-efficacy measures. In both studies, American Indian students primed with social representations reported depressed self-esteem and collective self-efficacy when compared to American Indian students in the control (no social representation) condition. In study 4, American Indian undergraduates, who were attending a predominantly American Indian university that has as its mascot an image of an American Indian chief, were shown and asked four questions about a particular social representation of American Indians (either Chief Wahoo, Chief Illiniwek, the Haskell Indian, or an American Indian College Fund advertisement). Then they completed a possible selves questionnaire. American Indian undergraduates exposed to these representations reported fewer achievement-related possible selves than did American Indians in a no-representation control condition. Study 4 therefore replicated and increased the generalizability of the findings in Studies 2 and 3. Finally, in Study 5, European Americans were explicitly primed with social representations of American Indians (i.e., Pocahontas, Chief Wahoo, or Negative Stereotypes). European Americans exposed to these social representations conditions reported more self-esteem than did European Americans enjoyed a self-esteem boost when primed with representations of American Indians. Thus, social representations are implicated in the psychological functioning of both American Indians and European Americans. Implications and potential mediators of these effects are discussed.

III. University of North Dakota American Indian Programs that have gone on record opposing the "Fighting Sioux" name and logo:

American Indian Student Services; Indians Into Medicine; Recruitment/Retention of American Indians Into Nursing (RAIN); Indians Into Psychology Doctoral Education; Minority Access to Research Careers; A h'jo gun; Science, Engineering, and Math Technical Assistance Center; Disability Research Encompassing Americans in Math and Science (DREAMS); Native Media Center; Indian Studies Department; National Resource Center on Native American Aging; Upward Bound; Multicultural Scholars Into Dietetics Program; Fort Berthold Community College and Turtle Mountain Community College Teacher Training Project; Family and Domestic Violence Training Project; Prairielands Addiction Technology Center and Center of Excellence in native American Substance Abuse; Native American Law Project; Northern Plains Tribal Judicial Training Institute; Tribal Environmental Law Project; Northern Plains Indian Law Center.

IV. Request to Convene the UND University Council

Thursday, December 2, 1999

"The past several days have demonstrated to all of us the depth of feeling associated with our athletic team nickname and various logos. None of this controversy is new. In 1972, all North Dakota universities were directed by the State Board of Higher Education to examine and make appropriate changes to Native American nicknames; the issue has been studied extensively in the intervening 28 years.

What is most striking about recent events is the anger being directed against Native American students, who--regardless of their stand on the nickname or logo--have been targeted as "the enemy" by other members of our university community. The result can be seen in the disrupted lives of our Native American students, who are struggling to finish the semester in an atmosphere that can best be described as hostile. It is clear to many of us that this kind of hostile atmosphere will continue to flare up at intervals, so long as we persist in using Native Peoples as team mascots. All of us--administrators, teachers, staff, and students--have a binding responsibility to provide a safe and respectful educational environment for every member of the UND community.

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With this in mind, President Kupchella, I ask you to convene a meeting of the University Council, with the clear objective of developing a process by which the University of North Dakota can respectfully and gracefully retire the Fighting Sioux nickname and Indian Head logo, replacing them with a logo and nickname that will bring honor and pride to all North Dakotans. President Kupchella, will you convene the Council? Scott Lowe, Gerald Bass"

V. Resolutions/requests to discontinue use of the nickname/logo:

UND Student Senate (Resolution SR 18)—*vetoed by Student Senate president* *January 25, 1999*

...Therefore, be it resolved that the UND Student Senate, in true honor of the word and request of the Dakota, Lakota, and Nakota peoples, stands for discontinuing the use of the "Sioux" name as the nickname and logo of our university...

North Dakota Indian Education Association (Resolution No. 10-19-2001) *October 19, 2001*

...NOW THEREFORE BE IT RESOLVED, that the North Dakota Indian Education Association strongly opposes and calls for an immediate end to the University of North Dakota's use of the "FIGHTING SIOUX" name and its accompanying Indian head logo...

National Indian Education Association (Resolution No. 01-02) *October 28-31, 2001*

...NOW THEREFORE BE IT RESOLVED, that the National Indian Education Association deplores, opposes and calls for an immediate end to the University of North Dakota's use of the "Fighting Sioux" name and its accompanying "Indian-head" symbol...

Minnesota Indian Education Association (Resolution No. 2103) *October 12, 2001*

...THEREFORE BE IT RESOLVED, the Minnesota Education Association deplores, opposes and calls for an immediate end to the University of North Dakota's use of the "Fighting Sioux" name and its accompanying "Indian-head" symbol.
BE IT FURTHER RESOLVED, the Minnesota Indian Education Association cautions American Indian students against attending the University of North Dakota until such time as the name and logo are changed and the University affirms its commitment to respect racial and cultural inclusion...

National Congress of American Indians (Resolution #SPO-01-046) *June 19, 2002*

(BISMARCK, N.D.) The National Congress of American Indians (NCAI) - the country's oldest, largest and most representative national American Indian and Alaska Native organization - reaffirmed its resolution opposing the University of North Dakota's use of the "Fighting Sioux" name and logo.

United Tribes of North Dakota (Resolution No. 05-06) *September 8, 2005*

...NOW THEREFORE BE IT RESOLVED that the Board of Directors of United Tribes of North Dakota does hereby support the NCAA's decision to ban the use of "hostile and abusive" nicknames, logos and mascots by member colleges and universities of the NCAA in NCAA sanctioned tournaments and urges the NCAA to deny the appeal of UND that seeks permission to continue to use its logo and nickname at such NCAA sanctioned events...

Rosebud Sioux Tribe (Resolution No. 05227) *September 23, 2005*

...THEREFORE BE IT RESOLVED, that the Rosebud Sioux Tribal Council hereby opposes the continued use of the Team Name "Fighting Sioux" by the athletic teams of the University of North Dakota because the term itself is "hostile and abusive" and thus, demeaning to Lakota, Dakota, and Nakota people...

Three Affiliated Tribes, Ft. Berthold Indian Reservation ((Resolution 02-031-RP). *November 21, 2002*

Resolution entitled, "Opposition to the University of North Dakota's use of the Fighting Sioux name and logo"

...NOW, THEREFORE BE IT RESOLVED, that the Mandan Hidatsa & Arikara Nation does hereby support the ending of the use of outdated and politically incorrect American Indian stereotypes at the University of North Dakota and all across America that demean the history and culture of Indian nations...

Standing Rock Sioux Tribe *December 3, 1992*

...NOW THEREFORE BE IT RESOLVED, the undersigned feel that the University of North Dakota should discontinue the use of the "Fighting Sioux" nickname. The undersigned further believe that the President of the University has the authority to discontinue the use of that nickname...

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Standing Rock Sioux Tribe (Resolution No. 078-98) *December 2, 1998*

...NOW THEREFORE LET IT BE RESOLVED, the undersigned Standing Rock Sioux Tribal Council hereby reaffirms the Resolution of December 3, 1992, specifically that the University of North Dakota should discontinue the use of the "Fighting Sioux" nickname. BE IT FURTHER RESOLVED, that the foregoing resolution shall be effective on this date and shall remain in full force effect thereafter...

Standing Rock Sioux Tribe (Resolution No. 356-92). *February 16, 1999*

Charles Murphy, Chairman: "The purpose of this letter is to respectfully remind your office and any other entities directly or indirectly associated with UND of our position. It is of course very simple and very clear, "Eliminate and stop the use of the "Fighting Sioux" nickname and caricature today."...while I understand the word tradition is used as rationale to continue the use of the nickname, our people find it very offensive and disrespectful to say the least. This fact alone should compel those fine and respectful people at UND to find a more suitable nickname for such a fine institution as the University of North Dakota..."

Sisseton-Wahpeton Sioux Tribe (Resolution No. SWST-99-015) *February 12, 1999*

...NOW, THEREFORE, BE IT RESOLVED, that the Tribal Council of the Sisseton-Wahpeton Sioux Tribe hereby supports the Standing Rock Sioux Tribe in their efforts to discontinue the use of the Fighting Sioux nickname...

Oglala Sioux Tribe (Executive Committee Resolution No. 99-07X3) *February 3, 1999*

...THEREFORE BE IT RESOLVED, the undersigned Oglala Sioux Tribe Executive Committee hereby support the Standing Rock Sioux Tribal Council reaffirmation of the resolution of December 03, 1992, specifically that the University of North Dakota should discontinue the use of the "Fighting Sioux" nickname...

Crow Creek Sioux Tribe, Harold Miller, Chairman *February 18, 1999*

"...Please accept and understand our position regarding the use of the "Fighting Sioux" nickname use by the University of North Dakota. Our position is simple in that we oppose the use of the nickname and kindly request that UND stop immediately the use of the "Fighting Sioux" nickname and, or mascot...our position regarding the nickname remains until it is eliminated..."

Yankton Sioux Tribe, Stephen Cournover, Chairman *February 19, 1999*

...we hereby reiterate our opposition to the use of the "Fighting Sioux" nickname by the University of North Dakota. People and their culture should not be degraded to such use and we ask UND to "Do the right thing" and change its "Fighting Sioux" nickname.

Cheyenne River Sioux Tribe (Resolution No. 287-97-CR). *October 8, 1997*

...THEREFORE LET IT BE RESOLVED, that the Cheyenne River Sioux Tribe is respectfully requesting the University of North Dakota to do the moral and honorable thing by removing and discontinuing the use of the mascot name "the Fighting Sioux".

Dakota, Lakota, Nakota Summit V (Resolution No. 93-07) *June 10, 1993*

...THEREFORE BE IT RESOLVED, that the Nations and Bands here assembled, denounce the use of any American Indian name or Artifice associated with team mascots...

Turtle Mountain Community College, Gerald "Carty" Monette, President *April 30, 1996*

..."The time has come to drop the name "Fighting Sioux" and to stop the use by UND of American Indians as mascots, symbols and/or caricatures. At one time, I felt that a name change should depend primarily on the wishes of our Sioux Brothers and Sisters. This is still an important factor. However, all Sioux people and all Indian people should not be expected to agree on the name change before you act. Indian people have a right to disagree. What is important is that you recognize that the name "Fighting Sioux" and its accompanying caricatures are wrong. The Turtle Mountain Community College goes on record as advocating for the change..."

United States Commission on Civil Rights *April 13, 2001*

Commission Statement on the Use of Native American Images and Nicknames as Sports Symbols.

"...The use of stereotypical images of Native Americans by educational institutions has the potential to create a racially hostile educational environment that may be intimidating to Indian students...The use of American Indian mascots is not a trivial matter...These Indian-based symbols and team names are not accurate representations of Native Americans. Even those that

purport to be positive are romantic stereotypes that give a distorted view of the past. These false portrayals prevent non-Native Americans from understanding the true historical and cultural experiences of American Indians...

American Psychological Association *March 6, 2001*

Letter to President Charles Kupchella: "As President of the American Psychological Association, I implore you to address the concerns of your Native American students, faculty and others that advocate change. Also, while not one of your constituents, I ask that you use the authority of your office to create a safe and protective community within which important issues may be raised without fear of harm to one's self and property." Sincerely, Norine G. Johnson, PhD, APA President. cc. Governor John Hoeven

American Psychological Association *August 21, 2005*

...THEREFORE BE IT RESOLVED that the American Psychological Association supports and recommends the immediate retirement of American Indian mascots, symbols, images, and personalities by schools, colleges, universities, athletic teams, and organizations...

Asian American Psychological Association *February 21, 2001*

Letter to President Charles Kupchella: "This letter serves to formally indicate our support for those students, faculty and staff who have been targets of discriminatory and racist practices by your university. In addition, AAPA supports the efforts to change the university mascot to one that would make ALL students proud, not just a select and privileged few. We would like to appeal to your sense of humanity, and ask that you remedy this situation soon before this issue negatively affects the mental health of yet another group of students. Surely, the university would not be in favor of intentionally oppressing a group of individuals who have a long history of being oppressed in the United States. We urge you to take action." Sincerely, Gayle Y. Iwamasa, Ph.D., President, Asian American Psychological Association. Cc: Society of Indian Psychologists, National Hispanic Psychological Association, Association of Black Psychologists, Office of Ethnic Minority Affairs, American Psychological Association, Society for the Psychological Study of Ethnic Minority Issues

North Dakota Human Rights Coalition *January, 2003*

The North Dakota Human Rights Coalition opposes the use of nicknames, mascots and logos which refer to Native American tribes at educational institutions in North Dakota. The NDHRC is committed to working to effect change so that all people in North Dakota enjoy full human rights, those basic standards without which people cannot live in dignity...

The Preamble to the Universal Declaration of Human Rights begins by recognizing the inherent dignity and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world. The Universal Declaration of Human Rights' Article 26 states that "[e]ducation shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups". The use of Native American nicknames, mascots and logos interferes with the educational institution's ability to fulfill this mandate.

VII. Other organizations calling for an end to the use of American Indians as sports team names, logos and mascots:

National Education Association; Society of Indian Psychologists of the Americas; American Anthropological Association; Association for Education in Journalism and Mass Communication; Native American Journalists Association; National Association of Black Journalists; Asian American Journalists Association; Association of American Indian Affairs; NCAA Minority Opportunities and Interests Committee; Interfaith Center for Corporate Responsibility; United Church of Christ; American Jewish Committee; National Coalition on Racism in Sports and Media; United Methodist Church; NAACP; Center for the Study of Sports in Society; Rainbow Coalition; National Conference for Community and Justice; UNITY (National Association of Black, Hispanic, Asian and Native American Journalists; American Indian Mental Health Association (Minn.);

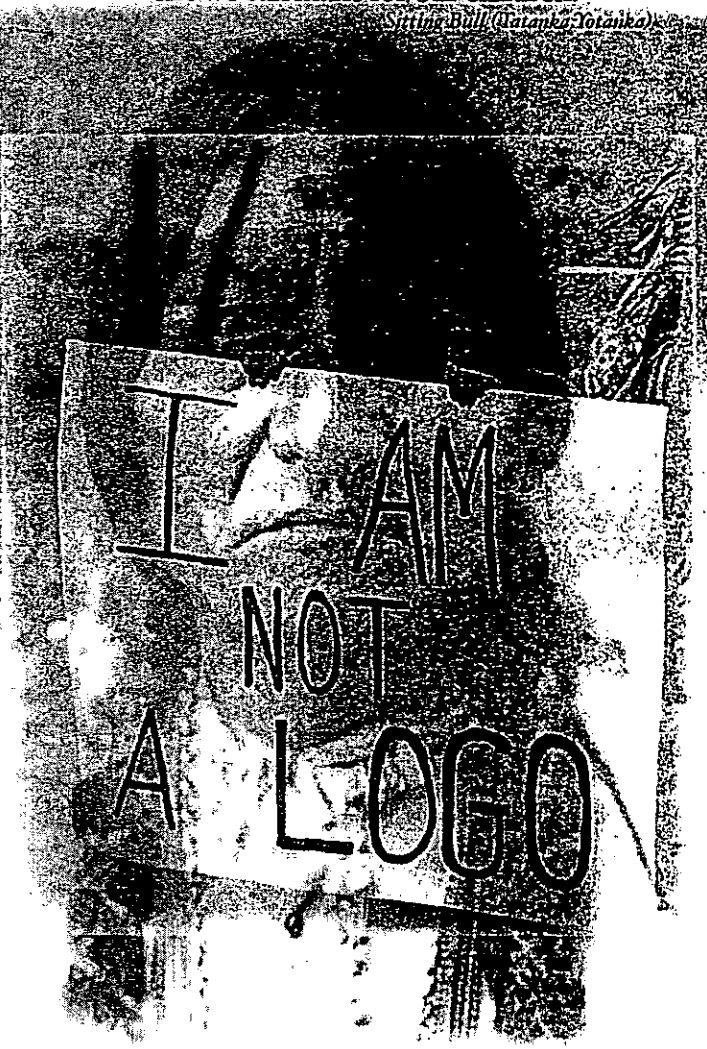
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These regional American Indian nations and educational organizations have formally requested the University of North Dakota to discontinue using the name "Sioux" and the "Indian head" logo: Standing Rock Sioux Tribe • Turtle Mountain Band of Chippewa • Three Affilliated Tribes • Cheyenne River Sioux Tribe • Oglala Sioux Tribe • Yankton Sioux Tribe • Sisseton-Wahpeton Sioux Tribe • Crow Creek Sioux Tribe • Rosebud Sioux Tribe • North Dakota Indian Education Association • Minnesota Indian Education Association

The following University of North Dakota departments, programs and organizations are among those supporting a change: American Indian Student Services Office • INMED (Indians Into Medicine) • Department of Indian Studies • University Senate • Student Senate • Native Media Center • School of Law Faculty Executive Committee • Recruitment/Retention of American Indians into Nursing (RAIN) • Indians into Psychology Doctoral Program • National Resource Center on Native American Aging • Multicultural Scholars into Dietetics Program • Native American Law Project • Northern Plains Tribal Judicial Training Institute • Tribal Environmental Law Project • Northern Plains Indian Law Center • Women Studies Program • BRIDGES (Building Roads into Diverse Groups Empowering Students) • MAC (Multicultural Awareness Committee) • United Tribes Special Education Program • United Tribes Principal Leadership for American Indians in Native Schools • United Tribes/UND Community Educators Program • Department of Philosophy & Religion • Department of History • Social Work & Rehabilitation Programs • Campus Committee for Human Rights • Faculty Petition to the State Board of Higher Education

"Let us put our minds together and see what life we can make for our children."

