



## THE NAVAJO NATION

OFFICE OF THE PRESIDENT & VICE PRESIDENT

FOR IMMEDIATE RELEASE

AUG. 8, 2008

CONTACT: GEORGE HARDEEN  
COMMUNICATIONS DIRECTOR  
OFFICE – 928-871-7917  
CELL – 928-309-8532  
pressoffice@opvp.org

# Navajo President Joe Shirley, Jr., expresses disappointment about 9<sup>th</sup> Circuit Court reversal of decision on San Francisco Peaks Case

**WINDOW ROCK, Ariz.** – Navajo Nation President Joe Shirley, Jr., today expressed disappointment about the *en banc* Ninth Circuit Court of Appeals' reversal of the court's earlier decision to prevent desecration of *Dook'o'osliid* but said the Navajo Nation would consider appealing the decision to the U.S. Supreme Court.

"The Navajo people are trying to do everything we can to save self, and the Peaks is one of our strengths," President Shirley said. "When you contaminate it with reclaimed wastewater, with filth, to make snow, that doesn't help Native people's way of life. To Native people, there are no compromises to saving self. When our ceremonies go, and when our herbs go, there are no compromises left to be made."

The President said the decision hurts all Native people to see their ways of life and sacred places done away with for money.

"There are plenty of other ways to make money besides putting filthy water on a sacred place," he said.

In its Aug. 8, 100-page decision, the Court found that "the sole effect of the artificial snow is on the Plaintiff's subjective spiritual experience. That is, the presence of the artificial snow on the Peaks is offensive to the Plaintiffs' feelings about their religion and will decrease the spiritual fulfillment Plaintiffs get from practicing their religion on the mountain."

However, a dissent authored by Judge William Fletcher agreed with the principle point the tribes made to the Court.

"The majority's misunderstanding of the nature of religious beliefs and exercise as merely "subjective" is an excuse for refusing to accept the Indians' religion as worthy of protection under (the Religious Freedom Restoration Act)," he wrote.

*"To Native people, there are no compromises to saving self. When our ceremonies go, and when our herbs go, there are no compromises left to be made."*

– Navajo Nation President Joe Shirley, Jr.

"The majority (of the Court) holds that spraying 1.5 million gallons per day of treated sewage effluent on the most sacred mountain of southwestern Indian tribes does not 'substantially burden' their 'exercise of religion,'" Judge Fletcher wrote. "In holding so, the majority misstates the evidence..., misstates the law under RFRA, and misunderstands the very nature of religion."

President Shirley said that Friday's decision is one more example of federal decisions chipping away at Native American cultures and ways-of-life.

"We witness the erosion of our way of life and our culture daily with the continual encroachment of the dominant society into our homeland," he said. "Again, with this decision, the federal government misses an opportunity to help us continue with our way of life in order to benefit skiers and developers."

"The Navajo people will continue to pray," he said. "We will pray that this decision is reversed by the Supreme Court. Our prayers will continue to go up to the Creator. We will pray for our sacred places, for our sacred ways of life, and for the preservation of our culture."