# Trees in Early Irish Law and Lore: Respect for Other-Than-Human Life in Europe's History

Tina R. Fields

Naropa University, Boulder, Colorado, USA.

# **Abstract**

In contrast to modern Western society's treatment of plants as non-sentient beings to be used or killed at will for our own benefit, the complex legal system used in Ireland from prehistory up until the 17th century delineated penalties for mistreating trees that were not dissimilar to the penalties for mistreating other humans. The early Irish relationship with trees as described in Brehon Law and extant lore was not only utilitarian but also deeply spiritual and tied to the peoples' identity. Brehon Law provides an example from European history that illustrates traditional ecological knowledge (TEK) and animistic relationships with the more-than-human world of nature. This paper explores some ecopsychological and environmental benefits of applying its principles today. Key Words: Worldviews—Spirituality—Druid—Animism—TEK—Rights of nature.

# **Introduction: No Lives Were Lost**

he local newspaper headline read, "Seven Thousand Forest Acres Burned; No Lives Were Lost" (1987). Living in that area near Lake Tahoe, California, at the time, I was struck by the import of those words, "no lives were lost." The only lives that counted were human. "Forest Acres" meant ponderosa pines, lodgepole pines, spruce, aspen, and perhaps some junipers and Piñon pines down at lower elevation. How many trees did those 7,000 acres hold? How many deer, chipmunks, mountain lions, birds, insects, frogs, fungi, grasses, flowering plants, and other beings from the 350 wildlife species known to live there (USDA Forest Service, n.d.) also burned to death in that fire?

Such callous blindness raises the question, how can we as a species evolve past this view of human exceptionalism? That headline evokes the dismissal of other life previously deemed "fundamentally less valuable." Imagine reading: *No lives were lost—only slaves; only women; only Jews…* Speciesism is a final frontier of social justice. Our "industrial growth society" (Macy, 2009) as it has existed over the past few hundred years must embrace a deep shift in consciousness to support the sweeping changes required to address anthropogenically caused issues like climate change and environmental toxins. From the beginning, the field of ecopsychology has been seated in what radical educator Paolo Freire (1970) calls "conscientization": seeking understanding that can lead to the creation of a better world. It is in that spirit this paper is written.

We need not look far for an alternative worldview. In the Native American Lakota language, for example, the word *oyate* means "people" or "nation" but is not limited to only humans; "people" includes beings in other-than-human bodies, such as the "bird people/nation," and even more specific, the "eagle-bird-nation" (Powers, 1986, p. 151). In the Lakota worldview, humans are not seen as primary, dominant, or more valued than other life. Rather, we are considered weaker because we are a young species. In order to thrive we must humbly learn from our elders—other animals, plants, stones, and even weather patterns (pp. 153–154). However, for non-natives, particularly European Americans, to draw heavily on Native American traditions raises rightful concerns about cultural appropriation.

This paper offers a window into a wisdom tradition that is less commonly known but potentially more broadly adoptable by the mainstream, as it comes from the ancestry of industrial growth society's primary architects themselves—White Europeans. The sort of egalitarian, animistic relationship with the other-than-human world seen in the Lakota example can also be found in the early Irish relationship with trees. The lore and law of pre-Christian and early

medieval Ireland offers a way for mainstream Westerners to understand and hopefully embrace a respect for trees and other nonhuman life as equally valuable. Decisions, policies, and even newspaper headlines would look quite different coming from a formal position of deep respect for other-than-human life.

#### **Brehon Law**

Early Ireland had very complex and strict laws regarding the treatment of not only people but water, animals, trees, bees, and more (see Binchy, 1978; Kelly, 2000). This ancient law corpus is known as Brehon Law. Its name comes from *brithemuin*, which was the name for the primary law practitioners in Ireland and carriers of pagan Druidic tradition after the Druids themselves were no longer in legal, political, and religious power or favor. Brithemuin or Brehons can be likened to modern judges but in practice were closer to arbiters or mediators (Gorman, 1913, p. 222).

The laws' actual age can be only guessed at, and available sources are incomplete. They were transcribed from oral tradition in the 5th century by admiring Coptic Christian monastics in a version of Old Irish called the *Berla Feini*, an extremely technical and deliberately obscure law language already considered archaic (Salafia, 1999). While many parts of the law have been lost forever, five volumes' worth of vellum manuscripts were rediscovered and translated in the 1800s and later published in 1978 as the *Corpus Iuris Hibernici*; that text includes the dicta of King Cormac MacAirt in the 3rd century CE. The laws continued to be used until the complete conquest of Ireland by England in the mid-17th century (Salafia, 1999).

