



## THE NAVAJO NATION

OFFICE OF THE PRESIDENT & VICE PRESIDENT

FOR IMMEDIATE RELEASE

SEPT. 12, 2006

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# Navajo Nation to appeal decision that allows desecration of sacred San Francisco Peaks by Arizona Snowbowl

**WINDOW ROCK, Ariz.** – The Navajo Nation will appeal a U.S. District Court decision that allows the Arizona Snowbowl to expand its ski area, and, consequently, desecrate the sacred mountain *Dook'o'osliid*.

On Thursday, Sept. 14, the three-judge 9th Circuit Court of Appeals will hear oral arguments in San Francisco in a legal battle that seeks to halt the ski area development which calls for the use of treated wastewater to make artificial snow.

The Navajo Nation will argue that:

- The U.S. Forest Service failed to disclose and discuss the scientific viewpoints submitted by Dr. Paul Torrence.
- The U.S. Forest Service failed to consider the fact that children might eat snow made from treated sewage effluent.
- The U.S. Forest Service refused to consider the impacts associated with withdrawal of 1.5 million gallons each day of reclaimed water that is currently used to recharge the regional aquifer near Flagstaff; and
- The U.S. Forest Service's approval of the expansion and use of treated sewage effluent to make snow violates the Religious Freedom Restoration Act.

Howard Shanker, attorney for the Navajo Nation, says the case may have a long-term impact on Native people.

"This legal battle may decide the future of American Indian religious freedom and the ecological integrity of the San Francisco Peaks," he said Monday.

The San Francisco Peaks, located in northern Arizona near Flagstaff, is sacred to more than 13 Native American nations. Tribes and environmental groups have joined together to halt the Arizona Snowbowl Resort's plans for expansion and plans for snowmaking using treated sewage effluent.

*"Spraying the tainted water on the sacred Peaks should be offensive to all people of conscience."*

– Attorney Howard Shanker

Mr. Shanker also represents the White Mountain Apache Tribe, the Yavapai-Apache Nation, the Havasupai Tribe, Rex Tilousi, Dianna Uqualla, the Sierra Club, the Center for Biological Diversity, and the Flagstaff Activist Network in the case. In addition, the Hopi Tribe and the Hualapai Tribe have separate legal counsel representing them in this case.

The appeal process has caused the Arizona Snowbowl Resort to delay its proposed development. The development plan was approved by the U.S. Forest Service and has been allowed to go forward by a Jan. 11, 2006, decision issued by U.S. District Court Judge Paul Rosenblatt.

"The use of reclaimed wastewater on the Peaks makes no sense," Mr. Shanker said. "Spraying the tainted water on the sacred Peaks should be offensive to all people of conscience."

The potential impacts to human health from exposures to the contaminants found in the reclaimed water have not been adequately assessed, he added.

“In this context, the federal government needs to reconsider their unfaltering devotion to a privately run, for profit ski area in a part of Arizona that does not get sufficient precipitation to support skiing,” Mr. Shanker said.

The Arizona Snowbowl Resort operates the ski area under a Special Use Permit issued by the U.S. Forest Service. The expansion plans include clear-cutting of

trees and “grading/stumping and smoothing” over 100 acres of rare alpine ecosystem.

Additionally, the proposed plan would cover approximately 205 acres of the sacred Peaks with artificial snow made from treated sewage effluent.

A 10 million-gallon storage pond, constructed on the San Francisco Peaks, would be connected by a 14.8-mile long pipeline to the Rio de Flag wastewater treatment plant.

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