



## INTERNATIONAL INDIAN TREATY COUNCIL

2940 16<sup>th</sup> Street, Suite 305  
San Francisco, CA. 94103  
Telephone (415) 641-4482  
Fax (415) 641-1298  
email: [alberto@treatycouncil.org](mailto:alberto@treatycouncil.org)



February 4, 2012

To the Committee on the Elimination of Racial Discrimination  
Palais Wilson,  
Geneva, Switzerland  
Via email:

**RE: Update and Follow-up** - Urgent Action/Early Warning (UA/EW) the United States of America and San Francisco Peaks, Arizona,

Dear CERD Members,

Please receive our respectful greetings,

With the expectation that our original UA/EW communication to you of August 17, 2011 will be addressed by the Committee at its next, 80<sup>th</sup> Session, along with the separate UA/EW Navajo Nation communication filed on or about the same day, we would update that communication:

As we noted in that communication, since May 25, 2011, the owners of Arizona Snowbowl, a ski resort in Northern Arizona, with the support and permit of the US Forest Service and the Flagstaff, Arizona, City Council, have laid several miles of a 14.8 mile waste water pipeline and have clear cut acres of rare alpine forest, in furtherance of a government sanctioned plan allowing a privately owned ski resort to use artificial snow made out of sewage on Sacred San Francisco Peaks, in Northern Arizona. Up to 1.5 million gallons of treated sewage effluent would be sprayed on Holy San Francisco Peaks every day, or more than 100 million gallons over the course of the winter ski season in order to extend that season. The city of Flagstaff, Arizona, plans to sell 180,000,000 gallons of its treated sewage to Arizona Snowbowl for this purpose.

In spite of the proud official pronouncements on their respect for religious freedom including the right to manifest religion, the United States has participated actively in opposition to litigation raised by many Arizona and New Mexico Tribes and Tribal Governments. Local police have arrested many who have demonstrated against the desecration of the Sacred Peaks.

Petitions filed by numerous Arizona and New Mexico Tribes, raising religious freedom issues were denied by the federal Courts and the Supreme Court of the United States. Work on the pipeline was stopped for the winter snowfall, and is expected to resume in the early spring of 2012. A separate federal court suit based on the threat to health posed by sewage effluent snow was denied by the federal district court and is now on appeal at the 9<sup>th</sup> Circuit Court.

In order to emphasize the grave importance of this issue to Indigenous Peoples of the multi-state area, we attach the Statements from various elders, healers and spiritual leaders describing in

their own words what this desecration means for their spiritual practice and traditional ways. Indigenous Peoples are normally reticent in describing their spiritual beliefs. It is on account of the extreme menace posed to these traditional spiritual practices and beliefs that these statements, including three excerpted from sworn court testimony are submitted.

The “Statement from the Diné Hataalii Association, Inc., Diné Medicine Man Association, and Azee Bee Nagaghá of Diné Nation to the Committee on the Elimination of Racial Discrimination” submitted by the Navajo Nation Human Rights Commission, as well as the Statement from Mr. Duane H. Yazzie, Navajo Community Member, were received from the declarants specifically for this Update and Follow-up. We also attach three excerpted testimonies from trial transcripts, of Mr. Frank Matapis, a Medicine Man from the Havasupai Tribe, Mr. Larry Foster, a Dineh, Navajo Practitioner, and Mr. Norris Nez, Medicine Man and a non-English speaking plaintiff and sworn witness in the federal litigation.

It is clear is that all of these spiritual leaders are profoundly concerned with the spiritual lives of their communities and see the desecration of San Francisco Peaks and the hundreds of millions of gallons of sewage effluent to be sprayed annually on the Sacred Mountain, as ominous, menacing to the continuation of their cultures and spiritual practice. We would urge CERD members to read these short 1 page statements and excerpts to fully understand the great importance attached to this matter by the declarants, as well as the many Indian Tribes, Nations and individuals joining in the litigation and now, in this UA/EW.