Despite these limited records, what is recorded from Brehon Law reveals it to be both thorough and fair. For example, according to Ginnell (1894), if one wounded a person who served as sole support of a family, the fine offered recompense for the actual injury, all medical and surgical fees, and the cost of hiring someone to carry on the injured person's business. And as harpers relied on their fingers to make a living, the fine for knocking off a fingernail was higher than if a similar injury were inflicted upon any other person (Ch. 7, Sec. 1, p. 196). Contemporary international copyright law actually began with a Brehon Law case in the 6th century, involving a monk's surreptitious copying of another's illustrated manuscript (Kennedy, 2011).

Much of Brehon Law is founded on the principle of restitution rather than punishment. The basic unit of value was one milk cow (bó mlicht), with the term sét (precious object) used to denote a unit of value equivalent to half a cow (Kelly, 2000, pp. 587, 589). Six possible types of complex financial penalties were defined, and specifically demanded for most crimes (Ginnell 1894, Ch. 7, Sec. 1, p. 188). This proved an effective deterrent, as it could mean a fee so high that the

debtor could be forced to act as a live-in slave in the claimant's home in lieu of payment.

The amount of reparation levied for bodily harm of a human was determined by two factors: the extent of the injury (Hancock, O'Donovan, & O'Curry, 1865, p. 257) and the victim's status. For example, the law text *Uraicecht Becc* assigns an honor-price of 20 séts for damage to an ánruth-grade Filidh or poet/historian (Kelly, 2000, p. 589), ánruth being the second-highest grade achievable in 12 years of esteemed professional training (Brown, 2005).

Trees were also covered under the protections of Brehon Law—and, like human beings, they were classified according to status (Table 1). The official Tree-List appears in four extant manuscripts of the main Irish law text about farming, *Bretha Comaithchesa*, which is dated on linguistic grounds to around the 8th century (Kelly, 1976, p. 503). According to the *Bretha Comaithchesa*, if a person damaged a tree belonging to another, a penalty-fine was paid to the owner, as shown in Table 1. The complete destruction of a tree, known as the offence of *aurbe*, was the worst, carrying an additional fine of five *séts* for trees of Classes 2 and 3 and a yearling heifer for Class 4. There is no information on the *aurbe* of a Class 1 tree (p. 386), which may perhaps have been an unthinkable offence.

Brehon Law also ensured that use of the land was sustainable by supporting the scientific understanding of the times. Additional compensation (aithgein) also had to be paid according to the severity of the damage: if a tree was cut at the base, a fork, or merely a branch. For example, bark had to be taken in a way that maintained the long life and continued sustainable use of the tree:

If the culprit has stripped off enough to tan a pair of woman's sandals he must pay a cow-hide, if enough for a pair of men's sandals he must pay an ox-hide. In addition, he must cover the wound with a mixture of smooth clay, cow-dung and fresh milk until there has been the width of two fingers' new growth on all sides. (*Bretha Comaithchesa*, as cited in Kelly, 2000, pp. 386–387)

These instructions are similar to modern techniques for protecting the wounds of trees where branches have been sawn. Another example: The lopping of one bough was reckoned as equally serious an offense as severing at the base if perpetrated at certain times of year. This suggests the lawmakers knew that most trees are more vulnerable to developing disease or rot if a cut is made during the tree's growing season rather than its dormancy (Kelly, 2000, p. 387).

