



SIERRA COUNTY

BOARD OF COUNTY COMMISSIONERS

RESOLUTION № 110-194

SUPPORTING THE NEW MEXICO TRAPPERS ASSOCIATION'S LITIGATION AGAINST THE STATE'S PUBLIC LANDS TRAPPING BAN

WHEREAS, the Board of County Commissioners of Sierra County, met in a commission meeting on October 17, 2023, at 10:00 A.M. in the Sierra County Administration Office, 1712 N. Date Street, Truth or Consequences, NM 87901; and,

WHEREAS, NMSA 1978, Section 4-37-1 (1995) provides that Counties have the power to, "provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants"; and,

WHEREAS, NMSA, 1978, Section 4-38-18 (1976) provides that a Board of County Commissioner has the duty and authority "[t]o represent the county and have the care of the county property and the management of the interest of the county in all cases where no other provision is made by law;" and,

WHEREAS, in 2021, Senate Bill 32, termed the Wildlife Conservation & Public Safety Act (hereinafter the "Act") which generally prohibits trapping, snaring, and using wildlife poison for purposes of capturing, injuring, or killing an animal on public land, subject to several important exceptions was passed and signed into law; and,

WHEREAS, under the Act, Section 17-11-3 provides "[i]t is a violation of the Wildlife Conservation and Public Safety Act to use a trap, snare, or wildlife poison for purposes of capturing, injuring, or killing an animal on public land except as provided in Section 17-11-4..." and,

WHEREAS, Section 17-11-4 specifies the exceptions to the Act. Under N.M.S.A. § 17-11-4(H), the Act does not apply to "enrolled members of a federally recognized Indian nation, tribe or pueblo when trapping is conducted solely for religious or ceremonial purposes pursuant to the rules issued by the department of game and fish in collaboration with the secretary of Indian affairs and consistent with federal procedures for recognition and protection of bona fide Indian nation, tribe or pueblo religious ceremonies;" and,

WHEREAS, the Act aids and creates unlawful preferences for Native American religions, Native American modes of worship, and religious activities over secular activities in violation of N.M. Const. Art. II, § 11 and U.S. Const. Amend. I. 10; and,

WHEREAS, the Act deprives New Mexico residents and people within the state of rights, privileges and/or immunities secured pursuant to the bill of rights of the constitution of New Mexico, in violation of the New Mexico Civil Rights Act, NMSA. Section 41-4A-1 *et seq.*; and,

WHEREAS, the Act denies equal protection of the law as it permits enrolled members of federally recognized Indian nations, tribes, or pueblos to trap on public land while denying similarly situated individuals that same right thereby violating equal protection clause of the Fourteenth Amendment of the United States Constitution and Article II, Section 18 of the New Mexico Constitution; and,

WHEREAS, the Establishment Clause of the First Amendment of the United States Constitution "means at least this: [n]either a state nor the Federal Government...can pass laws which aid one religion, aid all religions, or prefer one religion over another." *Everson*, 330 U.S. at 15.; and,

WHEREAS, the Act violates the State and Federal establishment clauses as it both aids and prefers Native American religions over other religions; aids and prefers Native American modes of worship over other modes of worship; and aids and prefers religious activities over non-religious activities; and,


WHEREAS, the NM Trappers Association, in conjunction with the National Fur trappers Association and Fur Takers of America have filed a federal lawsuit against the State of New Mexico to overturn the Act and protect the civil rights of New Mexicans.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Sierra that it hereby supports the litigation to overturn the Wildlife Conservation and Public Safety Act.

BE IT FURTHER RESOLVED that the Board calls on the Court to issue an or order declaring that the Wildlife Conservation and Public Safety Act violates the Equal protection and Establishment Clauses of the New Mexico and United States Constitutions, and well as the New Mexico Civil Rights Act.

APPROVED, ADOPTED, AND PASSED on this 17th day of October, 2023.

BOARD OF COMMISSIONERS OF SIERRA COUNTY



Travis Day, Chairman



James Paxon, Vice Chairman



Hank Hopkins, Commissioner

Attest:



Shelly K. Tujillo
Sierra County Clerk



