



Web
 MSNBC

[Make MSNBC Your Homepage](#) |
 [MSN Home](#) |
 [Hotmail](#) |
 [Sign In](#)



[MSNBC Home](#) >>
 [U.S. News](#) >>
 [Environment](#)

Sponsored by



No fake snow at sacred Ariz. peak, court rules

Ski area owner vows to appeal order dealing with treated wastewater

Ap Associated Press

Updated: 2 hours, 1 minute ago

SAN FRANCISCO - A ski area on a northern Arizona mountain may not use treated wastewater to make snow because that would violate the rights of American Indian tribes that consider the peak sacred, a federal appeals court has ruled.

The Arizona Snowbowl on the San Francisco Peaks north of Flagstaff wanted to add a fifth chair lift, spray man-made snow and clear about 100 acres of forest to extend its ski season.

However, the Navajo Nation and a dozen other Southwest tribes filed suit to block the project, arguing that it would violate their religious freedom. The lawsuit also said the government did not adequately address the environmental effect of using wastewater, which would be pumped up a pipeline from Flagstaff.



Save the Peaks Coalition

The Navajo Nation has long opposed the Arizona Snowbowl ski area, citing impacts like the 1999 logging seen here. Their latest battle is over plans to use treated wastewater to make artificial snow.

[Story continues below ↓](#)

advertisement

ENVIRONMENT SLIDE SHOWS

- Warming signals from around the world**
 View images from around the world that show signs of global warming.



AP

- Water warning in the West
- Gold rush uproots part of Amazon
- Species found in African 'Eden'

- U.S. News
- Crime & Punishment
- U.S. Life
- U.S. Security
- Education
- Environment
- Race & Ethnicity
- Charity News
- Only on MSNBC.com
- WP.com Highlights
- Peculiar Postings
- Video
- U.S. News
- Politics
- World News
- Business
- Sports
- Entertainment
- Health
- Tech / Science
- Travel
- Weather
- Blogs Etc.
- Local News
- Newsweek
- Multimedia
- Most Popular
- NBC NEWS
- Today Show
- MSNBC TV
- Nightly News
- Meet the Press
- Dateline NBC
- MSNBC Classifieds
- Shopping
- Dating with Perfectmatch.com

Real Estate
with HomePages.com

Business Ideas
from Entrepreneur.com

Insurance
with State Farm

Investments
\$7 online stock buys

Jobs

Autos

- **Disable Fly-out**

Advertisement

MSN SHOPPING



Spring fashion

- Graphic details
- Black & white
- Metallics
- Bright colors

Search

Sut

RESOURCE GUIDE

- Dating - Get two months free!
- Find a business to start
- Free auto insurance quote
- Fast \$7 trades, no limit
- Shopping

In a decision Monday, Judge William Fletcher of the 9th U.S. Circuit Court of Appeals said the snowmaking scheme violated the Religious Freedom Restoration Act of 1993 and would be akin to using wastewater in Christian baptisms.

"We are unwilling to hold that authorizing the use of artificial snow at an already functioning commercial ski area in order to expand and improve its facilities, as well as to extend its ski season in dry years, is a governmental interest 'of the highest order,'" Fletcher wrote for the three-judge panel, which heard arguments in September.

Howard Shanker, who represents several tribes, including the Navajo, said Monday's decision could have important repercussions.

"Hopefully, this stands because it creates a tremendous precedent for tribes to protect their sacred sites," he said.

The ruling overturned an opinion by U.S. District Judge Paul Rosenblatt in Phoenix, who said last year the tribes failed to show the project would affect their exercise of religion.

The 9th Circuit panel also ruled the U.S. Forest Service did not adequately address the possible health risks of drinking water tainted by runoff from snow made with treated wastewater.

Snowbowl owner Eric Borowsky said he'll either try to appeal to the U.S. Supreme Court, or make snow using water pumped from company-owned land.


"We are definitely going forward with this," Borowsky said. "This ruling is definitely the wrong ruling and it has a major impact on federal land."

For the third time in four years, the Arizona Snowbowl, which brings an estimated \$10 million annually to Flagstaff's economy, opened late this winter because of a lack of snow. It closed for the season this past weekend because of dwindling snow on its slopes, located above 9,000 feet.

Copyright 2007 The Associated Press. All rights reserved. This material may not be published, broadcast, rewritten or redistributed.


- Amazon wildlife to get forest protection
- Hardly a leg to stand on
- 'Species factories'
- Ship graveyards
- Parks in peril
- Africa's appetite

PHOTO FEATURES More



World Picture News

- **The Week in Pictures**
Revelers welcome spring, Saturn puts on a shadow show, and soldiers bid farewell.
- **Photoblog**
View and discuss the pictures and issues that caught our eyes



AP

MESSAGE BOARDS

SPEAK OUT

- **Share your thoughts on green issues, technology**

RELATED STORIES | What's this?

- Court: Arkansas woman's wrongful death suit against CenterPoint Energy can go forward
- Nevada Looks to Ban Musical Impostors
- Ohio: Coal Mining Below Forest to Go On
- Philippine oil firms appeal court order to remove depot from downtown Manila
- W.Va. Governor Says No Special Session

MOST POPULAR

Most Viewed • Top Rated • Most E-mailed

- 91-year-old gets stuck, literally, on his roof
- Gonzales acknowledges mistakes in firings
- Wall Street slammed by subprime worry
- Clinton: Vast right-wing conspiracy is back
- Late mortgage payments hit 3½ year high
- **Most viewed on MSNBC.com**