Of note is the presence of shrubs and brambles in the "Tree List," which may indicate a response to earlier anthropogenic changes to the land. Archaeological excavations in the Irish Midlands show drastic depletion of woodland canopy species during the Bronze Age

Table 1. The Four Classes of Trees in Brehon Law and Penalties for Harming or Killing Them			
	PLANTS	PENALTIES	
CLASS AND NAME		FOR HARMING A TREE	Additional fine for Killing A tree <i>(Aurbe)</i>
1. Nobles of the Wood Airig Fedo	Oak (dair)	5 séts (=2.5 milk cows)	Not mentioned in the law
	Hazel (coll)		
	Holly (cuilenn)		
	Yew (ibar)		
	Ash (uinnius)		
	Scots pine (ochtach)		
	Apple (aball)		
2. Commoners of the Wood Aithig Fedo	Alder ( <i>fearn</i> )	1 milk cow	5 séts
	Willow (saille)		
	Whitethorn (scé)		
	Rowan (cáerthann)		
	Birch (beithe)		
	Elm ( <i>lem</i> )		
	Wild cherry (idath)		
3. Lower Divisions of the Wood Fodla Fedo	Blackthorn (draigen)	1 yearling heifer	5 séts
	Elder (trom)		
	Spindle tree (féorus)		
	Whitebeam (findcholl)		
	Arbutus (caithne)		
	Aspen (crithach)		
	Juniper (crann fir)		
4. Bushes of the Wood Losa Fedo	Bracken ( <i>raith</i> )	1 sheep	1 yearling heifer
	Bog-Myrtle ( <i>rait</i> )		
	Furze/Gorse (aitenn)		
	Bramble ( <i>dris</i> )		
	Heather ( <i>fróech</i> )		
	Broom (gilcach)		
	Wild rose (spin)		

Data from Kelly (2000), pp. 380–381 (categories) and pp. 385–387 (penalties). Botanical Latin names can be found in Kelly (2000), pp. 380–381.

population expansion. This deforestation may have led to "greater reliance on a more scrub-like environment" in the subsequent early Iron Age (OCarroll & Mitchell, 2015, p. 220). The emphasis on laws that ensure a sustainable yield may demonstrate memory of these ancestral losses and a response to ensure it did not happen again.

As Brehon Law originally arose in an oral culture, the list of penalties appeared in the form of a poem. The learned Na Filidh would recite the law in triads or stanzas, having memorized it after a long initiation and education period. As new cases occurred, new poems were added to the body of law, thus ensuring the law was current. Here is an excerpt from an early legal poem regarding tree law:

- 32. Cia annsom fidbeime | What are the most oppressive cases of tree-cutting
- 33. fiachaib bacth? | for which fools are mulcted? [taxed or fined]
  - 34. Briugid caille, | The hospitallers of the forest,
  - 35. coll eidnech. | the ivied hazel.
- 36. Esnill bes dithernam  $\mid$  A danger from which there is no escape
- *37. dire fidnemid nair.* | is the penalty for felling the sacred tree. (*Crith Gablach*, ~7th century, as cited in Binchy [1978, pp. 1804–1812]; Salafia [1999]).

# Early Irish Relationship with Trees

Trees were tied intimately with many facets of 8th-century Irish society. They served as landmarks of clan and family identity: Out of 16,000 town lands in Ireland, 13,000 are named after trees (Living Tree Educational Foundation, n.d.). For example, Derry and Kildare are called after *dair*, or oak, and Killarney's name means "church of the blackthorn," *cill airne* (Pennick, 1996, p. 32). In the earliest known Irish written language, *ogam*, letters corresponded to trees (The Book of Ballymote 8th c, as cited in O'Boyle [1980, pp. 11, 19]). On the practical side, trees provided wood for cooking, warmth, and the making of useful and beautiful objects; food in the form of nuts and fruit; medicinal products made from fruits, roots, flowers, bark, and leaves; shelter via shade and building materials; and the foundation for a rich ecosystem feeding and sheltering the many animals who provide food and clothing for people.

On the Tree-List in Table 1, the Oak is listed first among the trees, a position that reflects its high status in early Irish society. From an economic standpoint, oak was prized for its excellent, easily worked wood and for its acorns. A pig could be fattened in a good year by a single oak (Kelly, 2000, p. 381)—no small matter to people living off the land. In an 18th-century story, an old woman refers to her pig as

"the old gentleman who pays the rent," because the money earned from the sale of his meat would keep the roof over their heads for the winter. So, oak trees meant wealth, security, and sometimes even bacon. More deeply, though, oaks were valued for their *sóire*, meaning nobility or dignity (Kelly, 2000, p. 380, footnote 143).

The value of a tree was not based solely on size (i.e., the valuable board-feet of lumber gained from the tree's body) nor even solely on the tree's relative economic value—Brehon Law also reflects the importance of trees in Irish spiritual life (see Kelly, 2000, pp. 387–388).

