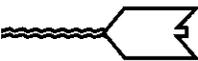




# INTER TRIBAL COUNCIL *of* ARIZONA



#### MEMBER TRIBES

AK-CHIN INDIAN COMMUNITY  
COCOPAH TRIBE  
COLORADO RIVER INDIAN TRIBES  
FORT McDOWELL YAVAPAI NATION  
FORT MOJAVE TRIBE  
GILA RIVER INDIAN COMMUNITY  
HAVASUPAI TRIBE  
HOPI TRIBE  
HUALAPAI TRIBE  
KAIBAB-PAIUTE TRIBE  
PASCUA YAQUI TRIBE  
PUEBLO OF ZUNI  
QUECHAN TRIBE  
SALT RIVER PIMA-MARICOPA  
INDIAN COMMUNITY  
SAN CARLOS APACHE TRIBE  
TOHONO O'ODHAM NATION  
TONTON APACHE TRIBE  
WHITE MOUNTAIN APACHE TRIBE  
YAVAPAI APACHE NATION  
YAVAPAI PRESCOTT INDIAN TRIBE

September 19, 2011

The Honorable James Anaya  
Special Rapporteur on the Rights of Indigenous Peoples  
c/o OHCHR-UNOG  
Office of the High Commissioner for Human Rights  
Palais Wilson  
1211 Geneva 10, Switzerland  
[indigenous@ohchr.org](mailto:indigenous@ohchr.org)

Dear Professor Anaya,

The Inter Tribal Council of Arizona (ITCA) is an organization of 20 American Indian Tribal Nations that provides a forum for tribal governments to advocate for national, regional and specific tribal concerns and to join in united action to address these issues. The organization was informed that the Human Rights Council of the United Nations General Assembly is to convene on September 20, 2011 in Geneva, Switzerland. At this session the Annual Report by the Special Rapporteur on the Rights of Indigenous Peoples is to be presented and discussed by the Council. The report includes an extensive section that examines the concerns of several indigenous American Indian Tribes pertaining to the San Francisco Peaks in Northern Arizona where a proposed ski area commercial and recreational expansion operation has been permitted to utilize artificially produced snow to be made from treated waste water.

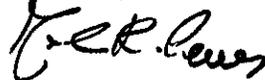
The ITCA has supported the 13 Tribal Nations whose ancestral and current traditional cultural practices relate intrinsically to this mountainous area. Their efforts to prevent the permitting of the ski area expansion operation and the artificial snowmaking from recycled waste water have included attempts to inform the United States Department of Agriculture, the U.S. Forest Service and the U.S. Department of Justice and seek meaningful response regarding the need to protect and maintain the natural environmental qualities as they exist which have formed the religious and

spiritual relationship between indigenous peoples and the San Francisco Peaks. The Tribes have also sought redress in the United States Courts. On March 12, 2007, the United States Court of Appeals for the Ninth Circuit issued its decision in *Navajo Nation v. U.S. Forest Service* that the permitting of the Arizona Snowbowl expansion and the use of the reclaimed waste water violated U.S. law per the Religious Freedom Restoration Act. A subsequent appeal to the federal appellate court that favored the proponents reversed the Ninth Circuit's Decision and may now lead to the erosion of continued spiritual practices associated with the mountain.

The resolution adopted by the member Tribes of the ITCA relays these concerns and protests the inappropriate use of reclaimed sewer water in this manner on a sacred and holy place solely for the purpose of sustaining a recreational business venture that would financially benefit the local municipality through the recycle operation and the construction of the pipeline. Please see the attached resolutions which may be transmitted to the Human Rights Council for its record of deliberation and consideration of recommendations to the United States.

If you have further questions, please contact me at the (602) 258-4822.

