



DINE' MEDICINE MEN ASSOCIATION
FORMAL STATEMENT OF OBJECTION

December 4, 2019

US Forest Service and Arizona Snowbowl
Agassiz Chairlift Replacement and Upgrade Proposal

To: Cal Joyner, Regional Forester, 333 Broadway Blvd SE, Albuquerque, NM 87102

Responsible Officials: Calvin Joyner, Regional Forester
Laura Jo West, Forest Supervisor Coconino National Forest

Previous Comments: Dine' Medicine Men Association
provided previous comments on August 30, 2019

We are continually discriminated against by federal agencies as they require us to reply in black and white, with a foreign language that is not our own and does not convey the full depth of our concerns.

Background

The Dine' Be' Nanagha' Yee' Da'Aho'ta' (Dine' Medicine Men Association, Inc.) is an established non-profit organization incorporated with the Navajo Nation since the early 1970s. We are an established and recognized organization of the Navajo Nation, we neither function with remuneration, nor as an established operation with specific sites. We are a membership of traditional apologists, spiritual Dine' hataalii (healers), prophets, cultural educators, wisdom keepers, medicine people, elders and traditionalists who have come together willingly to maintain, protect and promote the Dine' way of life, intellectual knowledge, right to self-determination and the fundamental right to worship the Great Spirit according to our sacred (holy) protocols.

A brief understanding is provided below to demonstrate that the Dine' alone can account for the interconnectedness of and countless sacred (holy) places. We are certain other Aboriginal Indigenous Peoples would do the same. The beautiful uniqueness of the Dine' way of life, practices and perpetuation of the extensive holistic verbal consecrated fundamental laws are not revealed in such uniformity as the western system of written laws. Only what appears is needed to be revealed and translated with approval of Dine' medicine peoples. With the Creator's

Immutable Natural Law, we, Aboriginal Indigenous Peoples, have the right to protect our freedom and the freedom to protect our rights.

The inherent way of life and unique Dine' teachings are from the Sacred Holdings which are essential sacred objects similar to a sacred manuscript, established by the wisdom and guidance of the Holy Ones. The basic order of six of twelve sacred mountains is: Sisnaajini (Blanca Peak), Tsoodzil (Mount Taylor), Dook'o'oosliid (San Francisco Peaks), Dibe' Nitsaa (Mt. Hesperus), Dzil Choolii (Governador Knob), and Dzil Na'oodilii (Huerfano Mountain). The teachings, knowledge, ceremonies, rituals and way of life associated with this sacred (holy) unified foundation has been passed mouth-to-ear, generation-to-generation since the beginning, for the welfare of all life and to promote and maintain balance with All Creation.

Beyond the Dine' Bek'eyah (our innate homeland), the six sacred (holy) mountains representing the male and female, have offsprings which are additional sacred (holy) areas. These sacred (holy) areas are not only mountains, they are waters, geographic areas, prehistoric sacred event settings and much more. The sacred (holy) areas are not only related to the Dine' ceremonies and way of life. These sacred (holy) areas serve the various ceremonies, rituals, diagnostician, prophets, governance, education, domestic animals, non-domestic animals, flora and fauna, the seasonal cycles, natural and cosmic orders. In every way, the Dine' spiritual belief foundation, way of life and practices are interconnected and indivisible with the Sacred Creation of All Life. Starting from within the Navajo Nation's traditional territories and lands, these sacred (holy) areas extend beyond the so-called Southwest Region. These sacred (holy) areas are not just in relations with Dine' Peoples, but are also sacred (holy) to many Aboriginal Indigenous Peoples within and beyond what is now known as the Southwest.