We request that the Committee urgently recommend to the United States that it immediately cease and desist from the irremediable desecration of San Francisco Peaks, Arizona.

For all our relations,



Alberto Saldamando, Counsel  
International Indian Treaty Council

cc: via email:

Havasupai Tribe, Mr. Eddon Tilousi, Vice Chairman  
Intertribal Council of Arizona, Mr. Shannon Rivers  
Mr. Klee Benally  
Navajo Nation Human Rights Committee, Mr. Leonard Gorman,  
Mr. Duane H. Yazee  
Andrea Carmen, IITC Executive Director

**Statement from the Diné Hataalii Association, Inc., Diné Medicine Man Association, and Azee Bee Nagaghá of Diné Nation to the Committee on the Elimination of Racial Discrimination**

The San Francisco Peaks (“Peaks”) constitute one of the six Navajo sacred mountains. The sacred mountains serve as the foundation of the Navajo Life Way. Among the six mountains, the Peaks to the West, Mount Hesperus to the North, Mount Taylor to the South and Mount Blanca to the East represent the sacred elements of earth, fire, water and air. Also, each element symbolizes freedom, cultural integrity and dignity, language, and spirituality and ceremony. Moreover, the mountains serve as the original lands of the Navajo when first man and first woman emerged into this world. Furthermore, each mountain represents a time of day and light associated with the time dawn, midday, evening, and night. Each element of the six mountains is inextricably linked to a person’s mental, physical, and spiritual health. When one of these elements is harmed it throws the Navajo Life Way out of balance and weakens Navajo ceremonies and prayers.

For example, the Navajo blessing way ceremony involves physical elements from the mountains, prayers, songs, and chants that are systematically arranged and recited in a clockwise fashion according to the six sacred mountains. Elements from each mountain are contained in a sacred medicine bundle. Each bundle is individually tied according to the formation and order of the sacred mountains. The ceremonies and prayers performed by a medicine person give strength and stability to one's thinking, planning, and life. The mountains serve as the basis for the Navajo fundamental and natural laws that guide the Navajo people and the Navajo Nation government. It is our responsibility to care for each sacred place because they are the home to our deities and they are the home to the Navajo people.

Our Life Way is jeopardized because the United States of America (“United States”) has not exercised its legal, political, and moral responsibility towards its indigenous peoples to protect indigenous sacred places and cultural property. The United States Forest Service authorized the use of recycled wastewater to produce artificial snow for winter sports. The use of this type of water desecrates our sacred mountain because the water contains fecal matter, blood, toxins, and other waste matter which will spoil the purity of the mountain. Also, the man made snow, whether from recycled wastewater or potable water, is a manipulation of nature which should not be mimicked by man. The natural cycle of weather phenomena is strictly reserved for the deities and if allowed to be mocked it will create an imbalance between the sacred elements, thus harming the Navajo Life Way.

The harm caused by the United States has passed domestic challenges but should not pass international scrutiny when the law and policy discriminate against indigenous people. The United States discriminates against indigenous people like Navajos because it frequently commits sacrilege against indigenous sacred places strictly for the benefit of non-indigenous interests without consequence. Because non-indigenous interests usually prevail, indigenous ties to culture, religion, and spirituality become lost. As Navajos we do not want to lose our Life Ways. Therefore, we call upon the Committee on the Elimination of Racial Discrimination to take any and all necessary steps to help end the United States discriminatory actions against Navajos, the desecration of the Peaks, and the threat against Navajo Life Way.

Statement by Duane H. Yazzie, Navajo Community Member  
Concerning the Proposed Desecration of the San Francisco Peaks  
In Support of the Request for Urgent Action Submitted to the  
United Nations Committee to Eliminate Racial Discrimination  
by the International Indian Treaty Council

The proposed desecration of the San Francisco Peaks is an atrocity. It is brazenly contradictory to the tenets of creation. As humankind we were given our place on this earth with certain abilities and limitations. The “making” of snow is a manipulation of nature; it pretends to create a phenomenon of nature. It does not matter whether sewer water or fresh pristine ground water is used to “make” snow; the atrocity is in the desecration of creation and in the extreme disrespect of the tenets of creation. The abuse and misuse of nature and the earth are the direct cause of the current condition of the earth; the ebbing of the health and positive energy of the earth.