Sitting Bull (Tatanka Iotanka)



Let's find a name we can all rally around.

Following is a representative sample of the over 500 Native American, religious, education and civil rights organizations that are formally on record opposing the use of American Indian peoples as logos, nicknames, or mascots by non Native institutions: National Congress of American Indians • National American Indian Education Association • Great Plains Tribal Chairmen's Association • National Education Association • U.S. Commission on Civil Rights • United Church of Christ • Society of Indian Psychologists • American Psychological Association • National Collegiate Athletic Association • Interfaith Center for Corporate Responsibility • American Jewish Committee • National Coalition on Racism in Sports and Media • United Methodist Church • Minnesota State Colleges & Universities Board of Trustees • NAACP • National Conference for Community & Justice • Wisconsin Indian Education Association • Native American Journalists Association • Minnesota State Board of Education • American Indian Mental Health Association of Minnesota • Great Lakes Inter-Tribal Council • Southern Poverty Law Center • American Anthropological Association • Lac du Flambeau Band of Lake Superior Chippewas • Bad River Band of Lake Superior Chippewas • Menominee Tribe of Wisconsin Chippewa • Affiliated Tribes of Northwest Indians • Commanche Tribe • Cherokee nation of Oklahoma • South Dakota Board of Education • American Sociological Association • Society for the Study of Social Problems • American Counseling Association • Nebraska Commission on Indian Affairs • Modern Language Association • Unitarian Universalists Association of Congregations • Presbyterian Church, U.S.A. • United Indian Nations of Oklahoma • Center for the Study of Sports in Society • Morning Star Institute • National Association of Hispanic Journalists • National Association of Black Journalists • Asian American Journalists Association, and many more.

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APA Resolution Recommending the Immediate Retirement of American Indian Mascots, Symbols, Images, and Personalities by Schools, Colleges, Universities, Athletic Teams, and Organizations

(Adopted by the APA Council of Representatives on August 21, 2005)

WHEREAS the American Psychological Association has recognized that racism and racial discrimination are attitudes and behavior that are learned and that threaten human development (American Psychological Association, June 2001);

WHEREAS the American Psychological Association has resolved to denounce racism in all its forms and to call upon all psychologists to speak out against racism, and take proactive steps to prevent the occurrence of intolerant or racist acts (American Psychological Association, June 2001);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities undermines the educational experiences of members of all communities-especially those who have had little or no contact with Indigenous peoples (Connolly, 2000; U.S. Commission on Civil Rights, 2001; Society of Indian Psychologists, 1999; Webester, Loudbear, Corn, & Vigue, 1971);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities establishes an unwelcome and often times hostile learning environment for American Indian students that affirms negative images/stereotypes that are promoted in mainstream society (Clark & Witko, in press; Fryberg, 2003; Fryberg & Markus, 2003; Fryberg, 2004a; Munson, 2001; Society of Indian Psychologists, 1999; Staurowsky, 1999);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities by school systems appears to have a negative impact on the self-esteem of American Indian children (Chamberlin, 1999; Eagle and Condor Indigenous People's Alliance, 2003; Fryberg, 2004b; Fryberg & Markus, 2003; Maryland Commission on Indian Affairs, 2001; Society of Indian Psychologists, 1999; The Inter-Tribal Council of the Five Civilized Tribes, 2001; Vanderford, 1996);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities undermines the ability of American Indian Nations to portray accurate and respectful images of their culture, spirituality, and traditions (Clark & Witko, in press; Davis, 1993; Gone, 2002; Rodriquez, 1998; Witko, 2005);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities presents stereotypical images of American Indian communities, that may be a violation of the civil rights of American Indian people (Dolley, 2003; King, 2001; King & Springwood, 2001; Pewewardy, 1991; Springwood & King, 2000; U. S. Commission on Civil Rights, 2001);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities is a form of discrimination against Indigenous Nations that can lead to negative relations between groups (Cook-Lynn, 2001; Coombe, 1999; U. S. Commission on Civil Rights, 2001; Witko, 2005);

WHEREAS the continued use of American Indian symbols, mascots, images, and personalities is a detrimental manner of illustrating the cultural identity of American Indian people through negative displays and/or interpretations of spiritual and traditional practices (Adams, 1995; Banks, 1993; Nuessel; 1994; Staurowsky, 1999; Witko, 2005);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities is disrespectful of the spiritual beliefs and values of American Indian nations (Churchill, 1994; Gone, 2002; Sheppard, 2004; Staurowsky, 1998);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities is an offensive and intolerable practice to American Indian Nations that must be eradicated (U.S. Commission on Civil Rights, 2001; Society of Indian Psychologists, 1999);

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WHEREAS the continued use of American Indian mascots, symbols, images, and personalities has a negative impact on other communities by allowing for the perpetuation of stereotypes and stigmatization of another cultural group (Fryberg, 2004b; Gone, 2002; Staurowsky, 1999; U.S. Commission on Civil Rights, 2001);

THEREFORE BE IT RESOLVED that the American Psychological Association recognizes the potential negative impact the use of American Indian mascots, symbols, images, and personalities have on the mental health and psychological behavior of American Indian people;

THEREFORE BE IT RESOLVED that the American Psychological Association encourages continued research on the psychological effects American Indian mascots, symbols, images, and personalities have on American Indian communities and others;

THEREFORE BE IT RESOLVED that the American Psychological Association encourages the development of programs for the public, psychologists, and students in psychology to increase awareness of the psychological effects that American Indian mascots, symbols, images, and personalities have on American Indian communities and others;

AND

THEREFORE BE IT RESOLVED that the American Psychological Association supports and recommends the immediate retirement of American Indian mascots, symbols, images, and personalities by schools, colleges, universities, athletic teams, and organizations.

REFERENCES

Adams, D.W. (1995). Education for extinction: American Indians and the boarding school experience. Lawrence, KS: University Press of Kansas.

American Psychological Association (June 2001). An emergency action of the Board of Directors: Resolution against racism and in support of the goals of the 2001 United Nations World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance. Washington, DC: Author. [Available online: http://www.apa.org/pi/racismresolution.html.]

Banks, D. (1993). Tribal names and mascots in sports. Journal of Sport and Social Issues, 17(1), 5-8.

Chamberlin, J. (1999). Indian Psychologists Support Retiring of Offensive Team Mascots. *APA Monitor, 30* (4).

Clark, R. & Witko, T. (in press). Growing up Indian: Understanding urban Indian adolescents. In American Psychological Association (in press). No Longer Forgotten: Addressing the Mental Health Needs of Urban Indians. Washington, DC: Author.

Churchill, W. (1994). Indians are us? Culture and genocide in native North America. Monroe, ME: Common Courage Press.

Connolly, M. R. (2000). What's in a name? A historical look at Native American related nicknames and symbols at three U.S. universities. Journal of Higher Education 71 (5), 515-547.

Cook-Lynn, E. (2001). Anti-Indianism in North America: A voice from Tatekeya's earth. Urbana, IL: University of Illinois Press.

Coombe, R. J. (1999). Sports trademarks and somatic politics: Locating the law in critical cultural studies. In R. Martin & T. Miller (Eds.). SportCult (pp. 262-288). Minneapolis, MN: University of Minnesota Press.

Davis, L. (1993). Protest against the use of Native American mascots: A challenge to traditional, American identity. Journal of Sport and Social Issues 17 (1), 9-22.

Dolley, J. (2003). The four r's: Use of Indian mascots in educational facilities. Journal of Law and Education, 32 (1), pp. 21-35.

Eagle and Condor Indigenous People's Alliance (2003). Resolution by the Eagle and Condor Indigenous Peoples' Alliance on Eliminating Native American Indian Descriptions Naming Mascots, Logos, and Sports Team Nicknames in Oklahoma Public Schools. [Available On-line: http://www.aistm.org/2003ecipa.htm.]

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Fryberg, S. A. (June, 2003). *Free to be me? The impact of using American Indians as mascosts.* Invited address at the 16th Annual Convention of American Indian Psychologists and Psychology Graduate Students, Utah State University, Logan, Utah.

Fryberg, S. A. & Markus, H. R. (2003). On being American Indian: Current and possible selves. Journal of Self and Identity, 2, 325-344.

Fryberg, S. A. (November, 2004a). *"Dude, I'm honoring you": The impact of using American Indian mascots.* Invited address at the North American Society for Sociology of Sports, Tucson, Arizona.

Fryberg, S. A. (June, 2004b). *American Indian social representations: Do they honor or constrain identities?* Invited address at the Mellon Humanities Center Workshop/Research Institute for Comparative Studies in Race and Ethnicity network, "How do identities matter?" Stanford University, Stanford, California.

Gone, J. P. (2002). Chief Illiniwek: Dignified or damaging? In T. Straus (Ed.), *Native Chicago* (2nd ed., pp. 274-286). Chicago, IL: Albatross.

Inter-Tribal Council of the Five Civilized Tribes (2001). The Five Civilized Tribes Intertribal Council Mascot Resolution. [Available On-line at: http://aistm.org/2001.civilized.tribes.htm.]

King, C. R. (2001). Uneasy Indians: Creating and contesting Native American mascots at Marquette University. In C.R. King & C. F. Springwood (Eds.). Team spirits: Essays on the history and significance of Native American mascots (pp. 281-303). Lincoln, NE: University of Nebraska Press.

King, C.R., & Springwood, C.F. (2001). Beyond the cheers: Race as spectacle in college sports. Albany, NY: State University of New York Press.

Maryland Commission on Indian Affairs (2001). Resolution of the Maryland Commission on Indian Affairs. [Available On-line at: http://aistm.org/maryland.resolution.2001.htm.]

Munson, B. (2001). Tolerance in the news. [Available On-line at: http://www.tolerance.org/news/article_tol.jsp?id=169.]

Nuessel, F. (1994). Objectionable sports team designations. Names: A Journal of Onomastics 42, 101-119.

Pewewardy, C. D. (1991). Native American mascots and imagery: The struggle of unlearning Indian stereotypes. Journal of Navaho Education, 9(1), 19-23.

Rodriquez, R. (1998). Plotting the assassination of Little Red Sambo: Psychologists join war against racist campus mascots. Black Issues in Higher Education, 15(8), 20-24.

Sheppard, H. Assembly: No redskins---Ban on name advances to Senate. Los Angeles Daily, 2004 [Available On-line at: http://www.dailynews.com/Stories/0,1413,200~20954~1923795,00.]

Society of Indian Psychologist (1999). Position statement in support of "retiring" all Indian personalities as the official symbols and mascots of universities, colleges, or schools (and athletic teams). [Available On-line at: http://www.aics.org/mascot/society.html.]

Springwood, C. F. & King, C. R. (2000). Race, power, and representation in contemporary American sport. In P. Kivisto & G. Rundblad (Eds.), The color line at the dawn of the 21st century (pp. 61-174). Thousand Oaks, CA: Pine Valley Press.

Staurowsky, E. (1999). American Indian imagery and the miseducation of America. Quest, 51 (4), 382 392. [Available On-line at: http://www.aistm.org/staurowsky.miseducation.htm.]

Staurowsky, E. (1998). An Act of Honor or Exploitation?: The Cleveland Indian's Use of the Louis Francis Socalexis Story. Sociology of Sports Journal, 15, 299 316.

U. S. Commission on Civil Rights (April 13, 2001). Statement of U.S. Commission on Civil Rights on the use of Native American images and nicknames as sports mascots. [Available On-line: http://www.aics.org/mascot/civilrights.html.]

Vanderford, H. (1996). What's in a name? Heritage or hatred: The school mascot controversy. Journal of Law and Education, 25, 381-388.

Webster, S. Loudbear, P., Corn, D., & Vigue, B. (1971, February 17). Four MU Indian students describe Willie Wampum as racist symbol. The Marquette Tribune, p. A9.

Witko, T. (2005). In whose honor: Understanding the psychological implications of American Indian mascots. California Psychologist, January Issue.

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APA Office of Public Affairs
(202) 336-5700
Public.Affairs@apa.org

For Immediate Release: October 19, 2005

APA Calls for the Immediate Retirement of American Indian Sports Mascots

Such Sports Mascots Promote Inaccurate Images and Stereotypes and Negatively Affect the Self-Esteem of Young American Indians

(WASHINGTON, DC)—The American Psychological Association is calling for the immediate retirement of all American Indian mascots, symbols, images and personalities by schools, colleges, universities, athletic teams and organizations, the Association announced today.

APA's action, approved by the Association's Council of Representatives, is based on a growing body of social science literature that shows the harmful effects of racial stereotyping and inaccurate racial portrayals, including the particularly harmful effects of American Indian sports mascots on the social identity development and self-esteem of American Indian young people.

"The use of American Indian mascots as symbols in school and university athletic programs is particularly troubling," says APA President, Ronald F. Levant, EdD. "Schools and universities are places of learning. These mascots are teaching stereotypical, misleading and, too often, insulting images of American Indians. And these negative lessons are not just affecting American Indian students; they are sending the wrong message to all students."

Psychologist Stephanie Fryberg, PhD, of the University of Arizona, has studied the impact of American Indian sports mascots on American Indian students as well as European American students. Her research shows the negative effect of such mascots on the self-esteem and community efficacy of American Indian students.

"American Indian mascots are harmful not only because they are often negative, but because they remind American Indians of the limited ways in which others see them," Fryberg states. "This in turn restricts the number of ways American Indians can see themselves."

The issue of the inappropriateness and potential harm of American Indian mascots is broader than the history and treatment of American Indians in our society say many psychologists who have studied issues of race in America. Such mascots are a contemporary example of prejudice by the dominant culture against racial and ethnic minority groups, according to these scholars.

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Psychologist Lisa Thomas, PhD is a member of the APA Committee on Ethnic and Minority Affairs which drafted the Indian mascot resolution.

"We know from the literature that oppression, covert and overt racism, and perceived racism can have serious negative consequences for the mental health of American Indian and Alaska native (AIAN) people. We also need to pay careful attention to how these issues manifest themselves in the daily lives (e.g., school, work, traditional practices, and social activities) and experiences of AIAN individuals and communities. As natives, many of us have had personal and family experiences of being the target of frightening, humiliating, and infuriating behaviors on the part of others. This resolution makes a clear statement that racism toward, and the disrespect of, all people in our country and in the larger global context, will not be tolerated," Dr. Thomas states.

# # #

The American Psychological Association (APA), in Washington, DC, is the largest scientific and professional organization representing psychology in the United States and is the world's largest association of psychologists. APA's membership includes more than 150,000 researchers, educators, clinicians, consultants and students. Through its divisions in 53 subfields of psychology and affiliations with 60 state, territorial and Canadian provincial associations, APA works to advance psychology as a science, as a profession and as a means of promoting human welfare.

Full text of the resolution is attached.