The many perspectives of the ever changing civilizations and their values and laws influences our Dine' spiritual belief system. With our inherent rights, aboriginal rights, indigenous rights, human rights, right of self-determination, fundamental freedoms, right to be free from discrimination, rights to our territories, land and resources, and all other rights both international and domestic, including our right to live and follow our way of life the way the Creator instructed us to live, we are in extreme need to protect and maintain our bona fide consecrated ways of Divine Worship to the Creator. This Divine Worship must be without exploitations including disruptions, imitations, entertainments, recreation, commercialization, intimidations, prohibitions, discrimination and all other interferences.

Our action to provide information and to object has become critical in light of the continued desecration and abuse of sacred places across the Country and the adverse impacts physically, mentally, emotionally and spiritually this is causing to Peoples and our way of life. The sacred mountain is a living being that has been wounded by previous actions of the US Forest Service, USFWS and Arizona Snowbowl. This proposed project will further harm and deepen these already existing wounds.

It is for this reason after thorough review of the Agassiz Chairlift Replacement and Upgrade Project, we deeply without equivocation formally object to the United States Department of Agriculture Forest Service's Finding of No Significant Impact.

Objections

Doko'oosliid (San Francisco Peaks) in its entirety is part of the sacred unified foundation of the Dine' Peoples. The physical integrity of this sacred place will be adversely impacted by the proposed actions described in the Agassiz Chairlift Replacement Proposal. We object to digging an additional 60 feet into talus slope to make way for the proposed chairlift and retaining wall; this will ultimately destroy and harm the physical integrity of this sacred place, forever altering the physical and ceremonial integrity of the sacred mountain. We object to the destruction and harm of trees, soil, vegetation and animal habitat by doubling the size of the lift corridor.

The U.S. Forest Service (USFS or Forest Service) and the U.S. Fish and Wildlife Service (USFWS) under the Federal Government's trust responsibility to Indian Tribes have a fiduciary duty (i.e. the Federal Government has an obligation to act in the best interest of our people and are held to a high standard of honesty and full disclosure and must not obtain a personal benefit for their actions); thus, must ensure due consideration to the protection and management of sacred lands. This fiduciary duty includes protecting American Indian, Alaska Native, and Native Hawaiian traditional religious practices, consistent with the Religious Freedom Restoration Act and American Indian Religious Freedom Act. The trust responsibility includes properly reviewing, exercising, enacting, enforcing all domestic and international laws aimed at protecting Indigenous Peoples, their way of life, sacred places and aboriginal homelands, including the Endangered Species Act, the National Forest Act, the National Historic Preservation Act, National Environmental Policy Act, the Administrative Procedures Act and all relevant Presidential Executive Orders. Based on our review, we determined not all have been sufficiently reviewed or considered in this EA. In fact, the USFWS willfully neglected to conduct a proper review or site visit of the San Francisco Ragwort, they simply concurred with the Coconino National Forest. The USFWS, by not properly reviewing this project, has failed to identify that zero impact zone was considered when concurring, failed to enforce the completion of necessary studies, including flood and erosion, failed to utilize up-to-date information and failed to use best available science or scientific practices in its decision to concur. This lack of proper review and by using out-of-date data and mapping, both the USFS and USFWS have not properly accounted for additional Ragworts identified on 10/18/19; these Ragworts are closer to the project area than indicated by Patrick McGervey's identification of "*40ft from the project area*". The Ragwort is a plant we use. Only us, the sacred people, with ties to the land understand this medicine plant. We cannot disclose sacred knowledge because the laws of the United States do not allow our knowledge to be kept confidential. Loop holes still exist in US laws where Aboriginal Indigenous Peoples should not disclose anything sacred to federal agencies.

“Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.” Executive Order 12898

We comment and object on the Forest Service’s lack of or improper consultation on the proposed project. Executive Order 12898, Environmental Justice was not considered or applied. We have continually requested a study be conducted on the impacts of reclaimed wastewater on the soil, vegetation, human health and ecology inside and adjacent to the 777 acres of Special Use Permit (SUP) area. As medicine people we use plants, soil and other sacred holdings on this sacred mountain. The lack of information from Coconino National Forest is discriminatory. Having to travel back-and-forth to Flagstaff to gain documents is meant to create a disadvantage. The Forest Service also refers us to the internet to access documents, wi-fi is not readily available so every time figures are wrong or amended it adds to the difficulty and expense to properly evaluate this proposal. All this is meant to create an obstacle for our proper review and input.

