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THE NAVAJO NATION

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Federal judge rules against Navajo Nation, Hopi Tribe, in disappointing decision on San Francisco Peak case

Navajo President Joe Shirley, Jr., expresses profound disappointment

WINDOW ROCK, Ariz. – Navajo Nation President Joe Shirley, Jr., reacted with disappointment and sadness at the news today that Federal District Judge Paul Rosenblatt ruled against the Navajo Nation and other plaintiffs to permit the desecration of the sacred *Dook’o’osliid* – the San Francisco Peaks.

“It is another sad day in the history of not only the Navajo Nation but Native Americans where, in this day and age, in the 21st Century, genocide and religious persecution continue to be perpetrated on Navajo people, other Native Americans living in the states of Arizona and New Mexico, who regard the Peaks as sacred,” the President said.

“Of course, we will continue to do all we can, as Navajo people and Native Americans, to stand our ground in protecting our way of life, which are sacred ways of life,” he continued. “I will continue to hope and pray that the higher powers will see fit that the Navajo and Native American ways of life are sacred ways and deserve to be respected.”

Dr. Shirley and Navajo Nation Attorney General Louis Denetsosie were in Phoenix when news of the judge’s decision arrived. Consequently, no decision has been made by the Navajo Nation about plans to seek an appeal of the court’s decision.

The Navajo Nation joined the Hopi Tribe, the Yavapai-Apache Nation, the White Mountain Apache Tribe, the Sierra Club, the Flagstaff Activist Network and the Center for Biological Diversity as plaintiffs in the lawsuit that sought to overturn a March 8, 2005, decision by Coconino National Forest Supervisor Nora Rasure to permit the expansion of the Snowbowl and allow artificial snow to be made with reclaimed effluent.

They argued that the Forest Service’s decision violated the Religious Freedom Restoration Act, which prohibits government from burdening a person’s exercise of religion, and that it did not comply with the National Environmental Policy Act.

The Navajo people as a whole strongly object to the outrageous and profane violation of the sanctity of this holy place through artificial snowmaking using reclaimed effluent. Navajos reject further commercial exploitation of the San Francisco Peaks and, in particular, strongly object to the outrageous profane violation of the sanctity of this holy place as envisioned by commercial interests.

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The result of the judge's decision means that the Arizona Snowbowl can proceed immediately to clear tree and begin construction, said the Navajo Nation's attorney in the case, Howard Shanker.

"The only action that can be taken to accomplish immediate injunctive relief would be to file a Notice of Appeal and a request for injunction pending appeal," he said. "In the first instance, this request generally has to be filed in the District Court. If and when the request is denied by the District Court, we can seek an injunction pending appeal in the Ninth Circuit. If granted, this will stop all construction/clearing activities."

Mr. Shanker said if the preliminary form of relief is denied, the appeal process would still go forward. While clearing may have taken place before the end of the process, if the appeal is successful, it is likely that any construction would have to be removed and Snowbowl would not be allowed to make snow.

Historically, the Navajo Nation has defined its national boundary according to spiritual tradition, which places the San Francisco Peaks as a geographic cornerstone and spiritual monument. The peaks have served as a place of pilgrimage, inspiration and spiritual protection for Navajo people over centuries.

"To Native people, there are no compromises to saving self," Dr. Shirley has said. "When our ceremonies go, and when our herbs go, there are no compromises left to be made. This hurts all Native people to see our ways of life done away with for money. There are plenty of other ways to make money besides putting filthy water on a sacred place."

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