For more information or interviews:

John Chaney, PhD
Oklahoma State University
(405) 744-6027

Stephanie Fryberg, PhD
University of Arizona
(520) 621-5497

Lisa Thomas, PhD
University of Washington
(206) 897-1413

#B1

University Senate Resolution
April 2009

Whereas, the University of North Dakota is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools (NCA); and

Whereas, following its 2004 reaccreditation visit to UND, the NCA issued a report explicitly linking UND's controversial use of its Indian nickname and Indianhead logo with negative impacts on the University's academic mission, and calling on the State Board of Higher Education and the campus to develop and implement an orderly plan for discontinuing the use of the Indian nickname and Indianhead logo; and

Whereas, the NCA's conclusions of the negative impacts of the name and logo on the University's academic mission are consistent with scholarly, scientific research conducted on the UND campus and research conducted and published elsewhere; and

Whereas, UND has suffered damage to its institutional reputation at a national level and has lost potential private foundation grant funding which would have resulted in institutional and program growth, as direct results of the continued use of the Indian nickname and Indianhead logo; and

Whereas, the ongoing controversy over the Indian nickname and Indianhead logo is disruptive and divisive to the UND campus community and the Greater Grand Forks community, and

Whereas, UND's continued use of the Indian nickname and Indianhead logo is contrary to UND's Mission, Community Value Statement, and Strategic Plan Goals and Action Plans, and violates UND's Equal Opportunity/Affirmative Action Policy Statement and Procedures for Complaints of Discrimination or Harassment (example: the display of the Indianhead logo can be perceived as intimidating and visual/graphic harassment which violates UND's Harassment Policy as stated in the *Code of Student Life*, and stymies UND's ability to insure a campus climate where "all individuals (will) be respected and treated with dignity and civility" (UND Community Values Statement); and

Whereas, the NCA's call for retirement of the name and logo is in accord with requests and formal resolutions from eight Sioux nations and several other area tribes, numerous educational organizations including the U.S. Civil Rights Commission, National Indian Education Association, National Congress of American Indians, the North Dakota Indian Education Association, the Minnesota Indian Education Association, the American Psychological Association (APA), the American Sociological Association (ASA), the American Anthropological Association, twenty of UND's Indian-related programs, and dozens of other national, regional and local organizations; and

Whereas, the Indian nickname and Indianhead logo controversy at UND has continued for more than 30 years and negatively impacts many of the American Indian students who attend UND and the UND American Indian related programs and staff due to its emotional toll and distractive nature, as documented in the American Indian Student Services Annual Reports over the past decade; and

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Whereas, the Indian nickname and Indianhead logo controversy has reached and involved the tribal communities of the states of North and South Dakota, and as a result has negatively impacted UND's ability to increase its enrollment and retention of American Indian students, as evidenced by the fact that American Indian student enrollment at UND has decreased over the past five years, with the current number just over 300, down from over 400); and

Whereas, the October 2007 settlement between the State of North Dakota, the North Dakota State Board of Higher Education, and the National Collegiate Athletic Association (NCAA) provided a period of time until November 30, 2010 to seek approval for the use of the "Fighting Sioux" nickname and logo from both the Spirit Lake Tribe and the Standing Rock Sioux Tribe, placing the responsibility for the decision on the state's Sioux Indian tribes and communities which has now resulted in disrupting and dividing the tribal communities and governments within the state; and

Whereas, this settlement has given rise to concerns regarding the questionable tactics being utilized by pro-logo advocates and supporters for garnishing tribal members' support for the nickname and logo; and

Whereas, this court case determined that unless this required tribal approval is secured, UND will remain under sanctions in NCAA sponsored post season games and hosting the games at UND would also be problematic; under NCAA guidelines regarding use of the Indian nickname and Indianhead logo, several regional teams have publicly refused to compete with UND based on the controversy and; entry into an athletic conference is being hindered by the continued use of the Indian nickname and Indianhead logo; and

Whereas, even if UND gains approval for use of the Indian nickname and Indianhead logo, this would provide no long-term solution as another tribal vote or a change in tribal leadership could reverse this action, resulting in continued conflict.

Whereas, numerous online blogs and comment forums have revealed that the UND campus and Greater Grand Forks community climate has become increasingly negative towards American Indian students and American Indian related programs and staff on campus; and

Whereas, the UND University Senate approved a resolution on January 12, 2006 requesting that President Charles Kupchella promptly seek authority from the State Board of Higher Education to develop and implement an orderly plan for discontinuing use of the Indian nickname and Indianhead logo; and

Whereas, the NCA's explicit concerns, the academic research record, and the extent of tribal and organizational calls for retirement of the name and logo provide substantial reasons for the University Senate to remain concerned that accomplishing the academic mission of the University of North Dakota is hindered by the continued use of the name and logo; and

Whereas, the controversy continues to divert substantial time, energy, and resources of administration, faculty, staff, and students away from important work required to advance the University's academic mission; and

Now, therefore, UND University Senate resolves that the use of the Indian nickname and Indianhead logo cease now in recognition of the central role of the University's academic mission, and that the authority for the development and implementation of an orderly plan for the transition to a new nickname and logo be restored to University President Robert Kelley by the State Board of Higher Education.

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UNIVERSITY OF UND NORTH DAKOTA

UNIVERSITY SENATE
P.O. BOX 8382
GRAND FORKS, NORTH DAKOTA 58202-8382

(701) 777-2711
FAX (701) 777-2696

University Senate Resolution

Whereas, the University of North Dakota has already begun the transition to retire the current "Fighting Sioux" nickname and logo and,

Whereas, North Dakota House Bills 1208, 1257, and 1263, restrict the authority of the State Board of Higher Education in matters of the North Dakota University System stated in the century code 15-10-11, and

Whereas, North Dakota House Bills 1208, 1257, and 1263 only re-ignite the division over the "Fighting Sioux" nickname and logo and further divide our University, the City of Grand Forks, and the State of North Dakota, and

Whereas, the costs associated with a prolonged legal battle with the NCAA and other related costs, explicit or implicit, are unknown and unaccounted for

Therefore, be it moved that the University Senate opposes North Dakota House Bill 1208 and,

Therefore, be it further moved that the University Senate opposes North Dakota House Bill 1257 and,

Therefore, be it furthest moved that the University Senate opposes North Dakota House Bill 1263

Adopted by the University Senate, February 3, 2011

#31

UND is an equal opportunity/affirmative action institution

February 6, 2006

UND FACULTY PETITION TO RETIRE THE "FIGHTING SIOUX" NAME/LOGO

To: Robert Potts
Chancellor
North Dakota University System

Chancellor Robert Potts:

Faculty members at the University of North Dakota are responsible for the quality and integrity of the educational mission at UND. In that capacity, we the undersigned UND faculty call upon you to take immediate steps to initiate a thoughtful process to retire the "Fighting Sioux" name/logo.

We believe that immediately retiring the name/logo is the long overdue and only respectful response to formal objections to its use by the vast majority of American Indian Programs at UND, by almost all regional tribal councils of the Lakota, Nakota and Dakota (Sioux) Nations, by the National, North Dakota and Minnesota Indian Education Associations, by the U.S. Commission on Civil Rights, and by other educational, civil rights and American Indian tribes and organizations too numerous to list.

We take seriously our responsibility as UND faculty (and as members of a public university system) to respond immediately to serious concerns raised by the American Psychological Association in its 2005 resolution calling for an end to the use of American Indian imagery in athletics, as well as our responsibility to act based upon scholarly research done at UND and elsewhere that has documented the negative effects – especially on all young people-- of stereotypical Indian imagery in sports.

We also are calling for this action in light of the 2004 finding by the Higher Learning Commission of the North Central Association of Colleges and Schools (NCA), wherein an impartial academic re-accreditation team conducted an exhaustive review of this issue during their campus visit. The NCA review team expressed in their final report serious concerns about the damage being done to the educational mission at UND by our continued use of the "Fighting Sioux" name/logo, and strongly urged UND to immediately and respectfully retire the logo/name. We urge you to take immediate action to address the concerns raised in the NCA review.

And finally, as UND faculty members committed to the well-being of our students, the campus, and the region, we also affirm our willingness to assist the campus and the community as we work through the transitions necessary to begin this new era for UND.

Respectfully,

Faculty contacts:

Sharon Carson
Professor,
English/Philosophy and Religion
701.777.2764
sharon_carson@und.nodak.edu

James Antes
Chester Fritz Distinguished Professor,
Psychology
701.777.3882
james_antes@und.nodak.edu

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Signatories:

Sandra Donaldson, Chester Fritz Distinguished Professor of English

Albert J. Fivizzani, Chester Fritz Distinguished Professor of Biology

William F Sheridan, Chester Fritz Distinguished Professor of Biology

Richard L. Ludtke, Chester Fritz Distinguished Professor of Sociology and Rural Health

David Lambeth, Chester Fritz Distinguished Professor of Biochemistry and Molecular Biology

Thomas V. Petros, Chester Fritz Distinguished Professor of Psychology

Richard D. Crawford, Chester Fritz Distinguished Professor of Biology

William Borden, Chester Fritz Distinguished Professor Emeritus of English

Michael Anderegg, Chester Fritz Distinguished Professor Emeritus of English

Robert W.Lewis, Chester Fritz Distinguished Professor Emeritus of English & Peace Studies

Jeanne Anderegg, Senior Lecturer, Honors/English

Margaret Zidon, Associate Professor, Teaching and Learning

Lori Robison, Associate Professor, English

Eric Wolfe, Assistant Professor, English

Jack Weinstein, Associate Professor, Philosophy and Religion

Heidi K. Czerwiec, Assistant Professor, English

Jim Mochoruk, Professor, Department of History

Dr. Claudia Routon, Assistant Professor, Modern and Classical Languages and Literatures

Christopher Nelson, Assistant Professor, English

Lucy Ganje, Associate Professor, Art

Michael Wittgraf, Associate Professor, Music

Virgil Benoit, Associate Professor, Languages

Wendelin Hume, Associate Professor, Women Studies & Criminal Justice

Daniel N. Erickson, Assistant Professor and Coordinator of Classical Studies

Cheryl Terrance, Assistant Professor, Psychology

Gaye Burgess, Associate Professor, Theatre Arts

Faythe Thureen, Norwegian Instructor, Languages

Birgit Hans/Professor/Indian Studies Department

Curtis Stofferahn, Associate Professor, Sociology

James McKenzie, Professor, English (Retired)

Janet Kelly Moen, Professor, Sociology and Peace Studies

Brian James Schill, Lecturer, Honors

Lonny Winrich, Professor Emeritus, Computer Science

Janet G. Ahler, Professor, Educational Foundations & Research

Donald Miller, Professor, Art

James Grijalva, Associate Professor, School of Law

Colleen Berry, Assistant Professor, Languages & COBPA (Chinese Studies)

Wenona Singel, Assistant Professor, Law

Barbara Handy-Marchello, Associate Professor, History

Marcia O'Kelly, Professor Emerita of Law

Jane Berne, Associate Professor, Languages

Kathleen Tiemann, Professor and Chair of Sociology

Suzana Y. Michel, Lecturer, French and Spanish

Sally Pyle, Associate Professor, Anatomy and Cell Biology

Janice Goodwin, Associate Professor, Nutrition & Dietetics

Marcus Weaver-Hightower, Instructor, Educational Foundations and Research & Teaching and Learning

Matthew L.M. Fletcher, Assistant Professor, UND School of Law/ Director, Plains Indian Law Center

Yvette LaPierre, Senior Lecturer, English/Integrated Studies

Barry Milavetz, Associate Professor, Biochemistry & Molecular Biology

Alvin O. Boucher, Adjunct, University of North Dakota School of Law

Clifford L. Staples, Professor, Sociology

Ann Reed, Lecturer, Anthropology

Barbara Voglewede, Assistant Professor, Law

Robert W. King, Professor (retired), English/Education

Sebastian Braun, Assistant Professor, Department of Indian Studies

Tim Driscoll, Assistant Professor, Sociology

Tami Carmichael, Assistant Professor, Humanities & English

David F. Marshall, Professor, English

Richard Flordo, Professor, School of Communication

Gayle Baldwin, Associate Professor, Philosophy and Religion

Elizabeth Rankin, Professor, English

Tom Steen, Associate Professor, Physical Education and Exercise Science

J.Doug McDonald, Professor, Psychology

Yvette Koepke, Assistant Professor, English

Sherry O'Donnell, Professor and Chair, English

Patrick Luber, Professor, Art

Fred Schneider, Professor Emeritus, Anthropology

Victoria Smith Holden, Associate Professor, School of Communication.

Peter Meberg, Associate Professor, Biology

Cindy Juntunen, Professor, Counseling

Melinda Leach, Associate Professor, Anthropology

Marcia Mikulak, Assistant Professor, Anthropology

Barbara Combs, Associate Professor, Teaching & Learning

Diane Darland, Assistant Professor, Biology

Brett Goodwin, Assistant Professor, Biology

Judith H. Hall, Assistant Professor, Nutrition & Dietetics

Charles William Miller, Associate Professor and Chair, Philosophy and Religion

Nadine C. Tepper, Assistant Professor, Teaching and Learning

Daphne Pedersen Stevens, Assistant Professor, Sociology

Donald V. Poochigian, Professor, Philosophy and Religion

Shelby J. Barrentine, Associate Professor, Teaching & Learning

Lynn Lindholm, Associate Professor, Philosophy and Religion

Andre Lebugle, Professor, French

Susan Koprince, Professor, English

Thomasine Heitkamp, Professor and Chair, Social Work

#32

Jeffrey W. Lang, Professor Emeritus, Biology

Gretchen Chesley Lang, Professor Emerita, Anthropology

Glinda Crawford, Professor (retired), Sociology, Women Studies, Peace Studies, Institute for Ecological Studies

Kirsten Dauphinais, Assistant Professor, Law

Rebecca Simmons, Assistant Professor, Biology

Marci Glessner, Assistant Professor, Teaching and Learning

Kathleen Dixon, Professor, English

Ralph Koprince, Associate Professor, Languages

Eleanor Yurkovich, Associate Professor, Nursing

Doug Peters, Professor, Psychology

Jan Zahrly, Associate Professor, Management

Tom Rand, Associate Professor, Humanities

Mark Hoffmann, Professor, Chemistry

Mary L. Cutler, Professor, Theatre Arts

Gretchen Daneke Graf, Instructor, Philosophy and Religion

Garl K. Rieke, Associate Professor, Anatomy and Cell Biology

Rebecca Weaver-Hightower, Assistant Professor, English

Robert W. Kweit, Professor, Political Science & Public Administration

Kim W. Fink, Associate Professor, Art

Kim Donehower, Assistant Professor, English

Jeff Carmichael, Associate Professor Biology

Liz Tyree, Clinical Associate Professor Family and Community Nursing

Mary Grisez Kweit, Professor and Chair, Political Science & Public Administration

Michael Atkinson, Associate Professor, Anatomy and Cell Biology

Darin Kerr, Lecturer, English/Honors

Paul E. Sum, Assistant Professor, Political Science & Public Administration

Cherie Lemer, Lecturer, Honors

Alan King, Professor, Psychology

Cecilia Volden, Professor, Nursing

Michele Ilams, Assistant Professor, Mathematics

Robin David, Lecturer, Honors

Margo Adams Larsen, Assistant Professor, Psychology

Judy Milavetz, Instructor, Teaching & Learning

Anne Walker, Assistant Professor, Teaching & Learning

Janet Schauer, Clinical Associate Professor, Family and Community Nursing

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Leigh D. Jeanotte, Director, UND American Indian Student Services
Presentation to ND Legislators (as a Private Citizen)
March 7, 2011

Mr. Chairman Freborg and members of the Senate Education Committee, my name is Leigh Jeanotte and I am here today to provide testimony as a private citizen; however, I feel the need to mention that I serve as director of American Indian Student Services at the University of North Dakota, where I have been employed for over 37 years and hold 3 degrees from UND: a bachelor's, a master's, and a doctorate. On January 26, 2011, I provided testimony before the North Dakota House Education Committee and did not utilize any University/State resources or funds and took personal leave on that date, as well as for today. And just to clarify once again for the record, I would like to make clear that I am not here as a spokesperson for the University in any capacity. I oppose HB # 1263 based on the following rationale:

I understand that there are many – maybe even a majority of individuals throughout the state and region – who support keeping the Fighting Sioux nickname for UND's athletic teams. Reasons I commonly hear for this support include:

- I like the name and logo.
- UND has had it for a long time, it's tradition.
- It honors American Indians.
- Some Indian people like it
- Tribal elders gave the name to UND in a ceremony in 1969.

Let's begin by responding to the purported ceremony of 1969. Respectfully, this ceremony was a naming ceremony for then UND President Starcher. It's ironic that as important as this name is to UND Athletics, there are absolutely no official records that exist to document approval for UND to use the Sioux name for its athletic teams. This is further substantiated by Lee Bohnet, the first and long time sports information director at the University of North Dakota, in the book *A Century of UND Sports* which was published in 1994 and covers the history of University of North Dakota athletics from 1889 to the early 1990's. The book covers when the Sioux name was selected in the 1930's, the adoption of the UND Fight on Sioux school song, and virtually every historical fact related to UND athletics - but not a single mention of the purported ceremony giving approval for the use of the Sioux name.

With that point being addressed, let's move on to the primary issue that brings us here today, whether or not the ND Senate should support legislation that would require UND to keep its clearly problematic "Fighting Sioux" nickname to represent its athletic teams.

From my point of view, I see this as a human rights and educational issue, and I'd like to take a few minutes to explain why I feel this way.

- To begin with, let's think back to the time when we were children in elementary school, middle school, high school, and college when it was (and still is) **ingrained** in us to **poke fun** of opposing athletic teams. To make my point more clear, let's use the example of Chairman

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Freborg from Underwood, your high school uses the names County Cougars and Comets, Vice Chairman Schaible, your high school teams were known as the Wildfire. I would guess your schools poked fun at your opponents, and they did likewise. Now tell me this: with a race-based nickname, how can anyone poke fun at a living race of human beings and not open the door to accusations of racism? Quite honestly, this cannot be done respectfully.

In fact, a wealth of research has been conducted on the use of American Indian names and images for school athletics.

- The Frieberg Study revealed that such uses negatively impact American Indian people, particularly the youth, and this was the basis for the NCAA approving regulations to not allow the use of American Indian names and imagery in their athletic events.
- In fact, when the NCAA, in an effort to create policy reflective of **all** their constituents, polled **over 500 American Indian tribes** on the subject of non-Native schools utilizing American Indian names and images for athletic teams - the results of this poll revealed that more than 95% said they believed such use is demeaning and harmful to American Indian students and youth – hence the foundation for the NCAA policy.