The Forest Service must avoid adversely affecting the physical integrity of sacred places to protect American Indians’ inherent right to freedom to believe, express and exercise traditional religions consistent with all applicable laws and policies, including Executive Order 13007, Executive Order 12898, Executive Order 13175, American Indian Religious Freedom Act, National Historic Preservation Act, Archeological Resources Act of 1979, National Environmental Policy Act, Religious Freedom Restoration Act and Native American Graves Protection and Repatriation Act.

The law requires the Forest Service to consult with Tribes and Practitioners. As medicine people following our sacred way of life we were not consulted. This failure to consult with us prior to determining a Finding of No Significant Impact violates EO 13007 and the UN Declaration on the Rights of Indigenous Peoples Article 19, which the United States has removed their opposition to and since December 16, 2010, the United States lends its support to. In addition, to these two requirements, many more domestic and international consultation laws have not been met or fulfilled during the scoping of this project. In order to meaningfully consult with us, Dine’ Elders and Medicine People, you must come to us face-to-face in good faith at the very beginning with the intent of attaining our free, prior and informed consent.

“culture is the highest social and historical expression of that spiritual development, it is the duty of man to preserve, practice and foster culture by every means within his power. –

Declaration of the Rights and Duties of Man, adopted by the United States

We object that the United States continually violates its obligations under international binding treaties that protect the rights and fundamental freedoms of Aboriginal Indigenous Peoples living their ways of life, the way the Creator instructed them to live. The International Covenant on Civil and Political Rights, American Convention of Human Rights, International Labour Organization Convention 169, United Nations Declaration on the Rights of Indigenous Peoples and the Universal Declaration of Human Rights are all being violated by the United States of

America, US Department of Agriculture and US Forest Service with the proposed project.

We object to having Northland Research, Inc. provide information on our behalf. Having Northland Research, Inc. walk in a zigzag pattern 30ft apart down the project area looking for something they do not even understand would be comical in any other setting. When conducting a report to determine impacts to the Original Aboriginal Indigenous Nations and Peoples of this Land this type of methodology is disrespectful, insufficient and inappropriate; furthermore, it may not be defensible from a Western scientific process. Northland Research, Inc. does not speak for us. We are the sole authority on our way of life. You must include us in all decisions by having us involved during the entire process not just during comment periods. We have to be meaningfully consulted in good faith from the beginning if you want to attain our free, prior and informed consent. Not attaining our free, prior and informed consent is a violation of law that your people have lent it support to and not acting in our best interest violates your Trust Responsibility to our people and way of life.

“All were immediately anxious to know if there would be an expansion of the Snowbowl permit area, and were relieved when told that all activity would take place in previously disturbed areas, completely within the existing permit area, and that there would not be an expansion of the permit area.” (CNF Report 1980-89-K pg.5)

We comment and object to the statement above. The Forest Service staff are not experts in Indigenous feelings and psychology. Rather than “*anxious*” maybe tribal representatives were angry, upset, frustrated and confused? We doubt the tribal representatives were “*relieved*” to learn their sacred mountain was going to be further desecrated and destroyed; to learn the US Forest Service has not been transparent by withholding Snowbowl’s 2019 Master Plan from being considered or evaluated in relationship to the Agassiz Proposal; and to learn the Forest Service was being untruthful that all activity would take place in previously disturbed areas.

The physical integrity of the talus slope has not been previously disturbed. We understand the old lift may have disturbed part of the proposed area **but not entirely**. If it had then a retaining wall would already have been installed there. There are soil and rocks that need to be removed for this proposed project which are in areas that have not been previously disturbed. A request was made to Mike Dechter and Patrick McGervey for measurement of the impacted area. We understand the 60 feet up and into the mountain, however, we have also requested the lateral measurement. This figure still has not been provided, limiting our ability to further object.

