



## The Navajo Nation Council — Office of the Speaker

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**FOR IMMEDIATE RELEASE**

## Speaker Morgan disappointed with U.S. Supreme Court action to reverse decision involving Peabody Coal Co.

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— Lawrence T. Morgan, speaker of the 21<sup>st</sup> Navajo Nation Council

**WINDOW ROCK, Ariz.** — The Honorable Speaker Lawrence T. Morgan is disappointed with U.S. Supreme Court action on April 6 to reverse the decision of the U.S. Court of Appeals for the Federal Circuit that allowed the Navajo Nation to pursue its claim for breach of trust against the United States for a case involving Peabody Coal Co.

The Navajo Nation contends that a breach of fiduciary duty by the U.S. Interior Department occurred during negotiations between the tribe and the company for coal mining. In 1992, the Navajo Nation filed suit to increase the price of its coal, but the Supreme Court held that the Navajo Nation failed to show any federal law that imposed such a duty on the U.S. government in negotiations.

According to Paul E. Frye, attorney for the Navajo Nation, this decision is the second time the U.S. Supreme Court reversed the Court of Appeals, but this time, the court emphasized the case was over.

"The court denied the Navajo claim even though the trial court emphatically found and the government did not seriously dispute that the U.S. Department of the Interior blatantly violated its basic trust duties of loyalty, candor and care when it secretly colluded with Peabody Coal Company to reduce Navajo coal royalties to about half of the royalty rate found reasonable in every federal study," said Frye.

"The Supreme Court ignored the reasoning of the Court of Appeals and the well-supported position of the Navajo Nation," Speaker Morgan said. "This is unjust."

The court made no mention of arguments made by four former Secretaries of the Interior and the states of New Mexico, Arizona, and Utah in separate "friend of the court" briefs filed in full support of the Navajo Nation.

The court's decision ruled, in essence, that its 2003 decision based on the general 1938 Indian Mineral Leasing Act governed the case, even though the Navajo claim was based on other provisions of federal law, including the Navajo-Hopi Rehabilitation Act of 1950, which former Secretary of the Interior Stewart Udall testified — without contradiction — was the statutory basis of the Peabody coal lease.

"The Supreme Court, since 1978, has ignored fundamental principles in its Indian law decisions," Speaker Morgan added. "The Navajo Nation rejects the colonized position to which the Court and the Department of the Interior has relegated it. The Navajo Nation will explore with the U.S. Congress ways to make the Navajo Nation whole, since it is Congress, and not the court, which has the constitutional authority to regulate commerce with Indian Nations."

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