Furthermore, additional research has been conducted right on the UND campus. For example:

- Dr. Angela LaRocque's doctoral dissertation also revealed the harms of the Fighting Sioux name.
- Dr. Justin McDonald, Director of the Indians into Psychology Doctoral Education Program at UND has also conducted and published extensive research on this topic.

Where is the research conducted that supports continuing to use American Indian names and images for sports? There is none.

Now let's examine the national and regional American Indian organizations and American Indian tribes that have publicly submitted formal resolutions calling for an end to this practice of using American Indian names and images for athletic teams.

- The National Indian Education Association
- The National Congress of American Indians
- The American Indian Higher Education Consortium
- The American Indians for Opportunities
- The North Dakota Indian Education Association
- The Minnesota Indian Education Association
- Virtually all of the other American Indian tribes from ND, MN, SD, and MT have all passed formal resolutions opposing UND's use of the Fighting Sioux nickname and logo.

Now tell me, where are the national and regional American Indian education organizations or American Indian tribes that have come out and said that it's okay to use American Indian nicknames and logos? In North Dakota, there is only one.

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- Now, let's take a look at the prestigious national organizations that have come out with strong statements opposing the use of American Indian names and images for athletics, particularly by non-Native schools and educational institutions:

  - The American Psychological Association (APA)
  - The American Sociological Association (ASA)
  - The American Anthropological Association (AAA)
  - The U.S. Commission on Civil Rights
  - The NAACP, **and the list truly goes on and on…**

Now tell me, where are the prestigious national organizations that say it's okay to continue this outdated practice, a practice that, by the way, dates back to before our nation's passing of Civil Rights legislation? There are none.

Now, let's take a close look at the UND campus, the very place where this issue's impacts are felt most directly. After all, most would concede that this issue of deciding a UND nickname for its athletic teams really **is a UND issue, rather than a State issue**.

- The **University Senate composed of administrators, faculty, staff, and students has passed resolutions** several times asking that the Fighting Sioux nickname be respectfully retired due to the **harm it causes** American Indian students and programs, the **divisive impact** of the controversy on our campus and alumni community, and due to the fact that continued use of the nickname is **completely contrary to the academic mission** of our University.
- Recently, the UND **Student Senate passed a resolution opposing this very ND legislation** and supporting the continued transition process to retiring the Fighting Sioux nickname.
- The **UND Indian Association (UNDIA),** the primary Indian student organization on campus, has formally called for the retirement of the nickname.
- Nearly all **UND Indian related programs** (29 at that time) also passed a resolution supporting the respectful retirement of the nickname.
- **Numerous academic departments have** gone on record calling for the retirement of the nickname.
- The **ND State Board of Higher Education** has approved the retirement of the nickname.

Now tell me, where are the UND governing bodies or academic departments that say they support keeping the Fighting Sioux nickname? As far as I know, there are no governing bodies at our institution that support retaining the long controversial, clearly problematic nickname.

And I believe I can say this factually, because while **the REA is obviously a strong supporter of the nickname for obvious reasons,** we are told over and over again when issues arise about what takes place at the arena or what needs to take place, **the REA does not officially represent or speak for UND either. In fact, the REA does not even belong to UND!**

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And while I speak to you today as a private citizen, be informed that **I have worked on the UND campus for 38 years now, and this controversy has impacted every single one of those years.** It's no secret that this issue has been debated, discussed, and dissected for decades. And **while UND does have an impressive array of Indian related programs**, it's important to note that **of these, only two programs are state funded.**

Further, just a few years back, the Indian related programs at UND numbered 29 and now these programs **that bring much needed federal funding to our institution** now number only 20. This controversy **has** negatively impacted our American Indian students and programs, **and it continues** to negatively impact UND's recruitment efforts, particularly throughout the regional reservation communities that provide most of the American Indian students who attend UND. **The American Indian Student Services recruiter is constantly asked about this issue** when she's out on the road! Parents and students from tribal communities near and far are highly concerned about this issue and how it may negatively impact the experiences, the quality of education, and even the safety of American Indian students who attend UND. **After all, what message is being sent when every time this controversy is heightened, the University Police are a presence all day at the American Indian Center**?

Honorable ND Senators, when all is said and done and one examines both sides of this complex and emotional and truly quite costly issue, this is what is clearly revealed:

On one side of the controversy, there are those who support the nickname and their reasons for supporting it, if you recall, are:

- I like the name.
- UND has had it for a long time.
- It honors American Indians.
- Some Indian people like it.
- A ceremony allowed it to be used, which I refute as inaccurate.

In addition, there is **one Sioux Tribe**, the **privately owned REA**, and many throughout the athletic fan base who strongly support this legislation to keep the nickname and logo. **However; even a growing number of life-long Fighting Sioux fans are now saying enough is enough; it's time to move on!**

Now on the other side of this controversy, there is a multitude of reasons I have provided for opposing this legislation:

- There is an **abundance of research conducted** nationally, regionally, and on the UND campus that **reveals the harm** brought about by the use of American Indian nicknames, particularly regarding **American Indian students** who attend such institutions – as well as Native youth.
- There are the overwhelming majority of **regional tribes** that have gone on record as strongly opposing the Fighting Sioux nickname.
- **There are** over **500 American Indian tribes polled** from all across the U.S. and nearly all believe that American Indian nicknames and images are offensive and demeaning.
- **Every national and regional American Indian and educational organizations and entities** has clearly asked that the Fighting Sioux nickname be retired.

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- A **wealth of national prestigious higher education organizations and entities** has gone on record publically as strongly opposing the use of American Indian nicknames and images for sports due to the **harm they cause American Indian students and youth.**
- **There are strong past and current resolutions** from **academic departments** at UND, the **University Senate** and the **UND Student Senate**, the **Indian related programs** at UND, and the **UND Indian Association** on campus. Together, these groups represent the UND administration, faculty, staff, and students.

In addition, please consider the following:

- **The State Board approved official transition process is well underway.**
- **This bill, if passed, will surely impact our athletic teams and every single individual athlete** by challenging the NCAA.
- Furthermore, institutions affiliated with the **Big Sky Conference** will undoubtedly be concerned about bringing this controversy to their campuses.
- **The State entered into a legally binding agreement with the NCAA regarding this issue.**
- The **UND American Indian programs and the ability of the institution to recruit American Indian students** has been negatively impacted.
- **Further, this issue continues to negatively impact the national reputation of UND.**
- **It is also vitally important to consider the legal challenges that likely will occur as a result of moving the proposed bill forward,** which will predictably take a great deal of time, human resources, and be extremely costly to ND tax payers.

In closing, please convince me that passing this legislation will be a good thing for anyone.

Over the past 40 years, this name has created ongoing turmoil and unrest AND utilized valuable time and resources for:

- Every UND President: President Starcher, President Clifford, President Baker, President Kupchella, and now President Kelley.
- All State Board of Higher Education members
- The Chancellors of the North Dakota University System
- UND Faculty and Staff
- UND American Indian related programs
- UND students, especially American Indian students
- UND Athletics, athletes, the fan base, and conference entry
- UND Affirmative Action Office
- UND Dean of Students Office
- UND Legal Counsel
- UND Campus Security
- UND Student Senate
- University Senate
- UND Students

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- UND Alumni
- State and regional tribal governments
- Regional tribal reservation communities
- The National Collegiate Athletic Association
- ND District and Supreme Courts
- The ND Attorney General
- The ND State House of Representatives
- The ND State Senate
- The United States Office of Civil Rights
- The United States Department of Justice

And finally, you as legislators are now thoroughly entrenched in this issue. The fact is that retaining the Fighting Sioux nickname will not be a good thing for anyone. Please end this divisive issue. I guarantee that if you vote to pass proposed Bill#1263, the controversy over this problematic nickname will continue for another 40 years.

Do the right thing. Vote no on proposed Bill #1263.

Thank you for allowing me to address you today.

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MYTH vs FACT

MYTH Most Native people like the name.
FACT ➔*See resolutions to the contrary on back. Of course there are American Indian people who like the name, but this issue has been as divisive in tribal communities as it has been elsewhere.*

MYTH UND faculty, staff and administration should have no say.
FACT ➔*This is an educational issue. Research has shown that a race-based sports name and logo negatively impacts American Indian students and reinforces stereotypes for all students.*

MYTH It's only a small group of "politically correct' faculty who oppose the name and logo.
FACT ➔*See the long list on the back of this card.*

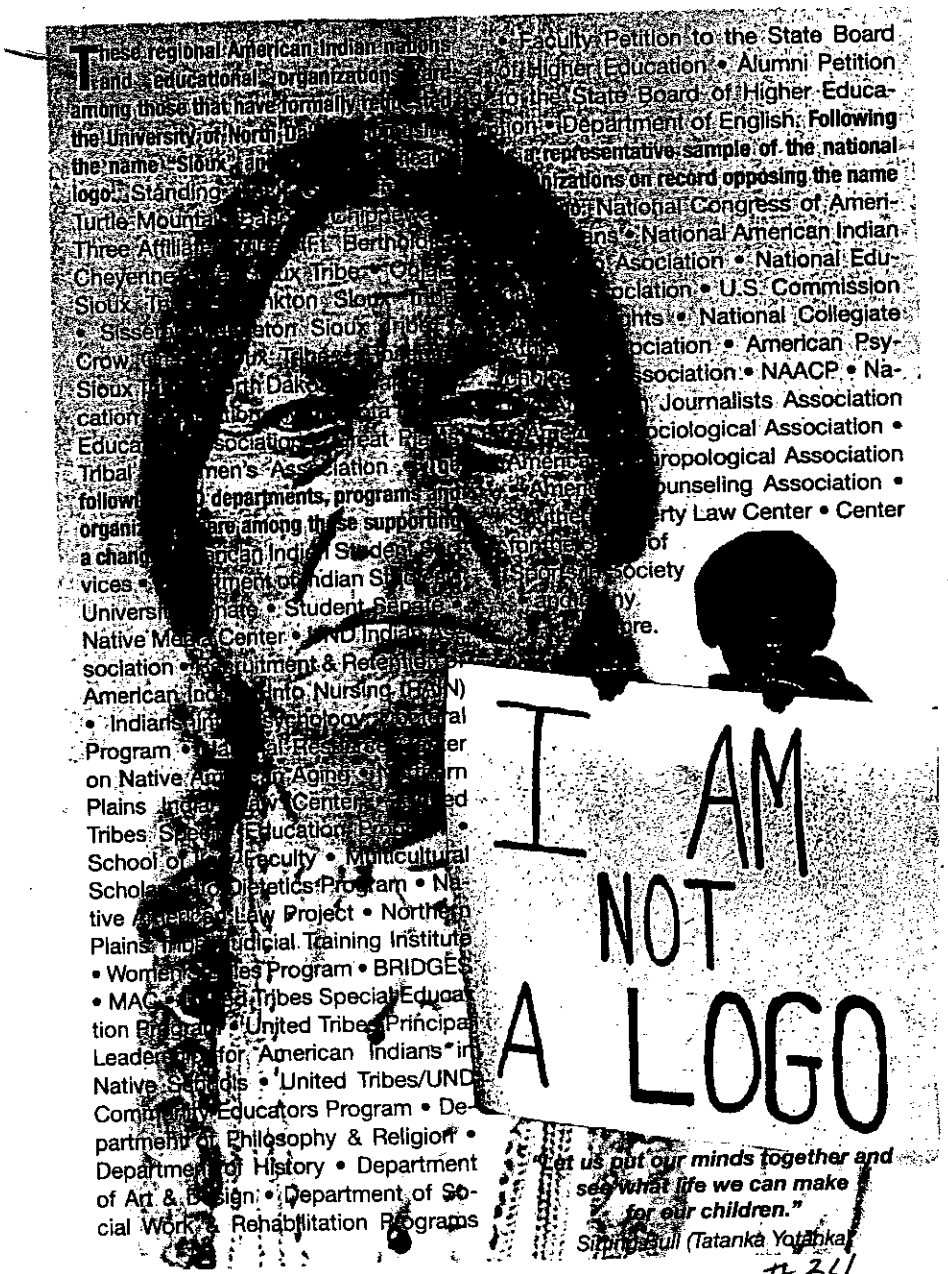
MYTH Athletes, fans and others are educated about "the Sioux" because of the nickname/logo.
FACT ➔*Research shows this name and logo perpetuates stereotypes of Native people.*

MYTH All the "bad" incidents that happened on campus occurred long ago.
FACT ➔*See Grand Forks Herald archives for recent years, open any blog related to logo stories, talk to American Indian Programs staff on campus.*

MYTH Standing Rock people weren't given a voice.
FACT ➔*This is a serious misrepresentation of the tribal governmental process.There is strong opposition to the name and logo at Standing Rock.*

MYTH The Ralph Engelstad Arena/Foundation represents UND.
FACT ➔*The REA is a private organization/business and made their own decision to mount an excessive and expensive display of logos in the Arena. Further, its representatives have actively worked against the best EDUCATIONAL interests of UND.*

MYTH Without the name and logo American Indian people would be forgotten.
FACT ➔*This absurd claim is easily refuted by the growing population of Native people within N.D., the growth of tribal organizations, businesses and colleges.*



Testimony of Mary E. Bluemle on HB 1263
March 7, 2011

Chairman Freborg and Members of the Senate Education Committee:

I am Mary Bluemle, an Alumna of UND. I am proud of my degrees from the University of North Dakota and my 17 years on the faculty, teaching mainly in the Department of Indian Studies, as well as on the North Dakota Indian Reservations in special university programs such as the Future Indian Teachers, INMED, and others. I am opposed to HB 1263 and I believe that the UND Fighting Sioux Logo should be retired because the bill and the logo are:

1. **Unfair to our University and its athletes:**

If the University is forced to keep the nickname, it will be unable to host post-season athletic events (in accordance with the NCAA directives). This is unfair to our athletes, to our university and to our alumni.

2. **The UND Fighting Sioux logo and mascot is a racist stereotype:**

The UND "Fighting Sioux" logo should be retired because the logo and nickname are offensive to many American Indians. I know personally, because so many have told me so. The name is also opposed by UND campus organizations, the National Congress of American Indians, the National Indian American Association, and many others.

Use of a race of people as a logo or mascot is demeaning. It is no honor! It puts Indians into the same class as animals, which are used by most universities as logos or mascots, such as the Bison or Jackrabbits.

3. As times change, discrimination against minorities is being reduced. It seems to me that maintaining the "Fighting Sioux" name would put UND increasingly out of step with the times.

4. The on-going debate causes friction among students, the university community, alumni, tribal members and, for that matter, all North Dakotans. Retiring the "Fighting Sioux" name, as the Board of Higher Education has directed, is necessary to create a more civil climate among these groups.

Are there any questions?

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Written Testimony of Andrew Varvel
Senate Education Committee
House Bill 1263
March 7, 2011

My name is Andrew Varvel. I am an alumnus of the University of North Dakota, Class of 1996. I have studied UND history in depth. I received UND's Merrifield Award for archival research in 1997. The topic of my research was UND history in the 1920's.

House Bill 1263 isn't about "honoring the Sioux." Whether intentional or not, the effect is to pick a fight with the National Collegiate Athletic Association. If passed, it would break an agreement. If passed, it would break the word of the State of North Dakota.

Nickname supporters who truly want to honor the wishes of pro-nickname Indians while avoiding a fight with the NCAA could very well have adopted the nickname "Dacotah." They didn't. If they had truly wanted to "honor the Sioux", they could have established an Indian Languages Department at the University of North Dakota. They haven't.

The University of North Dakota has had many traditions through the years. Some have been good. Some have not.

Examples of undesirable traditions:

- UND had compulsory hazing of freshman in the early twentieth century.
- UND used swastikas in the early twentieth century.
- UND had an official fight song called "Cannibal King"

Promoting "Sioux-icide" (1930) is not a good tradition. Jeering at Indian children during a Homecoming Day Parade (1992) is not a good tradition. Supporters of the "Fighting Sioux" nickname telling political dissidents to leave UND is not a good tradition.

The University of North Dakota discarded the Flickertail nickname one year after UND was defeated on October 4, 1929 by the Haskell Indians 13-6 at Memorial Stadium. Some staff at the *Dakota Student* wanted "bad medicine" for UND football games. In other words, they wanted black magic.

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The Bystander column of the September 30, 1930 issue of the *Dakota Student* wrote the following:

> "There is another reason for changing the name of the school to "Sioux". Most of the students who aren't freshmen know what the Haskell Indians did to us last year, and with the Davis-Elkins team including some Indians, ***about the only way of combating them is to turn Indian and cook up a little "bad medicine" for them***. Imagine the embarrassment of a buck all turned up to wham a flickertail, and then finding himself suddenly opposed to an all-wool, yard-wide Indian." (emphasis added)

It wasn't about "Honoring the Sioux." It was desperation. Now, it appears that some fans of UND sports teams worry that their team won't be able to win without the "Sioux" nickname. I think they lack faith in UND; UND can win with or without a nickname.