“*Anxious*” and “*relieved*” - This type of colorful language is really meant to project a picture of Indigenous Peoples acceptance of this project and is very presumptuous and disrespectful. Additionally, the deceptive wording of “*previously disturbed*” is also disrespectful and inaccurate. We are sure the soil, rocks and all other organisms that have been down in the ground for millions of years do not agree with the “*previously disturbed*” determination. The trees, vegetation, soil and all others in the corridor have not been “*previously disturbed*”. If this new corridor which will be doubled in size from 30ft to 60ft is going to be exposed to snowmaking with reclaimed wastewater then the soil needs to be analyzed not only to establish a baseline but

to determine the previous and future impacts to this new area of exposure from reclaimed wastewater usage. The upper part of this project is in the critical habitat of what the Americans are calling the San Francisco Ragwort. The proposed extension of the landing area at the top terminal will be newly exposed to snowmaking with reclaimed wastewater and the critical habitat for the threatened plant. Again a soil, vegetation and environmental study must be conducted to fully understand the ramification of the proposed project. We object to the Forest Service determining that reclaimed water exposure is outside the scope of this project. Snowmaking with reclaimed water will be utilized on the newly exposed corridor and upper terminal area, both areas clearly are currently not exposed to reclaimed wastewater but will be once the project is complete. It is in the scope of this project and the Forest Service failed to account for this new exposure, especially in critical habitat.

We object to the fact the zero feet (0ft) of impact zone was identified for this proposed project. With the project area being conducted on a very steep talus slope within the critical habitat of the Threatened San Francisco Ragwort, it is negligent for both the USFS and concurring USFWS to accept this project without accounting for an impact zone.

We provided a few examples that justifies a thorough Environmental Impact Statement (EIS) must be conducted to fully demonstrate the extent of impacts from the proposed project. Without an EIS the Forest Service is not fulfilling their Trust Responsibility to the Tribes and Nations. Our prayers and songs that grow, accompany and are interwoven in that area are violated by this proposal and adversely impacts our culture, way of life, ceremonies, ancient stories, the trees, the plants, the animals, and all Creation. The United States Government and Its People do not respect and/or understand Our Way of Life. The Forests Service must work with us, the spiritual people, from the very beginning to attain our free, prior and informed consent. The Forest Service also must be truthful by not fragmenting this project to avoid conducting an Environmental Impact Statement.

Beyond all these man-made laws, both domestic and international, that have not been properly considered we object to the proposed project as it violates the Creator's Natural Law. The Natural Law is coded into the Navajo Nation as the Fundamental Laws of the Dine' - § 1. Diné Bi Beehaz'aanii Bitse Siléí--Declaration of the Foundation of Diné Law (1 N.N.C. § 201). As elders and medicine people, it is our duty to our people and our way of life to object to the violation of Natural Law. The Creator's Natural Law extends beyond our human comprehension and we shall not violate or challenge the Creator's Natural Law. We are a part of Creation, thus, if we break the Laws of Creation, we destroy ourselves. Rather than continuing down this path of self-destruction and further destruction of the Natural World we must work to restore universal balance and harmony.

“When Christopher Columbus first set foot on the white sands of Guanahani island, he performed a ceremony to “take possession” of the land for the king and queen of Spain, acting under the international laws of Western Christendom. Although the story of Columbus’ “discovery” has taken on mythological proportions in most of the Western world, few people are aware that his act of “possession” was based on a religious doctrine now known in history as the Doctrine of Discovery. Even fewer people realize that today – five centuries later – the United States government still uses this archaic Judeo-Christian doctrine to deny the rights of Native American Indians.” – Steven Newcomb

As elders and medicine people, when reviewing these type of projects that are proposing to further desecrate, damage and destroy our unified sacred foundation we have to look all the way back to see where these so-called man-made laws are coming from. What foundation is the United States system of governance and laws standing on? As spiritual Dine’ Peoples we have no choice but to stand on the Creator’s Natural Law as our foundation. This immutable law that guides ALL LIFE must be respected and followed. For this reason we are standing firm on our sacred beliefs, sacred way of life, sacred holdings and sacred mountains, all of which are indivisible from the Creator.