The pre-Christian Irish built no churches; instead, their spiritual leaders, the Druids, worked in sacred groves of trees that were themselves temples (Hutton, 1991, p. 166; Pennick, 1996, p. 25). Sacred trees guarded holy wells and important gathering sites (Pennick, 1996, p. 32; Wilde, 1888); I have seen some still decorated with offerings to this day. According to Nigel Pennick (1996), in early Celtic belief, a tree could be regarded as a deity in its own right. Trees could also serve as the seat or receptacle for a deity or a human ancestor who had passed into the tree, displaced land-spirits seeking a nurturing home, or other spirits like fairies or demons. For example, fairies and pixies were thought to dwell in hawthorn, a belief that contributed to respect for, and protection of, the hawthorn (p. 33). Trees were also thought to possess personal souls, like humans do, with their own special qualities, strengths, and virtues (p. 24).

Celtic scholar Fergus Kelly (2000) notes how this respectful stance was codified into law: "In legal material, a distinction is regularly made between trees which are classed as *nemed* 'sacred, privileged', and those which are not" (p. 387). Individual trees deemed sacred were often given names; one passage in the Middle Irish *Dindsenchas* refers to five outstanding trees believed to protect Ireland (as cited in Kelly, 2000, p. 388). The harming of a sacred tree (*fidnemed*) carried a much higher penalty than that of an ordinary tree (*fid comaithchesa*). For example, the penalty for damage to an apple tree classed as *nemed* was 20 *séts* (equivalent to 10 cows)—four times greater than the fine for harming a regular apple (Binchy, 1979; Kelly, 2000, p. 387).

Destruction of a sacred tree was an extremely serious matter because, according to Pennick (1996), it meant not only the loss of that one tree but also the breaking of an agreement between the people and the land. Such a violation was sure to

bring misfortune not only to the perpetrator of the deed but also to the locality of which the tree was a protector. Cutting down a sacred tree might result in the release of harmful spirits held in check there, causing an imbalance which would be manifested in poor crops, sickness and general misfortune. (p. 33)

# **FIELDS**

The warning described here demonstrates an animistic worldview, in which the sacred tree holds dark forces away from the people. So right relationship with the ensouled more-than-human world becomes paramount to survival. We can see how Brehon Law and the animistic spiritual values at its foundation served to protect the health of not only a single tree but the well-being of whole localities: a people's entire home territory upon which their subsistence depended. The high penalties for harming fidnemed reflected their value, which encompassed far more than lumber.

The veneration of trees by the Irish that continued on past the pagan era echoes that of other Celts of Britain and the larger continent. Fidnemed trees were a source of pride. When the monastery of Armagh was burned down in 996 CE, a fidnemed was listed among the great losses, along with its stone church (Kelly, 2000, p. 388). Higher status also made particular trees vulnerable to attack by enemies. When clans were at war, they would target not homes or fortresses but the enemy's great trees. For example, the Annals of Ulster reports the deliberate chopping down of biledha (sacred trees) at a royal inauguration site in CE 1111 (Kelly, 2000, p. 388), and Roman conquerors Julius Caesar and General Suetonius deliberately targeted nemeta (sacred groves used as temples) for destruction as part of the extermination campaign against the Druids and native pagan spiritual practices in Gaul and Britain (Pennick, 1996, p. 25; Tacitus, 2nd century CE XIV.26/1973, p. 327).

It seems these trees were important for not only subsistence but identity: a collective ecological identity (see Thomashow, 1995). Sometimes tribes had a certain tree associated with them, and they erected their homes around one. Such a long-term residence of the Ui Neill clan (now O'Neill) was located on the shore of Lough Beg in County Antrim. In 1761, their lands and the castle residence of Portmore were transferred to the English. Those natives who could not prove title (meaning English title) were summarily dispossessed. More than material goods were lost in this transaction: the 2,000-acre deer forest, which had provided both livelihood and a proud identity for the people of Portmore, was razed for corn and pasture fields, and its ancient trees sold to make ships for the British navy. Of the many gigantic oaks who were "the wonder of all who saw them" (Ulster Journal of Archeology, 1853, pp. 250-251), not one remained.