The equilibrium of the Earth is precariously out of balance. The increasing incidence of so-called natural catastrophe and climate change is no accident; they are undeniable messages from the Earth that she grows weary of the unrelenting abuse. Soon she may give us the ultimate disaster with a great convulsive shudder when she becomes no longer tolerant. The continued desecration of the Earth and its sacred sites contribute to and expedite the prophesied demise of the world.

The prophecies of the Indigenous peoples and peoples of the world’s societies including the predictions contained in the Holy Bible, foretell of a future time when humankind and the planet earth itself would experience great trials and tribulations such as we see today. Indigenous peoples pray the life of five-fingered people will continue into the future; we do not wish the earth to come into a time of demise.

The damage has been done to the earth, the earth is hurting; we implore of the powers of the world to halt further damage and allow and support a time of healing so that the life of the earth and our human lives will be prolonged. As keepers of knowledge of the original intent of creation, indigenous peoples are gravely concerned with the health of our Earth Mother. Therefore we must continue the struggle to emphatically oppose the continued and proposed further desecration of the San Francisco Peaks.

FRANK MAPATIS, Hualapai Spiritual Leader, Excerpts from Federal District Court Testimony Transcripts

A lot of our creation stories relate to the San Francisco Peaks and of how the Third World had been, you know, covered with water and the Hualapai people back then had -- they got this young girl and put her into a log to -- so that she could survive that flood which covered the whole earth.

She landed on the Peaks and when she landed there she was there alone. And at that time she went to wash in the springs and she would sit in the sun. So she had become lonely. And at that time she -- in the water she had conceived a son which was a man born of water. And the next time she went, she went to the -- she went to the springs, she washed again, she dried out in the sun, and then she had a -- also had another son for the sun. And those were known to be the twins, the Twin Warriors or Twin War Gods.

And in the story it talks about how one of the twins had become sick or hurt and the other twin had collected this plant and he had collected this water and he had healed his brother. And in the story it goes into songs about the water, it goes into songs about the plants, it goes into songs about the sun, the earth, and the air, all the elements of life that the humans can survive on.

These two warriors, twin warriors, they were sent to the people to clear the land of all the evil that the flood had not taken care of. And they were brought here to bring the Hualapai people back to the true God, because there was a false god that had been worshipped in that Third World, and the people had continued to do evil things and bad things with their lives and then the whole earth was covered with water.

Because I go to the mountain because of how the story was related to me that's telling me that every since, you know, that flood, that this is a sacred place, and there is where the twin war god had got the water. He was born from that water. He had -- he -- that water had a spiritual power that conceived this woman and that gave that life. So when we give that water to that patient, they get that life too, a second chance in life. And the story -- about the stories about the water, of what it does, and how they sing the songs with the water, about healing certain people. The twin war god not only healed his brother, but he also healed other people as more people came.

And so from childhood we're taught that this mountain is sacred and that this water has a spirit in it that could give life to people. [S]ee, when the water, the wastewater when *you* have all this urine, all this feces, it has parts of your blood in it. When *you* clean a hospital or a clinic or when somebody is there bleeding and something happens and they die, that blood is going into that water. And once that water is touched with blood of somebody that has died or something, and *you* go get it, get this water, and *you* pour it on a sacred site, it's like you're putting death onto that mountain... We can't go and use that water and give it to that sick person that has this ghost sickness. We can't give that plant to them.

It's something that is -- it's like a spiritual law. You do not mix death and then life; life and death. You don't mix the two.

It would deeply affect it more than it already is, because we're just barely getting back to our traditions and culture. And now this comes up and it's down almost to the last person that knows the medicine songs of this mountain. And right when we're getting back, it's like it's something is coming down to break it again.

