



Tribal reps at hearing Court to decide fate of sacred peaks

By Kathy Helms
Diné Bureau

WINDOW ROCK — The three-judge 9th Circuit Court of Appeals will hear oral arguments today in San Francisco in a legal battle that may decide the future of American Indian religious freedom and the ecological integrity of the San Francisco Peaks.

Navajo Nation Council Speaker Lawrence T. Morgan, members of the Judiciary Committee and Human Services Committee are in San Francisco today for the hearing.

Representatives of Save the Peaks Coalition, along with elders from Navajo, Hopi, Apache, Havasupai and other nations also undertook the journey to offer support for the protection of sacred sites.

Organizers planned a morning prayer vigil at Delores Park in San Francisco, followed by a march to the courthouse at 7 a.m. and an ongoing vigil outside the 9th Circuit courthouse.

Howard Shanker, attorney for the Navajo Nation, is seeking to halt expansion of the ski area at the Arizona Snowbowl Resort near Flagstaff on behalf of Navajo, other tribes, individuals and public interest groups.

The plan calls for the use of treated wastewater to make artificial snow on the mountain considered sacred by more than 13 Native American nations. Tribes and environmental groups have joined together to halt the expansion.

In addition to Navajo, Shanker will be representing 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.

The Hopi Tribe and the Hualapai Tribe will be represented by separate legal counsel.

The proposed development is being held at bay through the appeals process. George Hardeen, communications director

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for the Office of the President and Vice President, said the development plan was approved by the U.S. Forest Service in a Jan. 11, 2006, decision issued by U.S. District Court Judge Paul Rosenblatt.

Inadequate assessment?

Shanker said the potential impacts to human health from exposures to the contaminants found in the reclaimed water have not been adequately assessed.

He added that the federal government needs to reconsider its "unfaltering devotion to a privately run, for-profit ski area in a part of Arizona that does not get sufficient precipitation to support skiing."

The Arizona Snowbowl Resort operates the ski area under a Special Use Permit issued by the U.S. Forest Service. Hardeen said the Navajo Nation will argue today 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.
- 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.

The expansion plan calls for clear-cutting more than 100 acres of rare alpine ecosystem and using treated wastewater to make enough artificial snow to cover around 205 acres. The treated water would be transported through a 14.8-mile-long pipeline from the Rio de Flag wastewater treatment plant to a 10-million-gallon storage pond on the San Francisco Peaks.

Not for sale

Carly Long, president of Flagstaff Activist Network, said, "This wastewater has been proven to contain harmful contaminants, such as pharmaceuticals, hormones and cancer-causing agents."

Following the Forest Service's decision to allow the expansion, Leigh Kuwanwisiwma, director of the Hopi Cultural Preservation Office, labeled the action an "attack on our place of worship."

Vincent Randall, tribal councilman and Apache historian,

also condemned the action, writing a letter to the Diné Medicine Men Association on behalf of the Western Apache NAGPRA Working Group, made up of traditional elders from White River, San Carlos, Payson, Camp Verde, and Yavapai Apache.

"For the Western Apache people, the Peaks, known to us as Dził Cho, are extremely important. ... The Mountain supplies us with important medicines and other plants for our use. ... For the people who own and control what happens on Dził Cho, the most sacred thing is money.

"We know money is important. We cannot raise our families in this world without it, but there is a line we cannot cross. The sacred is not for sale," Randall said.

"I would like to ask the Forest Service how they can ignore the convictions of over a quarter of a million Indian people for the benefit of a few skiers and businesses."

The Diné Medicine Men Association approved a resolution stating that the development violates the First Amendment rights of the U.S. Constitution, American Indian Religious Freedom Act of 1978, and Executive Order 13007, Indian Sacred Sites.

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