Ireland is noted for its long and noble bardic tradition: See references to the Na Filidh earlier who chronicled important history and knowledge in the form of poems, songs, and stories, similar to other traditional societies (Kimmerer, 2002, p. 434). The people's solastalgia over this appropriation of native land was memorialized in the form of a folksong, "Bonny Portmore," that laments its loss. An excerpt reflects the value placed on the Great Oak of Portmore:

"O bonny Portmore, I am sorry to see / Such a woeful destruction of your ornament tree" (Bunting, 1840/1969). We can only guess this magnificent tree's age: Its trunk was measured at 42 feet in circumference, and the first branch from the ground was 25 feet long. Anecdotal stories say the trunk was used to build not only a mast but an entire ship. The remainder of the tree gave over 40 tons of wood, from which many articles of treasured furniture were made (Ulster Journal of Archeology, 1853, pp. 250-251). From the perspective of Brehon Law, though, none of the possessions produced from the Great Oak of Portmore can ever equal the value of that living sacred tree and the myriad life it supported, along with its meaning to the Ui Neill.

The loss of the Portmore Oak illustrates the contrasting values of native people versus their colonizers-an age-old story but one that may be turning back toward respect. "Ornament trees" like the Portmore Oak (also known as Champion, Heritage or Monument Trees) are now being listed in a database, the Tree Register of the British Isles (n.d.), for the purposes of education and appreciation. In addition, contemporary British forestry and conservation policy demonstrates an effort to restore native tree species to "plantations on Ancient Woodland sites" (Lennon, 2012). For humans and all life to survive, such laudable efforts must multiply.

# Implications for Today's Society

Modern Western industrial growth society is based in a cultural worldview that stands in stark contrast to the example of pre-Christian Ireland: one of inert "dead matter" (e.g., Kemsley, 2013), in which the earth and all nonhuman life are perceived as material resources for human consumption and maximum profit-something to use then discard. As many in ecopsychology have observed (e.g., Fields, 2010, pp. 342-343; Macy, 2000; Roszak, 2001), this blind dismissal carries more than just the obvious global environmental consequences. The sense of separation from nature that follows also leaves many Westerners feeling isolated, depressed, and spiritually empty, and can send us into despair, anger, and self-destructive behaviors (Conn, 1995, p. 161; Macy, 2000). According to the World Health Organization (2019), depression and other mental health conditions are on the rise globally, and suicide is currently the second leading cause of death in young people ages 15 to 29 (para. 2).

The epistemological loneliness caused by Western ecological separation and ignorance (Roszak, 2001, p. 66) may be why Joanna Macy (2000) posited that "the most vital movement of our era involves making the sacred immanent again" (para. 21). Thankfully, current political resistance movements and the spiritual shifts exemplified by Pope Francis's (2015) Laudato Si suggest that dominant Western society may be ready to change.

Drawing on European history, the Brehon Law of early Ireland offers a model for defining and supporting this vital change in formal law as well as worldview and behavior. The portions regarding trees encoded an Irish form of traditional ecological knowledge (TEK) into written law. According to Robin Wall Kimmerer (2002), TEK encompasses a wide range of ecological and biological knowledge that is understood with not only the mind but all aspects of the human experience including body, emotion, and spirit. "TEK includes an ethic of reciprocal respect and obligations between humans and the nonhuman world. In indigenous science, nature is subject, not object" (p. 434).

She also notes that TEK

is not unique to Native American culture but exists all over the world, independent of ethnicity. It is born of long intimacy and attentiveness to a homeland and can arise wherever people are materially and spiritually integrated with their landscape (pp. 432–433).

Jonathan Coope (2019) sees TEK as "a potential cultural resource that we in the West might draw inspiration from, and one that we have long needed and continue to need" (p. 160). Brehon Law points to TEK being something that Western society already has available from "White" lineages, too, if we look back to the Druidic and other European pagan past.

The Celtic Heritage Trust evokes the power of old stories to stir up

Fortunately for the Celt much of our traditional values and wisdom have been saved—caught up in old narrative and legend, it is now the time to begin the unravelling of these mysteries and reinstate some of our true values. These actions will inspire the movement towards sustainable development. (n.d.)

A deep level of interspecies respect is indicated by the breadth of coverage under Brehon Law. One telling example is that the penalty for damage to an apple tree deemed *nemed* or sacred was the same as the penalty for harming a human *Filidh* or poet/historian of the esteemed *ánruth*-grade (Binchy, 1978; Kelly, 2000, pp. 387, 589). This example demonstrates one of the "traditional Celtic values" mentioned above: a recognition of other-than-human beings as having both economic and spiritual value to human beings, as well as value in and of themselves.