It would have a great impact. I would have to stop[ my healing ceremonies]. And I wouldn't be able to teach the water songs of collecting the water and the plants. There's four or five young men that are supposed to learn all these songs and learn these traditions and these cultures to carry them into the next generation. And those young boys that are waiting those – for those songs and ready to sing that water song or ready to sing about the plants and the feathers, and, you know, how to take care of the people and their lives, that that would have to stop too.

Mr. Larry Foster, Navajo Practitioner, Excerpts from Court Testimony Transcripts

I received my Bachelor of Arts in Business Administration from the University of California r University of California, los Angeles. [in]1976.

In our Navajo society we have keepers. We have practitioners. Then we have Medicine men. And I have been doing this for 45 years as a practitioner, a keeper and a practitioner. [W]e, as a dine -- we call ourselves nochoka dine. That means people of the earth, people put on the surface of the earth to take care of the lands.

In our traditional way we have our four sacred mountains, the cardinal directions. To the west we have the San Francisco Peaks, which is Dook'o osliid is the Dchitlaheal. And to the north we have Hesperus Mountain, which is the Jet Mountain, Black Mountain and that's Dibe Nitsaa. To the east we have Blanca Peak, Sisnaajini, White Shell Mountain. To the south we have Mount Taylor, and that's called Tsoodzil. That's Turquoise Mountain.

We also have two doorway mountains we called Huerfano Mountain, that's the home of the Changing Woman. We also have another pillar mountain called Doorway Mountain call Gobernador Knob. That's where we merged as the. nochoka dine as the people of the earth. As we were created as human beings and when the holy people were when we were created, the holy people then felt that there was time for them to go back to the holy lands.

[W]e emerged on the surface of the earth as keepers of the land to take care of the land within the sacred mountains, the holy ones then moved on and they put -- when Changing Woman was born, she was born at Huerfano Mountain, Dzilna'oodilii. And as Changing Woman grew into a young woman, the holy ones had already given the people direction that when she became a woman, it would have a puberty ceremony and there would be at least at the peaks, at to Dook'o osliid and that's what have happened [at the San Francisco Peaks].

The Peaks are probably more significant in that that's where Changing Woman -- it was chosen that that would be the mountain, our sacred mountain to the west, because that is where the sacred medicine bundles sit in our ceremonies. And she would have her ceremony there so she could become a woman now.

When she had her children, her twins -- And in our tradition, in our way of life, our stories, the father of the twins was the Creator, Sun god. And as they grew older, the twins grew older, they wanted to go find their father, just like any other child would. So Changing Woman instructed them to go back to the Peaks to retrieve the bundles... From that point on then they would go on their journey, their quest to find their father, which they did.

The medicine bundle is like I -- it is our Bible. It's the unwritten way of life for us, our songs, our ceremonies. It's all embedded. As these bundles are created, that's where we have all our songs, our mountain songs, our blessing way songs, healing songs.

And then we probably like we say we rededicate it or reconfirm it. We open it -- the medicine people open it back up. Then they put new herbs, fresh, you know, herbs. They revitalize it, give it life again. So in doing so, you know, it's been carried through the generations.

Your question on the use on reclaimed water right? In my mind is far more serious because I can live with a scar as a human being. But if something is injected into my body that is foreign a foreign object -- and reclaimed water in my opinion could be water that's reclaimed through sewage wastewater comes from mortuaries hospitals there could be disease in the waters -- and that would be like injecting me and my mother my grandmother the Peaks with impurities foreign matter that's not natural.

And if one mountain -- and more in particularly with the San Francisco Peaks -- which is our bundle mountain, our sacred, bundle mountain, were to be poisoned or given foreign materials that were not pure, it would create an imbalance -- there would not be a balance among the sacred mountains. We would not be able to go there to obtain herbs or medicines to do our ceremonies, because that mountain would then become impure.