Now, the University of North Dakota trademarks "The Sioux". The NCAA seems to be acting as though the nickname issue is about trademarks. In essence, it is. Traditional plains Indian society has an entrenched custom of copyright for songs. The NCAA seems to recognize that Indian tribes have a right to trademark their own names. That is a key difference between the University of North Dakota and Florida State University.

As it is, the University of North Dakota risks expulsion from the National Collegiate Athletic Association if House Bill 1263 passes.

The level of Devils Lake is rising. The question is not whether but when the lake's overflow will cause a monster flood in the Red River Valley. Higher education needs to be prepared against a monster flood, and we already need to think about rebuilding the colleges and universities of this state.

Will UND rebuild after a monster flood? If nickname supporters continue to call for political dissidents to leave the state, the will to rebuild the University of North Dakota could falter under the assault of sustained intolerance by nickname supporters.

UND is the people's university. Let's keep it that way.

House Bill 1263 deserves a DO NOT PASS recommendation.

Thank you.

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Andrew Varvel; 1800 East Capitol Avenue #258; Bismarck, ND 58501; kiksuya74@yahoo.com

APPENDIX

In September 1930, staff at the *Dakota Student* launched a campaign of bogus letters to the editor and false opinion polls purporting to show support for the "Sioux" nickname. In response, the University of North Dakota discarded the "Flickertail" nickname on October 2, 1930. Support for the nickname change was far from unanimous. For example, the sports editor of the *Grand Forks Herald* refused to refer to UND's sports teams as "Sioux" until October 11, nine days after the front page of the evening edition of the *Grand Forks Herald* adopted the nickname.

Some students were also opposed. Some students sent letters to the editor protesting the nickname change, but to no avail; their views were overridden. Here are two letters to the editor printed in the *Dakota Student* on October 7, 1930. They represent another voice of UND tradition. Hopefully, their voices can be heard now.

To the Editor:

A few students would like to know just when, how, and why the name of our athletic teams has been changed to Sioux. I should like to know if that student or those students who have taken it upon their shoulders to change the name would think they could get by with firing the President or declare an open season on all the male instructors. It would be fine to pass a ruling that only A's be given out as grades. Let's see who our all mighty power or powers are who changed our name. I think it only fair to give the student body a chance to vote on the proposition. Some people have said that the university has even worse politics than Chicago ever had. I have been holding back my opinion, but it does seem that the statement has some truth.

– R.C. Lillibridge

To the Editor:

Some of us have been wondering why the student body did not hear more about changing the name of our teams from Flickertail to Sioux. After all it doesn't seem logical that only a small group on the campus should be able to put through such a drastic measure. Has not the student body some say in such a matter? The authorities claim that this is our school, yet we have little to do with the things which most vitally concern us.

It has been rumored about that petitions were sent to different university groups for them to sign or reject, but why didn't all of the organizations get them? Petitions always seem unsatisfactory anyway, why wasn't the question put to a regular student election?

We are being told what we shall call our teams because the name Sioux is easier to use in advertising, they do not consider the traditions of the school or the feelings of the students. We believe that the students should have a chance to vote on this matter at a regular election before the authorities put such a proposition over.

– Red & Black

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(Source: Special Collections, Chester Fritz Library, University of North Dakota.)

March 7, 2011

Testimony to Senate Education Committee

Amy Phillips, Grand Forks, ND

- My name is Amy Phillips, live in GF
- Member of the Board of Directors of the ND Human Rights Coalition
- I am also an Assistant Professor of Social Work at UND, BUT
- I am not speaking as a representative of the University of North Dakota.
- I have done research on the history of the "Fighting Sioux" nickname and logo and have published an article detailing this research and discussing the impact of the logo and nickname on the integrity and mission of the university. I would like to enter this publication into the record.

1. **The "Fighting Sioux" nickname and logo have never honored and do not honor Native American people. In fact, the nickname and logo have been the impetus and encouragement for events, actions, images, statements, and products that demean and stereotype Native people.**
    a. The nickname "Sioux" was adopted at UND in 1930 as a result of a group of students and the student newspaper pushing for the name change to provide a counterbalance to the bison logo of the Fargo Agricultural College and to generate excitement for football. There is no record of a decision by the UND President, a vote by the faculty or the student body, or any consultation with North Dakota tribes. "Honoring"

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American Indians was not a stated motivation for the adoption of the "Sioux" nickname.

b. Immediately after the adoption of the "Sioux", the Dakota Student newspaper discussed changing the name of one of its columns from "The Rack" to the name "Sitting Bull," and suggested having a "ladies" column titled "Sitting Heifer"; the University of South Dakota, preparing to play UND in the fall of 1930, jumped on board with the new nickname and featured a parade float with a mounted culvert pipe and the caption, "The Siouxer Pipe".

c. Over the next 80 years, all manner of dishonorable events and images resulting from the nickname and logo have occurred: "Chief Old Main" was a potbellied Indian cartoon character with glasses and headdress featured throughout the 1951 Dacotah yearbook;

d. the UND Flickertail Follies often offered Indian-themed variety shows such as the 1956 sorority/fraternity act called "Rhythm in Warpaint Follies" which featured a "Me Makeum powwow" musical number;

e. The goofy cartoon Indian character "Sammy Sioux" was a staple in the Dakota Student newspaper and at various official campus events from the 1950s until 1972 when President Tom Clifford recommended elimination of the character.

f. Fraternity members dressed up in fake buckskin dresses and vied for the title of "Sally Squaw" (1960s)

g. King Kold Karnival festivities on campus have featured an ice sculpture of the half nude body of what was supposed to be a Native female (1972)

h. t-shirts worn by sports fans show obscene acts between Indians and bison, or display the words "Sioux Suck" (2000s)

i. Cowboy and Indian sorority parties are held on campus (2007)

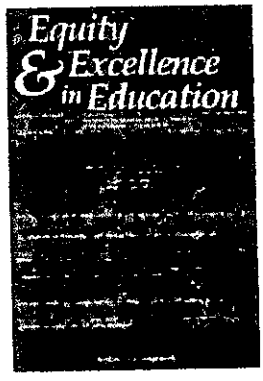
j. And an endless array of products sold at the Engelstad arena Sioux Shop or in other venues displaying the "Fighting Sioux" logo. How is that a logo and nickname meant to honor Native American people can appear on baby bloomers, house slippers, beer mugs, trailer hitch covers, the back side of women's boxer shorts, and pet food bowls?

The "Fighting Sioux" logo and nickname does not raise awareness about Indian people or provide a point of pride for Native students. In fact, studies done with American Indian high school and college students by faculty at the University of Arizona, Stanford University, and the University of Michigan, have shown that American Indian sports mascots or logos are harmful to the self image and sense of community worth of Native students because Native American logos communicate to both Native people and NON-native people how American Indians should look and behave. Logos and mascots also remind American Indian students of the limited ways in which others see them. Citing this and other research, numerous national organizations such as the American Psychological

Association, the National Education Association, and the U.S. Civil Rights Commission have called for the retirement of Native American logos, nicknames and mascots.

3. **Finally, the "Fighting Sioux" logo and nickname do not bring honor and pride to the University of North Dakota, its alumni, or the state of North Dakota.** In fact, the University's accrediting body, the Higher Learning Commission of the North Central Association of Schools and Colleges, warned the university in its 2003 report that the controversy was harming the university's reputation.
4. But the people of North Dakota don't need forces from outside the state, whether an accrediting body, a scholarly association, or a sports league, telling us whether or not a sports logo is a good or bad idea. We know that the time has come to start a new and exciting tradition at UND. Thank you, Senators, for helping us do that by making a "Do Not Pass" recommendation on this legislation to the full senate.

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Amy Phillips[a]; Dan Rice[a]
[a] University of North Dakota,

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The "Fighting Sioux" Conflict: Lessons on Social Justice for Higher Education

Amy Phillips and Dan Rice
University of North Dakota

Conflict over the University of North Dakota's (UND) "Fighting Sioux" logo and nickname has been protracted and bitter, lasting over 40 years. This article presents four explanations for UND's status as one of the last universities to maintain a Native American nickname and logo: the dynamics of racism, the power of booster culture, North Dakota cultural features, and the influence of a wealthy donor. The article contributes to an understanding of how American Indian sports monikers and images represent the intractable nature of institutionalized white privilege and reflect the consequent failure of educational systems to promote social justice.

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Conflict over the University of North Dakota's American Indian head logo and its nickname, the "Fighting Sioux," has been protracted and bitter, lasting over 40 years. The issue has received national attention in the *Chronicle of Higher Education* (Brownstein, 2001; Mytelka, 2009), *The New York Times* (Borzi, 2005), *The Washington Post* (Clark, 2005), and *Sports Illustrated* (Dohrmann, 2001). The controversy gained momentum in 2005 when the National Collegiate Athletic Association (NCAA), citing the organization's core values of cultural diversity, nondiscrimination, and ethical sportsmanship, listed 18 institutions to be subject to championship game sanctions because of their American Indian mascots, nicknames, or imagery (NCAA, 2005). In response to the sanction and because of an unwillingness to abandon the logo and nickname, the State of North Dakota and the University of North Dakota sued the NCAA in 2006. Although the two vested tribal communities in the state, Standing Rock and Spirit Lake, were not parties to the lawsuit, a settlement was reached in 2007 that required UND to transition to a new nickname and logo if it could not get approval for use of the "Fighting Sioux" nickname and logo from the two tribes by November 2010 (NCAA, 2007). As with the 2006 suit, the tribes were not parties to the 2007 settlement. Almost three years later and after obtaining approval from only one of the two tribes, the North Dakota State Board of Higher Education in April 2010 finally directed UND to begin the transition process.

The dominance of the "Fighting Sioux" athletic tradition in the cultural and social life of the university and surrounding region has meant that anti-mascot voices, both Native and non-Native, local and national, have met with strong condemnation. In addition, American Indian staff, faculty and, particularly, students, have been subjected to overt acts of bias, pressure to support the logo,

Address correspondence to Amy Phillips, University of North Dakota, Department of Social Work, 225 Centennial Drive, Grand Forks, ND 58202. E-mail: amyphillips@mail.und.edu

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and a general campus climate that prevents their full participation in the life of the university (Haga, 2010d). A 2009 UND Special Task Force on bias-related incidents discussed the logo's relationship to campus climate and stated, "UND's use of American Indian cultural imagery in its athletic programs has brought many people on our campus and in the wider community into ongoing difficult conflict over matters related to race, culture, history, and relative political power" (UND Special Task Force, 2009).

While the "Fighting Sioux" conflict has hallmarks of similar controversies on other campuses (see Connolly, 2000), the UND story contains unique aspects that deserve study and that contribute to discussions of social justice in higher education. The UND narrative also highlights the role of historical research in revealing the distortions and inaccuracies that may become part of institutional history and in helping to expose the strands of racism embedded in a white institution's practices and behavior.

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METHOD

We drew heavily on what we consider the definitive work on the use and defense of Native nicknames and images in higher education by Connolly (2000) for our analysis of the issues at the University of North Dakota. Connolly identifies objectification of American Indians and emergence of college "booster culture" as the two social trends that most influenced the selection and development of Native nicknames, logos, and mascots. Connolly's examination of the booster culture's defense of Native sports imagery significantly informed our work.

We also conducted extensive review of historical documents in the archives of the university and the local newspaper, news reports in the national media, and official documents and statements of the university, including those on its web site. In this review, racism, the influence of a wealthy donor, and North Dakota cultural features, in addition to booster culture, emerged most frequently as salient themes contributing to the defense of the "Fighting Sioux" logo and nickname.

We examine each theme below following a brief overview of the university, a description of the "namesake tribes" connected to the nickname, and a history of the nickname and logo. We then step back from the conflict to draw out its implications, not just for this campus but also for higher education in general.

AN OVERVIEW OF THE UNIVERSITY, THE TRIBES, AND THE NICKNAME AND LOGO

The University

The University of North Dakota was founded by the Dakota Territorial Assembly in 1883, six years before North Dakota became a state. Located in Grand Forks, a town of 50,000, UND has an enrollment of close to 13,000 undergraduate and graduate students and offers 191 fields of study, including law, medicine, and aerospace sciences. Almost 50% of UND students come from outside North Dakota. The University publicizes its efforts to serve American Indian populations and the campus offers over 40 American Indian related programs, student organizations, and publications

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(UND, n.d.-b). At 2.66% of the student population, American Indians/Alaskan Natives constitute the largest U.S. minority-status group on campus (UND, n.d.-d).

The Dakota/Yankton-Yanktonai/Lakota ("Sioux") Tribes

The term "Sioux" is frequently used to reference three American Indian groups with reservation lands in regions of Minnesota, North Dakota, South Dakota, and Nebraska. These three groups, the Dakota of the eastern territory, the Yankton-Yanktonai of the middle territory, and the Lakota with lands generally west of the Missouri River, have a related history and are all of the Siouan language family (not related to the word "Sioux"). Each, however, has its own Siouan dialect and cultural traditions. Prior to the 1700s, the groups occupied primarily the woodland regions of Minnesota and were divided into seven bands known as Oceti Sakowin or "Council Fires." The bands recognized their affiliation by referring to each other as "kota" or "koda" meaning friend or ally (D. Robinson, 1956; Schneider, 1994).

Due in large part to conflicts over territory and resources with neighboring tribes, particularly the Anishinaabe, or Chippewa, a large portion of the bands moved west and south into the prairies and plains in the 1700s and coalesced into the three primary groups mentioned above. As a label for the Oceti Sakowin, the Chippewa often used the term, "natowessiwa," which has been translated to mean "snake," "enemies," or "people of an alien tribe" (Gibbon, 2003; Howard, 1980; Schneider, 1994). The French converted the word to "nadouessiou," which was later abbreviated to "sioux" by the English and Americans (Gibbon, 2003). Historically, the Dakota/Yankton-Yanktonai/Lakota never referred to themselves as "Sioux." In present day North Dakota, members of the Lakota, Dakota, and Yankton-Yanktonai tribes have lands on two North Dakota-based reservations: Spirit Lake and Standing Rock.

The "Fighting Sioux" Nickname and Logo

The "Sioux" nickname at UND emerged in 1930, a time when many colleges began using American Indian symbols in relation to their sports teams (Springwood & King, 2000; Wright, 2007). Sports boosters viewed Native American logos and mascots with names, such as Savages and Braves, as useful team names for promoting imagery of ferocity and courage on the gridiron. A small group of UND student sports fans took this same view when they began advocating for a name change for the football team which, at the time, was referred to as either the "Nodaks," a shortened version of North Dakota, or the "Flickertails," a reference to the small ground squirrels of the region.

The UND student newspaper, *The Dakota Student*, and the local newspaper, the *Grand Forks Herald*, provide some evidence of when and how the team nickname was changed from "Flickertails" or "Nodaks" to "Sioux." Of these two sources, the student newspaper provides the most direct evidence of the sources for the change. The actual name change for the football team appears to have taken place rapidly over a 10-day period in the fall of 1930, apparently resulting from discussion that took place in *The Dakota Student*. In the September 23, 1930 issue of the paper, the editors lent their support to the ideas contained in two anonymous "public opinion"

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pieces the paper had supposedly received, both advocating a change in favor of the name "Sioux" ("A colorful name," 1930).

The September 26, 1930 issue of the student newspaper contained an editorial urging a quick adoption of the "Sioux" name by the Athletic Association in order to have it in place for the Homecoming game and "the invasion of Fargo," a reference to the Agriculture College, 75 miles to the south ("Official approval," 1930, p. 2). Seven days later, the October 3 issue of the paper contained the banner headline, "'Sioux' Replaces 'Flickertail' as Caption of University Sport Teams" and a front-page article reported that the athletic board of control had officially sanctioned the name "Sioux" ("Nodaks play new role," 1930).

It appears, then, that the push to change the name came primarily from the student newspaper, with the initial impetus orchestrated by a small number of students who were interested in a more virile team name for the upcoming football season in 1930 and who wrote letters about this, some anonymously, to the student paper. There is no record of the work of an official commission or committee, a decision by the President, serious consideration by the faculty and, importantly, there is no indication of consultation with tribal governments or any other Native groups or individuals in the state. The only official body that may have acted on the issue appears to have been the Athletic Board of Control, also called the Athletic Association, but the university archives contain no records of the meetings of this body during this time. Beyond *The Dakota Student,* we could find no discussion of official or unofficial decisions related to adoption of "Sioux" as the nickname.

Addition of the word "Fighting" seems to have been a later enhancement, appearing for the first time in the 1938 UND yearbook, the *Dacotah*, but we could find no use of it subsequently for at least 20 years. While it is difficult to identify an exact date when the term "Fighting" became linked to the word "Sioux" in common usage, the official website of the Ralph Engelstad hockey arena asserts that " Fighting" "was instigated in the mid-1960s by the UND Sports Information Director Lee Bohnet (Ralph Engelstad Arena, n.d., para. 3). We could find no records of an official decision to expand the name to "Fighting Sioux."