Contemporary changes based on such values are underway. Despite tremendous opposition, increasing numbers of nations are passing laws that recognize and establish new "Rights of Nature." As of 2019, these include such widespread places as Ecuador, India, Aotearoa (New Zealand), Cameroon, and the Chippewa Nation in Minnesota, USA (Boulder Rights of Nature, 2019, "About Rights of Nature" para. 19). Bolivia was the first in 2011. Led by Indigenous values, their Law of Mother Earth established 11 new rights for nature, including

the right to life and to exist; the right to continue vital cycles and processes free from human alteration; the right to pure water and clean air; the right to balance; the right not to be polluted; and the right to not have cellular structure modified or genetically altered (Vidal, 2011, para. 2).

Bolivia's law "redefines the country's rich mineral deposits as 'blessings'" and from this deeply spiritual stance, was "expected to lead radical new conservation and social measures to reduce pollution and control industry" (Vidal, 2011, para. 1). For demanding steep carbon emissions cuts, Bolivia was "pilloried by the US and Britain in the UN climate talks" (Vidal, 2011, para. 2).

Given the widespread changes to climate stability that have been experienced since 2011, the precognition shown by the Bolivians cannot be overstated, nor can the need for more contemporary laws to follow suit. Brehon Law provides a strong precedent that other places might employ in their own court initiatives. This early legal code is based in understanding of both natural history consequences and a deep ecological spirituality demonstrating a respect for trees that is European in origin, yet echoes that of First Nations peoples worldwide. The following example illustrates the depths of this connection.

Foundational to the early Irish relationship with trees was their rich relationship with the land. The country's name derives from Éire or Éiru, a goddess of pre-Christian Ireland identified with the land itself. New kings were inaugurated by ritually marrying her, and thereby in essence marrying the land (Dalton, 1974; Hutton, 1991, p. 172). As Dalton (1974) puts it, "The object of the marriage, we may reasonably assume, was to make the land fertile" (p. 343). If the land did not subsequently thrive, the king was dethroned because the outcome indicated that he was not serving as a properly loving consort. Metaphorically, this is a simple but radical notion: Not only do people need the land; the land also needs powerful loving humans to care for "her." Further, each chosen leader must be the best representative possible, someone capable of serving the animate earth as lovingly and deeply as a marriage partner.

# Conclusion: 7,000 Forest Acres Burned, Countless Lives Lost

Modern laws similar to Brehon Law—that is, laws embedded in the worldview offered by pagan Ireland and similar indigenous traditions—would serve to foster a respectful, reciprocally beneficial relationship between humans and other-than-human life that would develop and support long-term ecological sustainability. If we

# **FIELDS**

enacted a similar policy of law appraising the greatest trees as equivalent in preservation value to human lives, timber companies would take a very different approach to old-growth forests. A news story about a forest fire shared from this perspective would name the losses of each great tree and the countless other-than-human lives, in addition to the humans and buildings.

Ecopsychology has long noted how connected relationship with the natural world can contribute to human well-being and proenvironmental behaviors (e.g., Nisbet, Zelenski, & Murphy, 2010), with one contributing factor being perception of the immanent world as inert versus holy (Macy 2000); and similarly, how perceived disconnection can lead to feeling overwhelmed, spiritually empty, or numb, incapable of facing our current situation (e.g., Conn, 1995; Macy, 2000). Early Irish history offers common-sense laws based in long-term observation of natural history factors that help economically-and spiritually-useful beings, such as trees, to thrive. It offers, in essence, a form of traditional ecological knowledge that originated in Europe. Its earth-based spirituality shares commonalities with many First Nations peoples worldwide and may thereby offer a deep sense of belonging to people of European extraction without carrying issues of cultural appropriation. Building right relationship with nature and with one's ancestors is a right-and given current circumstances, perhaps a need-of all human beings. If more widely adopted, its lessons could help disenfranchised members of the current industrial growth society to, in essence, begin belonging to our home places and acting more responsibly toward them.

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Address correspondence to: Tina R. Fields Naropa University 2130 Arapahoe Ave Boulder, CO 80302 USA

E-mail: tfields@naropa.edu

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