

Court supports protection of ancient Lenni Lenape site

Indian Country Today (Lakota Times)

May 5, 2004

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Section: Vol. 23; No. 47; Pg. 1; Article

Length: 717 words

Byline: Adams, Jim

Body

BLACK CREEK, N.J. - Bulldozers will no longer threaten a historic campsite showing 10,000 years of Native occupation, say lawyers for the Nanticoke Lenni Lenape people.

A three-judge appellate panel of the New Jersey Superior Court recently upheld preservation of the site, achieved through its last-minute entry on the New Jersey Register of Historic Places. The township of Vernon had appealed the listing by the state Department of Environmental Protection, which blocked plans to raze part of the site for a town park and ball field.

The township had pushed development of a 180-acre town recreational complex that included a 40-acre tract rich in Native artifacts by what in ages past was probably a prime campsite along a local creek. Protection of the site grew into a regional issue, attracting Indian activists to protect marches and bringing widely-dispersed bands of the Lenni Lenape, also known as Delaware, back into common action. A meeting of the East Coast Lenape with the federally recognized Delaware tribe of Oklahoma and the Delawares of Canada was considered to be their first joint session in 300 years.

The April 16 ruling was the latest, and probably the last, of 14 court actions over the site, said Gregory Werkheiser, the young attorney who has represented the Lenni Lenape pro bono for two and a half years. He said the township could technically still appeal to the state Supreme Court, "but functionally speaking, we've moved beyond that.

"We've moved to the point where negotiations between the township, the state and the tribe are ongoing to make everybody happy."

Werkheiser said the ruling could have great significance, both for administrative law in New Jersey and for tribal cultural preservation fights across the country. He said it was the first challenge to a historic

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preservation listing under New Jersey law, and the decision upheld the state across the board. The court, he said, "held that the commissioner's decision was lawful, timely, fully within his discretion and consistent with the requirements of due process."

The then-newly appointed Environmental Protection Commissioner Bradley Campbell placed the Black Creek Native American site on the state Historic Register on April 1, 2002, just hours before the Vernon Township Council met to award a contract to construct football fields on the site. Werkheiser said it was the first time the Register had been used to protect a Native site.

The decision was one of several last-minute rescues in a long-running controversy, which flared in 2001 when town officers sent a bulldozer to dig a trench at the site and then arrested local archaeologist Rick Patterson when he tried to inspect the damage. Patterson had been exploring the site for 10 years, identifying artifacts from each major archaeological period as far back as 10,000 years. He joined with local Lenni Lenape leaders in proposing the historic listing to a state review board, which agreed with its importance.

"I'm grateful that the court has vindicated our efforts to save a precious resource from destruction," said Commissioner Campbell.

"New Jersey could have lost thousands of years of Native American history. We always support local community efforts to develop recreational spaces but it need not come at the expense of other local treasures like the Black Creek Native American site."

Uri Ridgeway, a leader of the Nanticoke Lenni Lenape, said he hoped the struggle would help reunify the Lenape Nation, which many East Coast tribes consider to be the "grandfather" tribe of the region. During the effort, Dee Ketchum, chief of the Delaware Tribe of Indians based in Bartlesville, Okla., wrote to the mayor of Vernon, saying that although his tribe of 11,000 was long gone from the area "we still look on it as our homeland."

The decision ended a long journey for Werkheiser too, who took on the case just six months after passing his bar exams, and saw it grow into one-third of his entire legal career. He said that an uncle who knew some of the archaeologists involved had called him for help and told him it would only take a short while. After several thousand hours of work along with co-counsel Deborah Israel, Werkheiser said, "I'm relieved I'm still speaking to my uncle." Article copyright Indian Country Today.

Classification

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Language: ENGLISH

Subject: APPEALS (90%); APPELLATE DECISIONS (90%); DECISIONS & RULINGS (90%); LAW COURTS & TRIBUNALS (90%); LAWYERS (90%); ANTHROPOLOGY & ARCHAEOLOGY (89%); ARCHAEOLOGY (89%); PARKS & PLAYGROUNDS (89%); SPORTS & RECREATION FACILITIES & VENUES (89%); US STATE GOVERNMENT (89%); INDIGENOUS PEOPLES (79%); NATIVE AMERICANS (79%); APPOINTMENTS (78%); CONSERVATION (78%); HISTORIC SITES (78%); JUDGES (78%); LITIGATION (78%); NEGATIVE PERSONAL NEWS (78%); SUPREME COURTS (78%); TALKS & MEETINGS (78%); ENVIRONMENTAL DEPARTMENTS (76%); REGIONAL & LOCAL GOVERNMENTS (76%); CUSTOMS & CULTURAL HERITAGE (73%); HISTORIC DISTRICTS & STRUCTURES (73%); ADMINISTRATIVE PROCEDURE (64%); CONTRACT AWARDS (64%); CONSTRUCTION CONTRACTING (60%)

Industry: LAWYERS (90%); PARKS & PLAYGROUNDS (89%); HISTORIC SITES (78%); HISTORIC DISTRICTS & STRUCTURES (73%); CONSTRUCTION CONTRACTING (60%)

Geographic: NEW JERSEY, USA (94%); UNITED STATES (79%)

Load-Date: October 1, 2004

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