With adoption of the nickname "Sioux" in 1930, the use of American Indian attire and imagery for school functions such as homecoming activities and variety shows began immediately, as did Native American cartoons and themes in the student newspaper and yearbook. The logo itself has undergone various changes over the years, from a stereotypical image of a Native man wearing a feathered headdress, to a Chicago Black Hawk style logo, to a non-descript geometric profile of a Native individual. The North Dakota Board of Higher Education approved the current controversial version, a Native profile with feathers and painted face, in 2000.

In the context of this history of the "Fighting Sioux" logo and nickname, we next discuss the factors we feel best explain the retention of the nickname and logo and the resistance to their retirement.

FACTORS CONTRIBUTING TO RESISTANCE TO CHANGE THE LOGO AND NICKNAME

Among other factors, Connolly (2000) highlights "booster culture" as prominent in the resistance to changing American Indian logos and nicknames. That factor, along with racism, North Dakota cultural features, and the influence of a wealthy donor seem to us to be the most salient features

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of the resistance to changing the "Fighting Sioux" nickname and logo at the University of North Dakota. While these four features intersect in dynamic ways, we will consider each factor separately for the purpose of analysis. We begin with racism as the larger context for the use of Native images and names by predominantly white organizations.

Racism

Racism is a significant factor in the perpetuation of the "Fighting Sioux" logo and nickname, both as individual overt expressions of bias against and mimicry of Native persons and as institutional and cultural forms reflecting white privilege and influencing the other factors discussed below. In its more overt forms, the backlash against the movement to change the logo/nickname has taken the shape of direct attacks on American Indian students at UND via anonymous posters containing racial slurs in residence halls and drive-by pro-nickname comments yelled from cars. UND fraternities and sororities have a long history of "Indian" theme parties, with the latest taking place at a sorority in 2007. Photos of sorority members and their male guests in "buckskin," feathers, and painted faces, were posted on a sorority member's Facebook site.[1] The president of Building Roads into Diverse Groups Empowering Students (B.R.I.D.G.E.S.) (2007), a UND student anti-racism group, later discovered and publicized the photos and UND American Indian students filed a discrimination complaint against the sorority (Marks, 2008).

In an effort to determine undergraduate attitudes toward the "Fighting Sioux" nickname and logo, Williams (2007) conducted research using data from an institutional survey. A major finding of that study was that, "White students at UND tend to adhere to a racial and racist view of a nickname that Native students themselves reject" (p. 452). In addition, several Native American graduate students at UND conducted campus climate studies that indicated the negative impact of the logo and nickname, particularly on Native students (Harles, 1995; LaRocque, 2001, 2004; Lindquist, 2006). All of these studies were met with no official response from the University, as far as we could determine.

Online discussion boards from newspapers and sports blogs are frequent sites of racist comments and remarks that denigrate those who support retirement of the logo and nickname. Three examples are given below (original spelling and grammar has been retained):

> My buddy wants to know why this [the NCAA law suit] is an issue since no native americans go to college. They all sit on the reservation drinking fire water and huffing gas and smacking their old ladies around. What kind of degree do you need for that? (tnirishfan, 2006)

> I'm sure the culturally-blinkered, mostly-white liberal twits using this trumped-up mascot "controversy" as a way to make themselves appear important and socially aware wish these particular Indians [supporting the nickname] would shut up already and act offended by the UND hockey team like they're supposed to. (McCracken, 2007)

> Ill tell u one thing, the Indians wont be getting the free dish and the masters degree handed to them at UND any more. (gfhockey, 2010)

As numerous authors have detailed (Davis, 2002; De La Cruz, 2003; King, 2004; King & Springwood, 2000; Pewewardy, 2004; Staurowsky, 1999, 2007; Tovares, 2002), Native American mascots, logos, and nicknames reflect the exercise of white privilege and cultural illiteracy in

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the context of systemic and cultural racism. These scholars demonstrate how American Indian logos and mascots perpetuate racist stereotypes, appropriate and commodify sacred symbols and artifacts for the entertainment of the booster culture, and work against a view of Native Americans as peoples from diverse cultures living twenty-first century lives. As Harjo (2006) and Jensen (2003) have noted, American Indian sports imagery is both a further extension of the Euro-American colonization process and a refusal by dominant white society to acknowledge that process.

Mills (1997) has posited "The Racial Contract," which explains the existence of white privilege as an unacknowledged aspect of the larger social contract. From the perspective of the Racial Contract, the opinions of Native peoples are subordinate to the wishes of the white majority. In the case at hand, Native people were not a party to the adoption of the nickname at UND, were ignored for years when their tribal governments called repeatedly for its discontinuance (Haga, 2010b; United Tribes, 2005), and were not a party to the lawsuit against the NCAA. In addition, "Fighting Sioux" boosters have worked actively in both tribal communities to persuade residents to support the nickname and logo. The inherent racism in this chain of events escapes the non-Native boosters who claim to honor Native peoples by the use of the nickname and logo. As Connolly (2000) pointed out, Native American nicknames and logos "are reflections of a greater social disorder" and are merely symptoms of the "oppressive attitudes and practices they reflect" (p. 541).

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Booster Culture

In addition to the larger context of institutional and cultural racism, the presence of a strong, predominantly white booster culture has ensured the maintenance of the "Fighting Sioux" logo and nickname. In Connolly's (2000) examination of mascot and nickname conflicts at the University of Illinois—Urbana-Champaign, Miami University in Ohio, and Eastern Michigan University in Ypsilanti, he found three common pro-mascot/nickname rationales used by the booster culture. The "Fighting Sioux" booster groups have used almost identical iterations of these rationales and each is discussed next.

Claims of Respect and Cultural Sustenance

In part, because of federal student financial aid policies and the Civil Rights Movement in the larger society, the number of American Indian students at UND increased in the late 1960s and early 1970s. These students formed a University of North Dakota Indian Association and lobbied successfully for the creation of an Indian Studies program. Many Native students began speaking out against the logo and nickname. Criticism of the logo and nickname, by both Native people and non-Natives, intensified over the following decade and campus groups were formed to oppose the logo and nickname (the Campus Committee for Human Rights [n.d.], and a student group, B.R.I.D.G.E.S. [n.d.]). The work of these groups found support through the efforts of a national anti-mascot/logo movement that included resolutions by numerous tribal councils, professional and religious, organizations (American Indian Sports Team Mascots, 2008) and by the elimination of Native mascots, logos, and nicknames at other schools (Harjo, 2006). In addition, anti-mascot

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scholars and representatives of national groups, such as the American Indian Movement, have visited UND to add their voices to the local anti-logo movement (Gunderson, 2001; Jensen, 2003).

As anti-logo opposition grew, supporters of the nickname, including university officials, reacted by framing use of the nickname in terms of cultural respect. In 1993, University President Kendall Baker's administration developed the following announcement to be read over the public address system prior to the beginning of athletic games: "UND officially adopted the name of the Fighting Sioux in the 1930s to honor the American Indian tribes of the state" (Vorland, 2000, p. 4). Until recently, a similar statement was posted on the UND University Relations website.

The statement was factually false on three counts. First, as mentioned earlier, the term "Fighting" was not initially included with the name change to "Sioux" in 1930. Second, the statement implies that the "Sioux" represented all tribes in the state when, in fact, the Mandan, Hidatsa, Arikara, and Chippewa peoples also reside there. Third, there is no written evidence that anyone associated with the adoption of the "Sioux" name had any motivation other than to inspire the football fans to more raucous cheering.

The respect explanation is also used by the Ralph Engelstad Hockey Arena, where the UND team plays its home games. Its website contains the statement, "UND officially adopted the name of the Fighting Sioux in the 1930s because the Sioux Warriors were the most courageous of all warriors. The great Sioux nation epitomized honor, courage, pride, overcoming adversity and winning battles" (Ralph Engelstad Arena, n.d.).

In UND's battle with the NCAA, University President Kupchella used the word respect three times in an open letter to the NCAA, entitled "Why the 'Sioux' May Have to Sue": "We explained that we have a beautiful logo designed by a *respected* American Indian artist and that we use the nickname with consummate *respect*—expecting and getting *respect* for the Sioux culture from our fans" (emphasis added) (Kupchella, unpublished letter, June 7, 2006, p. 2).

Connolly (2000) found that when claims of respect and honor made by supporters were challenged, "boosters responded by *authenticizing* the symbols, or imbuing them with a false, manufactured authenticity" (p. 534). When UND, under President Kupchella, introduced the most recent logo in 1999, an explanation on a UND webpage stated that the logo was designed by "Noted artist Bennet Brien, an American Indian from Belcourt, N.D."Although this webpage is no longer active, a similar statement can be found on the Ralph Engelstad Arena website (Ralph Engelstad Arena, n.d., para. 6). However, artist Brien is of Chippewa ancestry, not "Sioux." The UND Alumni Foundation and the North Dakota Board of Higher Education, who approved the logo in 2000, did not consider it important to have the "Fighting Sioux" logo created by an artist who belonged to one of the "namesake tribes."

In another effort to authenticize the "Fighting Sioux" tradition, arrangements were made by Ralph Engelstad, a wealthy alumnus donor, to place a bronze statue of an American Indian, mounted on a horse, on a large pedestal in front of the arena shortly after it was built. Again, assuming that all Native persons are interchangeable, the figure was altered to represent Sitting Bull, a well-known leader of the Hunkpapa band of the Lakota (Graham, 2001).

The arrival of a new president at UND in the summer of 2008 was followed by the removal of many of the historically questionable statements about the nickname and logo from the university's official websites. That an institution of higher education would use historically inaccurate or false claims to sustain the booster culture is inconsistent with the core commitment to truth and knowledge that are essential to the mission and integrity of a reputable place of learning.

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Comparing American Indians with Other Groups

In the universities in Connolly's (2000) study, one of the most frequent tactics used by boosters to support the continued use of American imagery was to compare American Indians to other groups, pointing out that those other groups did not complain when they or their ancestors were used for nicknames (e.g., the "Fighting Irish"). In North Dakota, a frequent comparison is to the Vikings, with even UND President Kupchella asking why there is an issue with the use of "Sioux" when those of Scandinavian descent do not oppose the name Vikings used by the Minnesota National Football League team (Kupchella, unpublished letter, August 12, 2005).

The problem with comparing American Indian nicknames to those referencing other groups is that those other groups ultimately selected their own names for their teams, such as the "Fighting Irish" (Jenkins, 2009), or the names reference a group, such as the Vikings, who no longer exist (Davis, 2002). In the case of American Indian logos, nicknames, and mascots chosen by white colleges and universities in the early part of the twentieth century, we are unfamiliar with any evidence of consultation with and approval by Native people regarding the use of their names for sports teams.

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Divided Opinions among American Indians

Connolly (2000) points out that, in the context of the university mascots and nicknames he studied, "not *all* Native Americans agreed that the institutions' nicknames and symbols were inappropriate" (p. 536). The same is true with the "Fighting Sioux." Native people have taken positions on both sides of the issue and have been asked to publicly air and debate their opinions. An April 2010 National Public Radio interview with Jesse Taken Alive and Tom Iron, both from the Standing Rock tribe, is one example (National Public Radio, 2010). As Connolly points out, however, nickname supporters have used Native support of nicknames as reason to support the retention of the objectionable names and images. Supporters argue that as long as there were Native persons who found no offense, the use of American Indian logos and nicknames was legitimate.

The strategy most recently employed by the "Fighting Sioux" boosters has been to promote the holding of a referendum on each of the two namesake reservations to circumvent the positions taken previously by tribal councils against the nickname and logo. At the Spirit Lake reservation, a referendum in support of the logo and nickname passed by a majority of 67% after an intense effort by boosters on and off the reservation (Tran, 2009). At the Standing Rock reservation, pro-logo supporters presented a petition to the Tribal Council requesting a tribal referendum on the issue (Haga, 2010c). Subsequently, anti-logo tribal members presented a petition urging the tribe to support a 1992 tribal council resolution against the nickname and logo (Haga, 2010a). The Standing Rock Tribal Council, acting on June 17, 2010, voted to discontinue any further discussion of the "Fighting Sioux" nickname and logo and to "stand by a 1992 tribal council resolution asking UND to drop its use of the nickname and logo" (Cory & Nelson, 2010).

Giago (2009), the Oglala Lakota founder of the Native American Journalists Association, in writing about support within Native communities for the use of Native nicknames and logos by white institutions, explains that "the process of educating our own people has been the hardest and most disheartening part of the process" (para. 5).

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North Dakota History and Cultural Features

In his definitive history of the state of North Dakota, E. Robinson (1966) provides valuable insights into the historical context and culture within which the "Fighting Sioux" conflict developed and has been sustained up to the present. Robinson identified six themes that "dominate the North Dakota story: remoteness, dependence, economic disadvantage, agrarian radicalism, the 'Too-Much-Mistake' (trying to do too much too fast with too little), and adaptation to environment" (p. vii). Of these six themes, remoteness and dependence seem to be most salient to the "Fighting Sioux" issue.

As a geographically remote state with a small population, outside interests, such as railroads, banks, and grain companies located in Minnesota asserted influence and control over North Dakota, and over the years, North Dakota citizens and politicians developed a strong sense of resistance to these outside forces (E. Robinson, 1966). To the extent that these sentiments exist today, they could account for some of the intensity of the resistance to the NCAA policy. Supporters of the nickname and logo have described the NCAA as an eastern interest group that does not understand or respect the true intentions of the North Dakota "Fighting Sioux" boosters. They see the NCAA as intent on imposing a form of "political correctness" on the well-meaning and good-hearted people of North Dakota. For example, UND President Kupchella's letter referenced the "organizational self-righteousness" of the NCAA (Kupchella, unpublished letter, 2006, p. 1) and commented that "[y]our intrusion into an area in which you had no business intruding has actually done considerable harm here and probably elsewhere" (p. 7).

In an earlier example, uproar ensued in the state in 1989 when North Dakota was omitted from an atlas published by Rand McNally ("Mapmaker leaves Dakotas," 1989). More recently, *National Geographic* featured a story on North Dakota that included photographs of abandoned farms and dwindling communities (Bowden, 2008) that was greeted with editorial outrage from many of the state's newspapers and by the state's governor for focusing on the signs of decline in the state rather than its positive aspects (Cole, 2008).

In a state so seemingly overlooked and under appreciated by the rest of the country, the "Fighting Sioux" athletic teams have become a source of great pride to many of the people of North Dakota (see, for example, Orwick's Fighting Sioux, n.d.). The hockey team at UND has frequently made it to the national playoffs and has won seven NCAA Division I championships, providing the university, and the state, with national recognition. No wonder, then, that resistance to giving up the "Fighting Sioux" nickname and logo is so passionate, persistent, and powerful.

Influence of a Wealthy Donor

An additional feature of the context at UND has been the enormous impact of athletic booster and donor, Ralph Engelstad, who, by force of his considerable wealth, influence, and power, raised the "Fighting Sioux" issue to an even greater level at UND.

In 1988, the renovated UND Winter Sports Arena was renamed the Ralph Engelstad Arena in appreciation for various gifts that Engelstad made over the years to the University, including the establishment of a Ralph and Betty Engelstad Endowment (Rice, 1992). Engelstad shortly thereafter announced a $5 million donation to support the UND hockey program. Concurrent to the announced donation, the Las Vegas media was reporting that Engelstad had held parties on

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Hitler's birthday in 1986 and 1988 and kept a room of Nazi memorabilia in the Imperial Palace casino, which he owned (Dohrmann, 2001). Charges of anti-Semitism were leveled against Engelstad. UND President Thomas Clifford sent a university delegation to Las Vegas to look into the matter and to determine if the University should return the donation. The UND delegation found that Engelstad had merely exhibited "bad taste" and the university accepted the donation (Brownstein, 2001). Within months, the Nevada Gaming Board of Control fined Engelstad $1.5 million for damaging Nevada's image and reputation and placed nine conditions on his gaming license ("Owner of casino fined," 1989). Engelstad denied being a Nazi sympathizer but agreed to pay the fine and not to hold future birthday parties for Hitler (Reinhold, 1989).

In the 1990s, Engelstad attempted to use his wealth to influence events related to UND hockey. When the hockey coach, John Gasparini, was forced to resign in 1994 after several losing seasons, Engelstad reportedly told UND President Kendall Baker that he would withhold millions of dollars in donations as long as the then Athletic Director, Terry Wanless, remained in that position (Dohrmann, 2001). Engelstad appeared to want both Wanless and Baker to resign and when both did resign in 1999, Engelstad announced a $100 million gift to the university, half of which was earmarked for a new hockey arena (Dohrmann, 2001).