Sincerely,



John R. Lewis,  
Executive Director

Attachment:

ITCA Resolution 0709-Supporting the Decision of the Ninth Circuit Court of Appeals to Protect the Sacred San Francisco Peaks



# INTER TRIBAL COUNCIL



of

## ARIZONA

### RESOLUTION 0709

#### Supporting the Decision of the Ninth Circuit Court of Appeals to Protect the Sacred San Francisco Peaks

- MEMBER TRIBES**  
 AK-CHIN INDIAN COMMUNITY  
 COCOPAH TRIBE  
 COLORADO RIVER INDIAN TRIBES  
 FORT MCDOWELL YAVAPAI NATION  
 FORT MOJAVE TRIBE  
 GILA RIVER INDIAN COMMUNITY  
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 PUEBLO OF ZUNI  
 QUECHAN TRIBE  
 SALT RIVER PIMA-MARICOPA  
 INDIAN COMMUNITY  
 SAN CARLOS APACHE TRIBE  
 TONONO O'ODHAM NATION  
 TONTO APACHE TRIBE  
 WHITE MOUNTAIN APACHE TRIBE  
 YAVAPAI APACHE NATION  
 YAVAPAI PRESCOTT INDIAN TRIBE

**WHEREAS,** the Inter Tribal Council of Arizona (ITCA), an organization of twenty tribal governments in Arizona, provides a forum to Tribal governments to advocate for national, regional and specific tribal concerns and to join in united action to address issues; and

**WHEREAS,** the member Tribes of the Inter Tribal Council of Arizona have the authority to act to further their collective interests as sovereign tribal governments; and

**WHEREAS,** the ITCA recognizes that the San Francisco Peaks have been held holy since time immemorial by more than thirteen American Indian Tribes, and that the sacred Peaks are integral for the traditional culture & religious practices of these Tribes; and

**WHEREAS,** the ITCA supports the recent decision by the Ninth Circuit Court of Appeals to protect the sacred San Francisco Peaks from Ski Area Expansion which would include snowmaking with treated sewage effluent; and

**WHEREAS,** the decision by the Ninth Circuit Court of Appeals affirms and upholds the fundamental right of American Indians to practice their traditional religions and that the sacred San Francisco Peaks must be further protected to ensure that such practice is not violated; and

**WHEREAS,** the decision further affirms that extreme desecration will occur if treated sewage effluent and Ski Area Expansion were to be allowed on the sacred Peaks thus, the Court denied the Ski Area Expansion and wastewater snowmaking based on the violation of the Religious Freedom Restoration Act, thereby rendering the Ski Area Expansion and wastewater snowmaking to be illegal; and

**WHEREAS,** the Forest Service was also found in violation of the National Environmental Policy Act by not adequately analyzing impacts of snowmaking from treated sewage effluent; and

**WHEREAS,** the U.S. Forest Service's Environmental Impact Statement recognized that "the spiritual purity of the Peaks would be violated" by the Ski Area Expansion and treated sewage effluent; and

**WHEREAS,** the Major and City Council of Flagstaff continue the religious and racial discrimination against Tribes and citizens by retaining their contract to sell wastewater to Arizona Snowbowl even though the expansion has been denied by the Court of Appeals.

**NOW THEREFORE BE IT RESOLVED,** that the Inter Tribal Council of Arizona hereby supports the decision of the Ninth Circuit Court of Appeals ruling to protect the sacred San Francisco Peaks from any proposed ski area expansion and snowmaking; and

**BE IT FURTHER RESOLVED,** that the ITCA calls upon the federal government and all responsible agencies such as the Department of Agriculture; Forest Service, Department of Justice, and Secretary of Interior to uphold the 9<sup>th</sup> Circuit Court decision to protect the sacred San Francisco Peaks from Ski Area Expansion and snowmaking from wastewater, and cease any efforts to appeal the decision; and

**BE IT FINALLY RESOLVED,** that this resolution be immediately transmitted upon its effective date to the U.S. Department of Agriculture; Forest Service, U.S. Secretary of the Interior, Arizona Congressional delegation, Governor of Arizona, the Coconino County Supervisors, and the Flagstaff City Council and Mayor.

#### **CERTIFICATION**

The foregoing resolution was presented and duly adopted at a meeting of the Inter Tribal Council of Arizona on Friday, April 13, 2007, with a quorum present.



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Jamie Fullmer,  
President, Inter Tribal Council of Arizona  
Chairman, Yavapai Apache Nation