We -- if you leave one mountain out, you neglect one mountain and it's just like a family, you know. If you have four children and all of a sudden you start neglecting one child and you have three other children, it's our way of life of being in harmony, being respectful among all the people or individuals or things involved.<sup>2</sup> And in this instance one mountain being -- that would be contaminated, if you will, would throw our whole culture out of balance. We just wouldn't be able to exist.

The -- the Peaks, as I mentioned earlier, is where Changing Woman had her puberty ceremony. She became a woman at that time. From that point on in our society women are the most important in our life. They are the positive forces in our life. They are the ones that give life to us. And for the Peaks, that's where the gift of the kinaalda was given to our people so that we would forever have life into our people, so that we would have continued life, generations after generations. And those would be shut down.

As we -- when my girls, my two daughters had their kinaalda, we got water from the sacred mountains, my wife and I. More particularly, from the Peaks, because that's our young women when they become a woman. We use that water in our ceremonies.

And should one of the mountains become out of balancer I'm very afraid that it would lead us to extinction. We would lose our culture, our identity. We would lose our songs our ceremonies r because one mountain is out of balance and my grandson wouldn't be able to take the bundles to the Peaks. When our young women become -- our girls become women, they wouldn't -- they won't be as pure as they should be because of this imbalance.



Testimony of Norris Nez, Navajo Medicine Man, Plaintiff in the case [non-english speaker, testified through and interpreter], Excerpts from Court Testimony.

I was born July 26, in '29. Yes. From other medicine men, I learned from them. I was taught by them. I gained my knowledge from them, From ten years on.

I know about their snowmaking plans to use sewer water, to build a bigger ski area. They want to freeze the sewer water, up there and have more ice and snow to ski on. I say no to that. Our way of life is there. As it has its nourishments there, the water will ruin that. It will ruin the medicine. The snow that they make up there will eventually melt and it will seer into the ground 18 and then it will go in different directions and it will ruin everything. It will ruin the plants, the water and the earth. Water we drink and it will affect our health.

The bundle is made up of the mountain. As I have said before, like, you know, it's like the mountain recreated in the medicine bundle. And all bundles will be affected and we will have nothing to use eventually. But if the project goes forward, as I have stated, it will make us sick. It will have ill effects on everything. It will affect all of us and we are doing this to get ourselves sick. It is causing -- it is causing my practice of my ways to go -- it's because of the bad water, there will be no more plants and this could affect me as a Medicine man, and then who will cure me? It will affect other Medicine men. Who will be curing us?

[The Mountains] I testify that they're tied together by the rainbow, that it is like a cord that ties them together. And they communicate, they talk to each other. Dok'osliid talks to Tsoodzil and Sinaajini talks to Dibe Nitsaa. Who will drink water that has excrete in it? This is water that has been used on ill people, dead bodies are washed in it, and there are vapors and fumes from it and with women and the menses, you know, we are told that is very dangerous.

[The Blessingway Ceremony] means hozho. It means traveling a straight path and observing all the ways of life, and from following that path in this translates into good health, mentally and physically. [The mountain soil bundle] is the blueprint for the future, future growth of not only mankind, but of the earth and everything on it. [The] mountain soil bundle in the Blessingway ceremony that is a main part of it. ...it's like a blueprint for the future. It is -- represents growth and good health. And in good health, good weather and plants and also symbolizes happiness.

[San Francisco Peaks] is considered a leader, and because it is in the bundle and because it is in the dzit teezh. It will ruin it because bad is going to be put on it. It will affect all. It will affect everything and who -- you know, I don't know what the future will be then, but it will be ruined.

Hastai wan which is the dawn and following Bastai wan is Hastai yaal teeii. Hastai yaal teeii is the dawn, that is waking and Hastai wan is after when you awaken and. start moving around. Hastai wan moves and Hastai yaal teeii moves. And they're part of the Blessingway. They will do what they will. They are called Neehootsoi dineh. They are holy people. And in Blessingway they are mentioned along with shan diin, sunshine. And in the Blessingway prayers Hastai wan and Hastai yaal teeii are mentioned. It will affect them. That is all I know. If they are going to do something about it; they may.