The announcement of the $100 million gift resulted in a series of events that would bring the "Fighting Sioux" controversy to a loud and contentious crescendo. When UND president, Charles Kupchella, unveiled a new logo in November 1999,[2] there was an immediate outcry against it by many Native and non-Native persons, on and off campus. Kupchella formed a task force in February 2000 to study the issue. After the task force submitted its report to Kupchella in November of the same year, he sent an e-mail to State Board of Higher Education Chair William Isaacson on December 16 stating that, among other options, he was "prepared to outline steps whereby we would cease using the nickname after several years . . . I see no choice but to respect the request of the Sioux tribes that we quit using their nickname" (Elliott, 2006, p. 49)

Four days later, December 20, Kupchella received a letter from Ralph Engelstad telling Kupchella:

> If this logo and slogan are not approved by you no later than Friday, December 29, 2000. . . . I will then write a letter on December 30, 2000 to all contractors and to everybody associated with the arena canceling their construction contracts. . . . Please do not consider this letter a threat in any manner as it is not intended to be. It is only notification to you of exactly what I am going to do if you change this logo and this slogan. (Text of Engelstad Letter, 2001)

On the same day that Kupchella received the letter from Ralph Engelstad, Ralph's wife, Betty Engelstad, was reportedly calling members of the North Dakota State Board of Higher Education to tell them that the UND hockey coach, Dean Blais, was threatening to quit immediately if the logo and nickname were changed (Holen, 2004). The next day, December 21, 2000, the North Dakota State Board of Higher Education took the matter out of Kupchella's hands and announced a decision to keep the nickname and use the new logo.

On October 5, 2001 the new Ralph Engelstad Arena (REA), costing over $100 million, opened in Grand Forks to much fanfare. The arena, with a hockey seating capacity of 11,640, contains 2,200 "Fighting Sioux" Indian head logos (The Ralph, n.d., para. 5). The arena's gift shop, the "Sioux Shop," has offered an array of gear and novelty items, including house slippers, shower curtains, playing cards, and pet food bowls, all displaying the logo.

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Although Ralph Engelstad died in 2002, his legacy and Family Foundation remain a powerful influence. President Kupchella revealed in March 2007 that the Engelstad Family Foundation would financially support the lawsuit against the NCAA (Dalrymple, 2007) and the Engelstad Family Foundation, also in 2007, gave a $20 million donation to the university for academic scholarships, athletic scholarships, endowed chairs, and special projects (UND Press Room, 2007). In addition, the Ralph Engelstad Arena management has stated it would not pay the approximate $1 million for removal of the 2,400 logos in the arena "out of respect for Mr. Engelstad and the investment he made in the university" ("Removing UND logos," 2007, para. 2).

The Ralph Engelstad Arena (REA) has also used its influence to persuade the two namesake tribes in the state to give their support to the logo and nickname. In 2007, the REA hired Sam Dupris, a retired Federal Aviation Administrator living in Minneapolis, to meet with the Standing Rock and Spirit Lake tribes in North Dakota. Dupris, an enrolled member of the South Dakota Cheyenne River tribe, was given the task of meeting with tribal groups and arranging a meeting between tribal members and officials at UND and the Engelstad Arena (Marks, 2007b). Jody Hodgson, REA General Manager, insisted that Dupris' only purpose was to promote communication between the tribes and the REA. However, Myra Pearson, Chairwoman of the Spirit Lake Nation, reported that in a meeting she had with Dupris in July 2007, Dupris encouraged her (Pearson) to advocate for the nickname with Standing Rock tribal officials who opposed the logo and nickname ("Arena effort," 2007). Leaders of Dupris' own tribe sent a letter to UND President Charles Kupchella in August 2007 asserting the tribe's opposition to the logo and nickname and stating that Dupris "does not represent the Cheyenne River Sioux Tribe in any capacity and is not authorized to comment on behalf of the Tribe" (Marks, 2007a, para. 3).

While the North Dakota University System Chancellor, William Goetz, admits that a resolution of the logo issue is in the best interests of the university and the state, he notes that it is also important to maintain a relationship with the Engelstad Foundation "that has been most positive for the university" (Schuster, 2008, p. A5). It is clear that the economics and politics of the debate about the "Fighting Sioux" nickname and logo have been heavily influenced and even controlled by the interests of one powerful donor.

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CONCLUSIONS

The "Fighting Sioux" conflict has made an indelible mark on the University of North Dakota and its surrounding community. It offers significant lessons for campus leaders, governing boards, faculty, and others who care about equity, social justice, and the integrity of higher education.

We have asserted that institutional racism is a primary factor in the preservation of the logo and nickname, and the battle between the State of North Dakota and the NCAA merely served to highlight the dynamics of racial hegemony. Staurowsky (2007) said, "The question of who controls the representation of Native Americans in the college sport context is very much at issue in the reactions to the NCAA Native American mascot policy. . . . [I]n point of fact, the master narrative running through this discourse is about White supremacy" (p. 63). Acting on this narrative by defending an indefensible racist icon has created considerable tension between the tribes and the university, has hampered recruitment and retention efforts, and has profoundly prevented the university from fulfilling its mission. This mission states:

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> [The University] strongly disapproves and does not tolerate acts of racism, sexism, bigotry, harassment, and violence in any form and actively uses its human and other resources to provide opportunities for its constituents and public to learn and appreciate the values of a diverse and multicultural world. (UND, n.d.-a, para. 1)

We also argue that the North Dakota State Board of Higher Education has allowed the attitudes, resources and power of the athletic booster culture to override and hijack the governance of the university. The State Board has chosen to ignore numerous requests from tribal communities to retire the name, and it has overlooked a large body of scholarly and clinical work that asserts that American Indian mascots and monikers create hostile and demoralizing environments for Native students and reinforce stereotypes and cultural misinformation in the larger population. The Board also has ignored repeated requests by the UND University Senate to retire the nickname and logo. Instead, the university and the State Board have allowed and even participated in the booster culture's efforts to preserve the logo and nickname through the use of revisionist history, authenticating efforts, and by ignoring attempts of the Ralph Engelstad Arena to influence and divide tribal communities.

Ralph Engelstad's offer of a gift of historic proportions led the university to excuse and minimize his racist practices, succumb to his demands for continuation of the logo and nickname, and accept his construction of an elaborate and enormous athletic facility to which the university does not hold title or management rights. The retirement of the nickname and logo has been even more difficult because of the economic impact of the facility and the fact that thousands of the controversial logos emblazon its exterior and interior. The UND experience demonstrates that when a university gives up too much control to an individual donor or to the booster culture, the university's ability to manage its affairs with integrity is seriously compromised.

The University of North Dakota, in its mission statement, acknowledges, "With other research universities, the university shares a distinctive responsibility for the discovery, development, preservation, and dissemination of knowledge" (UND, n.d.-c, para. 1). We have argued here that the perpetuation of harmful stereotypes (a form of ignorance), appropriating the sacred symbols of a historically oppressed people (white privilege), and using inaccurate and false claims to defend this practice (academic dishonesty), is contrary to the very purpose for which the university exists. Universities and their governing boards must stay true to the purposes of higher education if they are to have integrity and sustain a sound academic reputation. The accreditation team from the Higher Learning Commission of the North Central Association of Schools and Colleges underscored this point when it warned the university that the controversy was harming the reputation of the university. It wrote, "This has been too good an institution for much too long to let this issue diminish its good stature, both in the immediate region and among your peers around the country" (Higher Learning Commission, 2003, p. 23).

By voting to retire the nickname and logo, the North Dakota State Board of Higher Education has enabled the University of North Dakota to join other universities that have abandoned these disrespectful practices and has begun to restore the reputation of the university. Unfortunately, collective insight into the inherent racism of American Indian nicknames and logos is not the reason for abandonment of the "Fighting Sioux." Rather, it appears that external pressures from the NCAA and most recently from the Summit League—an NCAA Division I conference that has stated it will not allow UND to play its teams until the logo issue is resolved (Nelson, 2009)—is leading to change for pragmatic and financial bottom line reasons. In addition, there is

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still significant pressure by "Fighting Sioux" boosters who hope to influence the Standing Rock tribe to support the logo and convince the State Board of Higher Education to reverse its decision.

Regardless of the outcome of UND's logo and nickname, the factors leading to their development and maintenance will remain a dominant presence. The ongoing challenge for UND, or any university, is to acknowledge the collective power of racism, culture, and wealth, and to take all possible steps to mitigate the inevitable penchant of that power to undermine the integrity of the institution.

NOTES

1. Some of the photos may be viewed at http://aistm.org/fr-0711.gamma.phi.beta.sorority.party.htm
2. The current logo is a profile of a Native American male with painted cheekbone and head feathers. An image of this logo can be found at http://www.fightingsioux.com/ or at http://en.wikipedia.org/wiki/North_Dakota_Fighting_Sioux

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REFERENCES

A colorful name for "Nodaks" found. (1930, September 23). [Editorial]. *The Dakota Student*, p. 2.

American Indian Sports Team Mascots. (2008). Retrieved from http://www.aistm.org/fr.2005.apa.htm

Arena effort to solve nickname dispute draws fire. (2007, August 20). *The Bismarck Tribune*. Retrieved from http://www.bismarcktribune.com/articles/2007/08/20/news/local/138005.txt

Borzi, P. (2005, November 26). A dispute of great spirit rages on. *The New York Times*. Retrieved from http://query.nytimes.com/gst/fullpage.html?res=950CE0DA1731F935A15752C1A9639C8B63&sec=&spon=&pagewanted=1

Bowden, C. (2008, January). The emptied prairie. *National Geographic*. Retrieved from http://ngm.nationalgeographic.com/2008/01/emptied-north-dakota/bowden-text

B.R.I.D.G.E.S. (2007). http://www.und.edu/org/bridges/main.html

Brownstein, A. (2001, February 23). A battle over a name in the land of the Sioux. *The Chronicle of Higher Education*. pp. A46–A49.

Campus Committee for Human Rights. (no date). *Campus Committee on Human Rights report on name change commission member selection*. Retrieved from http://www.und.nodak.edu/org/bridges/cchr.html

Clark, L. (2005, November 6). In North Dakota, controversy has a name. *The Washington Post*, pp. E01.

Cole, J. (2008, January 13). Rage against magazine: State is angry about *National Geographic*'s all-is-dismal portrait. *Grand Forks Herald*, p. 1A.

Connolly, M. R. (2000). What's in a name? A historical look at Native American-related nicknames and symbols at three U.S. universities. *The Journal of Higher Education*, *71*(5), 515–547.

Cory, M., & Nelson, W. (2010, June 18). Standing Rock council votes to keep nickname retired. *Grand Forks Herald*, p. 2A.

Dalrymple, A. (2007, March 23). No big surprise here! Engelstad behind NCAA battle. *The Forum*. Retrieved from https://secure.forumcomm.com/?publisher_ID=1&article_id=160396

Davis, L. R. (2002). The problems with Native American mascots. *Multicultural Education*, *9*(4), 11–14.

De La Cruz, E. M. (2003). Racism American style and resistance to change: Art education's role in the Indian mascot issue. *Art Education*, *56*(3), 13–20.

Dohrmann, G. (2001, October 8). Face-off. *SI Vault*. Retrieved from http://vault.sportsillustrated.cnn.com/vault/article/magazine/MAG1023849/index.htm

Elliott, D. (2006). *The kindness of strangers. Philanthropy and higher education*. Lanham, MD: Rowman & Littlefield.

gfhockey. (2010, April 8). Forum, Post #40. Retrieved from http://forum.siouxsports.com/index.php?showtopic=13924&st=20

Giago, T. (2009, September 19). In whose honor? *Huffington Post*. Retrieved from http://www.huffingtonpost.com/tim-giago/in-whose-honor_b_292285.html

Gibbon, G. (2003). *The Sioux. The Dakota and Lakota nations*. Malden, MA: Blackwell.

Graham, C. (2001, Oct. 10). Changing appearances. *Grand Forks Herald*, p. C1.

#37

Gunderson, D. (2001, October 5). Ice palace opens at UND. *Minnesota Public Radio*. Retrieved from http://news.minnesota.publicradio.org/features/2001 10/05_gundersond_arena-m

Haga, C. (2010a, June 12). New Standing Rock petition: Keep position on nickname. *Grand Forks Herald*. Retrieved from http://www.grandforksherald.com/event/article/id/165027/publisher_ID/40/

Haga, C. (2010b, June 9). Standing Rock may consider nickname resolution. *Grand Forks Herald*, pp. A1, A6.

Haga, C. (2010c, May 5). Standing Rock votes to table petitions. *Grand Forks Herald*, pp. B1, B3

Haga, C. (2010d, May 1). Voices of American Indian UND students. *Grand Forks Herald*, pp. A1, A4.

Harjo, S. S. (2006, October 20). Just good sports. The impact of "Native" references in sports on Native youth and what some deconolonizers have done about it. In *Pride or Prejudice: Indian mascots and imagery in the United States*. Symposium conducted at the Sandra Day O'Connor School of Law, Arizona State University, Tempe, AZ.

Harles, N. (1995). *The campus climate as perceived by American Indian students attending the University of North Dakota. (Unpublished doctoral dissertation)*. University of North Dakota, Grand Forks, ND.

Higher Learning Commission. (2003). Report of a comprehensive evaluation visit to the University of North Dakota. Chicago, IL: The Higher Learning Commission of the North Central Association of Colleges.

Holen, J. B. (2004). *Millionaire mavericks in higher education: Ralph Engelstad and the University of North Dakota. (Unpublished doctoral dissertation)*. University of North Dakota, Grand Forks, ND.

Howard, J. H. (1980). Reprints in anthropology. Vol. 20. *The Dakota or Sioux Indians. A study in human ecology*. Lincoln, NE: J&L Reprint.

Jenkins, J. I. (2009). Address to American Irish Historical Society. University of Notre Dame: Office of the President. Retrieved from http://president.nd.edu/events-and-communications/communications/addresss-to-american-irish-historical-society/

Jensen, R. (2003). The past and human dignity: What the "Fighting Sioux" tells us about Whites. *Counterpunch*. Retrieved from http://www.counterpunch.org/jensen10142003.html

King, C. R. (2004). Preoccupations and prejudices: Reflections on the study of sports imagery. *Anthropologica, 46*(1), 29–36.

King, C. R., & Springwood, C. F. (2000). Choreographing colonialism. Athletic mascots, (dis)embodied Indians, and EuroAmerican subjectivities. *Cultural Studies: A Research Annual, 5*, 191–221.

LaRocque, A. (2001). *The effect of cultural affiliation on attitudes, beliefs, and reactions to the Fighting Sioux nickname issue between Northern Plains American Indian and majority culture college students*. Unpublished master's thesis. University of North Dakota, Grand Forks, ND.

LaRocque, A. (2004). *Psychological distress between American Indian and majority culture college students regarding the use of the Fighting Sioux nickname and logo*. Unpublished doctoral dissertation. University of North Dakota. Grand Forks, ND.

Lindquist, C. (2006). *Campus racial climate as perceived by undergraduate American Indian students attending the University of North Dakota*. Unpublished doctoral dissertation. University of North Dakota, Grand Forks, ND.

Mapmaker leaves Dakotas, Oklahoma out of new atlas. (1989, October 7). *Grand Forks Herald*, p. 7A.

Marks, J. (2007a, August 30). Cheyenne River Sioux tribe writes to Kupchella. *Grand Forks Herald*, p. A2

Marks, J. (2007b, September 16). UND: Flying into conflict. *Grand Forks Herald*, pp. A1, A5.

Marks, J. (2008, March 25). Sorority placed on temporary probation. *Grand Forks Herald*, p. A1.

McCracken, K. (2007, August 29). *Veteran's group on Standing Rock Reservation says "Fighting Sioux" nickname is OK*. Retrieved from http://sayanythingblog.com/entry/veterans_group_on_standing_rock_reservation_says_und_fighting_sioux_nicknam/

Mills, C. (1997). *The racial contract*. Ithaca, NY: Cornell University Press.

Mytelka, A. (2009, May 14). North Dakota Board's vote puts "Fighting Sioux" mascot on thinner ice. *The Chronicle of Higher Education*. Retrieved from http://chronicle.com/article/North-Dakota-Boards-Vote-P/47588

National Collegiate Athletic Association. (2005, August 5). News release. *NCAA Executive Committee issues guidelines for use of Native American mascots at championship events*. Retrieved from http://www.ncaa.org/wps/ncaa?ContentID=1664

National Collegiate Athletic Association. (2007, October 26). News release. *NCAA settles University of North Dakota lawsuit*. Retrieved from http://www.ncaa.org/wps/ncaa?ContentID=5824

National Public Radio. (2010, April 21). North Dakota Fighting Sioux mascot is challenged by Sioux tribe. Retrieved from http://www.npr.org/templates/story/story.php?storyId=126166737&ft=1&f=46

Nelson, W. (2009, January 7). Summit bypasses UND. *Grand Forks Herald*, p. A1.

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#37

Nodaks play new role as warriors of the prairie. (1930, October 3). *The Dakota Student*, pp. 1, 4.
Official approval of "Sioux" label. (1930, September 26). [Editorial]. *The Dakota Student*, p. 2.
Orwick's Fighting Sioux. (no date). *Orwick's Fighting Sioux hockey*. About Us. Retrieved from http://www.orwicksioux.com/id1.html
Owner of casino fined over a Nazism display. (1989, February 27). *The New York Times*. Retrieved from http://query.nytimes.com/gst/fullpage.html?res=950DE3D61E3FF934A15751C0A96F948260
Pewewardy, C. D. (2004). Playing Indian at halftime. The controversy over American Indian mascots, logos, and nicknames in school-related events. *The Clearinghouse*, *77*(5), 180–185.
Ralph Engelstad Arena. (no date). *Fighting Sioux*. Retrieved from http://www.theralph.com/asp/default.asp?p=24
Reinhold, R. (1989, April 3). Las Vegas journal; Nevada draws the line: No Hitler in the casinos. *The New York Times*. Retrieved from http://query.nytimes.com/gst/fullpage.html?res=950DEEDB1330F930A35757C0A96F948260
Removing UND logos from arena will be costly. (2007, December 17). Retrieved from http://www.bismarcktribune.com/articles/2007/12/17/news/state/144687.txt
Rice, D. R. (1992). *The Clifford years. The University of North Dakota, 1971–1992*. Grand Forks, ND: The University of North Dakota.
Robinson, D. (1956). *A history of the Dakota or Sioux Indians*. Minneapolis, MN: Ross & Haines.
Robinson, E. B. (1966). *History of North Dakota*. Lincoln, NE: University of Nebraska Press.
Schneider, M. J. (1994). *North Dakota Indians. An introduction* (2nd ed.). Dubuque, IA: Kendall/Hunt.
Schuster, R. (2008, September 13). Goetz says he wants to speed up timeline for nickname resolution. *Grand Forks Herald*, p. A5.
Springwood, C. F., & King, C. R. (2000). Race, power, and representation in contemporary American sport. In P. Kivisto & G. Rudblod (Eds.), *Multiculturalism in the United States: Current issues, contemporary voices* (pp. 161–174). Thousand Oaks, CA: Sage.
Staurowsky, E. J. (1999). American Indian imagery and the miseducation of America. *Quest*, *51*(4), 382–392.
Staurowsky, E. J. (2007). "You know, we are all Indian": Exploring white power and privilege in reactions to the NCAA Native American mascot policy. *Journal of Sport & Social Issues*, *31*(1), 61–76.
Text of Engelstad Letter to Kupchella. (2001, January 15). *Grand Forks Herald*, p. A3.
The Ralph. (no date). *The Ralph Engelstad Arena: Home of the Fighting Sioux*. Retrieved from http://www.theralph.com/asp/default.asp?p=13
tnirishfan. (2006, June 21). Comments. SBNation. Retrieved from http://www.everydayshouldbesaturday.com/2006/06/21/fightin-sioux-take-myles-scalp/
Tovares, R. (2002). Mascot matters: Race, history, and the University of North Dakota's "Fighting Sioux" logo. *Journal of Communication Inquiry*, *26*(1), 76–94.
Tran, T-U. (2009, April 21). Spirit Lake voters overwhelmingly support Fighting Sioux nickname. *Grand Forks Herald*, p. A1.
UND. (no date-a). *Diversity*. Mission Statement. Retrieved from http://www.und.edu/dept/diversity/mission.html
UND. (no date-b). Indian related programs. Retrieved from http://www.und.edu/dept/aiss/indian_related_programs.html
UND. (no date-c). *UND Mission Statement*. Retrieved from http://www.und.edu/aboutund/mission.html
UND. (no date-d). *UND student body profile, 2009–2010*. Retrieved from http://www.und.edu/profile
UND Press Room. (2007). *UND Foundation receives historic $20 million gift*. Retrieved from http://www2.und.edu/our/news/story.php?id=2063
UND Special Task Force. (2009). Final Report. Retrieved from http://www2.und.edu/our/news/pdf/taskForceFinalReport.pdf
United Tribes of North Dakota Resolution. (2005). *Urging formal consultation between North Dakota Tribes, UND, ND Board of Higher Education and NCAA regarding use of "Sioux" logo and nickname, and support for National Collegiate Athletic Association (NCAA) action banning display of "hostile and abuse" nicknames, logos and mascots at NCAA sanctioned tournaments*. Retrieved from http://www.uttc.edu/news/story/img/090905_01b.swf
Vorland, D. (2000). *The Fighting Sioux team name and logo at the University of North Dakota. An historical and contextual summary*. University of North Dakota: Office of the President.
Williams, D. (2007). Where's the honor? Attitudes toward the "Fighting Sioux" nickname and logo. *Sociology of Sport Journal*, *24*(4), 437–456.
Wright, W. N. (2007). Note. Not in whose name? Evidentiary issues in legal challenges to Native American team names and mascots. 40 Connecticut Law Review 279.

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Amy Phillips is assistant professor of Social Work at the University of North Dakota. Her research interests include multicultural organizational development and service-learning in higher education.

Dan Rice is Dean of the College of Education and Human Development and professor of Educational Leadership at the University of North Dakota. He researches issues in higher education.

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<< MASCOT BILL SB 1253 TESTIMONY - SENATE EDUCATION COMMITTEE >>

Auntie Carel Two-Eagle; Mandan, ND OneDakotaWoman@Yahoo.com

Hanh Chairman Freborg and members of the Senate Education Committee.

I never fail to be amazed by the amount of bigotry I find in North Dakota, *today*, or by the amount of denial that exists regarding it. SB 1253 is such a bill. It is a classic example of: What is popular isn't always right & vice versa.

During testimony before the House Education Committee, the question was asked repeatedly, "What will it cost to change mascots?" I would ask you to ask yourselves, "What about the human cost to not change mascots?" Because I guarantee you, there is one. Every IndigenUs student at UND who is against retention of living human beings & our living cultures as mascots has had at least 1 nightmare incident, and many have had more than 1. <<>> Think about this: You pull up at a stop light. A vehicle pulls up in the next lane. A window on that vehicle rolls down... and a shotgun sticks out the window pointing at you. A white-skinned hand is holding the shotgun, & there's a finger on the trigger, which you can see plainly. Someone yells, "That's what you'll get, prairie nigger, if you keep trying to get rid of our mascot!"

This is a real incident - it happened to the child of at least 1 of the people testifying today against SB 1253. It also happened to one of my nieces. Both of these fine young IndigenUs people quit the UND. My niece eventually went back to school - somewhere else. No one should have to go through this in "the land of the free". This is gestapo tactics. It is absolutely against everything the UND should stand for. <<>> She reported it to the Grand Forks police, who shrugged it off. They routinely shrug off such reports. SB 1253 supports this kind of action with its references to forcing the UND to retain a bigoted mascot & image. It is irresponsible. It is unacceptable. It says "UNeducated & ignorant."

The lawsuit referred to in SB1253 is a waste of time & big money. Easily a million dollars. That money could be better spent elsewhere. Invest it in the UNDs new mascot, for example! Worse, this subject has already gone to the supreme court where it was dismissed with prejudice, so it cannot be brought again. You are fiscal conservatives - is this fiscally conservative?

The Oxford Standard Dictionary of the English Language defines "mascot" as "a pet, a caricature"; & a caricature as "a cartoon". Only people who believe they are superior to someone else make cartoons of others. We living people & our living cultures are not suitable to be cartoons.

We are not suitable to be treated as pets, to be referred to as "your" Indians, while in the same breath talking about this somehow relating in a good way to a university; an institution of higher learning & of enlightened people who behave in an enlightened way. To refer to this as "a nickname" and/or "a logo" is to try to sanitize the fact that this is about a mascot being made of living people & our living culture; and it is not the behavior of intelligent, enlightened people or a university.

During testimony before the House Education Committee, a man said he 'felt so honored on our behalf every time he saw thousands of feet walking across the Indn head in the floor". In many

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cultures, there are fewer bigger insults than to slap someone on the head with a slipper - a hanpa / mocassin - a shoe. We do not feel honored when thousands of people walk across that Indn head! Would you? Definitely not.

During the floor debate in the House on SB1253, Representative Al Carlson, the majority leader!, said, "if we have to give up our 'fighting sioux' nickname, the memory of Indians in North Dakota will just faaaade away." What hogwash! In my language, we might say "takunishki wognakeh".

This nonsense about the memory of us Dakota People just faaaading away is an exact quote of the genocidal crocodile tears words written in federal Bureau of Ethnology treatises written in the 1850s & in the 1860s. Such words are spoken with forked tongues. Not only are these words genocidal, they are a thinly veiled threat. Such threats are not suitable to someone in his position. He owes us a huge heartfelt apology. A proper man would make it from the floor of the House, the same as he made the original remark. He would correct an error in what he said & apologize for any offense he gave in his zeal to stop progress. Intentional or not, it was an offensive remark.

Over 25 million Indns on this Turtle Island have died because of attitudes like that. The Jewish holocaust is terrible, but ours is worse because it is still going on today. Bills like SB1253 promote it. Whether intentionally or not is utterly irrelevant. The fact is, it does. It is bullying language.

With something like 65,000 Indns in North Dakota, and the state named for us, our "memory" is not likely to fade away. We won't allow it to, & neither will facts. <<>> With United Tribes Technical College having an economic impact in just the Bismarck area alone of over $30 million annually, our "memory" is not going to fade away. <<>> With United Tribes Technical College's annual International Powwow bringing over $10 million to the Bismarck area alone *every year*, our 'memory' is not going to fade away. <<>> Ours is the only segment of North Dakota's population that is getting younger on average. We aren't going to let our memory fade away. The census won't allow it. <<>> Our overall economic impact on North Dakota's economy won't allow it - our oil, for example, which is currently bringing huge dollars to it. Our non-oil economic impact is well over $65 million / year. That won't allow it. No matter how you slice it, "the memory of Indians in North Dakota *will never* just faaaade away". After at least 30,000 years here, we're here to stay.

I know that the likely reason some people of the Spirit Lake & Standing Rock Nations want the UND to retain the artwork is because a Spirit Lake person did the artwork. It's a point of pride. And likely that the reason they might want to retain the words 'fighting sioux' is because it's a way of hitting back at the bigotry that is endemic in North Dakota. We beat the tar out of Custer, but you plaster his name everywhere, & 'celebrate' him. If that isn't shameful, I don't know what is.

But we are not the "sioux" - We are the D/L/Nakota. We are not the "treacherous untrustworthy people" overall - we are only that to our enemies - as we ought to be. Properly, we are the Allies - the people you can depend on in a pinch.

Should anyone wonder about a pipe ceremony done in 1969 - it is said of me, "Ch'annunpa yuha wamani ye - I walk with a Holy Pipe". This Pipe & I are focused on healing the Sacred Hoop of the

world. There is nothing in SB1253 that helps heal the Sacred Hoop. It can also be said, "Ni shi ye! Takuni slolyaye sni ye! - You don't (walk with a Holy Pipe). You know nothing about it!" So when I tell you that the people who did the pipe ceremony in 1969 spoke *only for* themselves, you can take it as gospel. I am the authority about this - as is any other who Walks With a Holy Pipe. Their ceremony did not speak for their Nation, let alone for all D/L/Nakota People. Period.

Since this state is named for us, I brought 3 *respectful* alternatives to the House debate & I submit them again here: Hoghouse SB1253 & replace the concept of forcing the UND to remain in the dark ages, which is not at all in line with its mission of enlightenment & does nothing to improve either its image or North Dakota's in the world, with these respectful alternatives:

(only)with the blessing of the Spirit Lake and Standing Rock Nations - retain the beautiful artwork but drop the 2 incorrect words and put the artwork on:

<< the state's website & letterheads, along with what's already there; >>

<< the Pride of Dakota labels & website, retaining the words "Pride of Dakota" of course; >>

<< the state's license plates, either as a special series like the Lewis & Clark series or as part of the basic state plate. Many non-Indn people would cheerfully pay extra for such a plate - It was a German-from-Russia who suggested this & asked me to bring it to you. He said he would be happy to pay a bit extra for such a plate & he'd put one on every one of his vehicles. >>

This approach would be productive, would be enlightened, *would make the state look good.*

<< In short, this concept is a win-win opportunity all around. >>

It uplifts the image of the UND and gets rid of a source of considerable friction within it.

It uplifts the image of the state as well, including worldwide through the businesses of the Pride of Dakota program; by promoting pride, not bullying.

It eliminates any efforts to 'force' actions which would be losers on so many fronts.

It promotes pride in the IndigenUs portion of the state's population & economy.

It encourages fees for more vehicle registrations, including from those people who currently say they want to retain the beautiful artwork.

It is not offensive; it has pride in & of itself. It speaks about educated people with an educated enlightened attitude.

Thank you for hearing me in a good way now. I am always available to answer questions or to work with the Committee to further these suggestions, which are definitely things that help heal the Sacred Hoop of the world. Mitakuye oaisin - All, are my relatives.

#38

ADDENDUM TO TESTIMONY OF AUNTIE CAREL TWO-EAGLE RE HB1263 03/07/2011

Hanh Chairman Freborg & members of the Senate Education Committee.

Once again I send a warm handshake to you, & thank you for hearing these additional words regarding some things that were said this morning in testimony in favor of HB1263. This is done under short time, so please forgive the stream-of-thought manner.

Among the subjects spoken on was the matter of a pipe ceremony done in 1969 regarding "a" name given at UND. This name was not necessarily given "to" the UND, but was given to the President of the UND at that time, as I know the story. Regardless of the truth of that, the fact is, no matter who does a Pipe Ceremony, whoever does such a ceremony does not speak for all the D/L/Nakota People at 'that' time, let alone for 'all' D/L/Nakota People at all times.

If you want "credentials" regarding this, you already have mine in brief, which include that I am a sun Dancer with a very public Prayer focusing the Ch'annunpa with which I Walk – a prayer to heal the Sacred Hoop of the world, called "to Dance The Four Winds".

Moreover, my ate' (ah-TH'EH) / father is one of the brothers of Stanley Looking Horse, who was at times the caretaker-Keeper of the Holy White Buffalo Calf Pipe, which is "The" Pipe of all Holy Pipes, brought to us Lakota in time immemorial by the Holy White buffalo Calf Woman.

Should anyone try to tell you that there were 'never' female Pipe Keepers, I tell you that the grandmother of the current Keeper of the White Buffalo Calf Pipe was one of Its Keepers, ***and*** if you read the above paragraph, you will see that the Holy White Buffalo Calf Pipe was brought to us by a woman. She was not merely some delivery service! She taught us how to use this Holy Being & how to do our Sacred Ceremonies, of which there are 7. Thus, She was the first Keeper of the Holy Pipe.

<<>>

Then there is a remark made by a woman in testimony to the effect that the IndigenUs Student Services is run by a "Chippewa" man – Leigh Jeanotte - & she indicated that somehow this meant that he, being Ojibwe, would somehow be against retention of the "fighting Sioux" mascot. I find this remark hilarious, given that historically, the Ojibwe & the Dakota were blood enemies; & we Dakota routinely clobbered them in fights – until they got guns before we did. If anything, an Ojibwe person would then be expected to support HB1263, not oppose it. He staunchly opposes HB1263.

<<>>

Wana miye nayah'ung'ye wowashtch oganaye pilamiyaye - Thank you for hearing me in a good way now. I am, as always, available to answer any questions the Committee may have, now or later.

Auntie Carel Two-Eagle
OneDakotaWoman@Yahoo.com

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March 6, 2011

To: ND Senate Education Committee:

Senator Clayton Freborg (Chair)
Senator Donald Schaible (Vice Chair)
Senator Tim Flakoll
Senator Joan Heckaman
Senator Gary A. Lee
Senator Larry Luick
Senator Richard Marcellais

Thank you for the opportunity to present my educational and ethical concerns with HB 1263 to you. As the chair of the Indian Studies Department at the University of North Dakota I urge you to vote *against* the bill.

The use of the "Fighting Sioux" name and logo makes it impossible for the faculty and staff at UND to fulfill our academic mission as a recent University Senate resolution in 2009 as well as other statements by academic organizations (included in packet) point out:

- Creates a potentially hostile environment in the classroom as well as on campus for American Indian students
- Raises concerns as to the potential long-term effects on American Indian students as shown by research cited by the American Psychological Association in their statement (included in packet)
- Causes unequal access to educational opportunities and, thereby, violates federal guidelines of educational and racial equity
- Perpetuates stereotypes of American Indian peoples among the non-Native student population instead of respectful and accurate portrayals of American Indian cultures and peoples
- Affects the experiences of American Indian students and their children in the larger community and the community schools
- Damages UND's reputation and, consequently, that of the state both nationally and internationally
- Is contrary to UND's Mission, Community Value Statement, and Strategic Plan Goals and Action Goals.

Counting the numbers of supporters and opponents of the name is entirely irrelevant in this discussion. There are serious concerns, and as educators, especially those of us who deal with this issue on a daily basis, we can only advocate for the speedy and respectful retiring of the "Fighting Sioux" name and logo. The well-being and educational opportunities of *all* our students must be our first concern.

Thank you again for listening! I would be delighted to answer any questions that you may have.

Sincerely,

Dr. Birgit Hans, Chair
Chester Fritz Distinguished Professor

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Indian Studies Department
University of North Dakota
701-777-4649
Birgit.hans@und.edu

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