Today, we are all experiencing extreme weather patterns that are threatening our collective future. When we violate the Sacredness of the Natural Law there are consequences. These consequences are being reflected in the health of the natural environment and in the health of human beings around the World. Prophecies warn us of this time and warn us of what is on the horizon, if we do not change our behavior. The US Forest Service has made an ill-informed decision by forcing their laws on us and they must step back. Doko’oo’sliid, “Shining on Top”, describes how the mountain should be with a snow cap. The sacred mountains’ alpine environment has been showing signs of impacts from climate change and mismanagement by federal agencies, by no longer “Shining on Top”. We, Dine’ medicine peoples, clearly warned the Forest Service and Arizona Snowbowl not to allow development on the sacred peaks. Our warnings were not respected, Snowbowl has further desecrated the mountain with treated sewage effluent (aka reclaimed water). We need the snow cap back as this ties to our prayers, ceremonies, plants, animals, seasons, clouds, water, air, wind and all the others. The ragwort needs the snow cap back to survive. Snowbowl and the Forest Service together are killing the future by continually ignoring us and going against our direction.

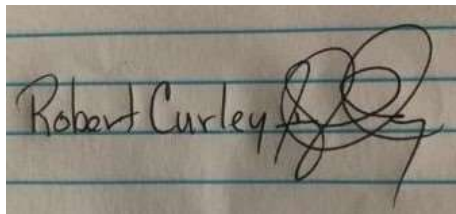
The Forest Service must stop disrespecting Aboriginal Indigenous Peoples. The Coconino National Forest Service Tribal Relations Staff Craig Johnson in July of 2019, described Dine’ medicine people as “Pan-Indian”; “New age group”; and “this was a group of native fundamentalist and NOT a tribe with 1000s of years of continued ceremonial use”. This type of disrespect and harassment by the Forest Service must stop. We are sacred people with a deep sacred relationship with Mother Earth and sacred areas, including Doko’oo’sliid. Our rights to follow our way of life must be respected. On July 6, 2012, Coconino National Forest Supervisor Earl Stewart directed that our sacred ceremonial fire be extinguished by his staff even though a Navajo Fire Chief out of Tuba City was willing to send his crew and fire truck to watch over the

fire until we finished our ceremony. We provide these instances to demonstrate to the World that our Aboriginal Indigenous Ways of Life are outlawed, disrespected, and our rights are continually violated by the United States of America. Based on our review of this proposal and the current Coconino National Forest Supervisor Laura Jo West's Finding No Significant Impact, we see nothing has changed, our rights continue to be violated and the Creator's Creation continues to be destroyed.

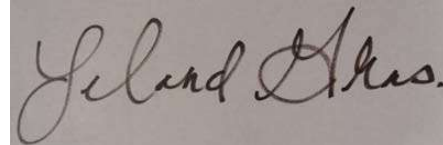
What happened to the US Forest Service Report to the Secretary, USDA's Office of Tribal Relations and Forest Service Policy and Procedures Review: Indian Sacred Sites, that we provided input on? Why are the recommendations not being acknowledged in this project?

We need to all work together in good faith to promote a better future for ALL LIFE. Instead of continuing to destroy what is left of Mother Nature, we must work together to restore the damage that has already been done. This project must be withdrawn and Coconino National Forest's decision reversed. Arizona Snowbowl does not want to protect the Sacred Plant (San Francisco Ragwort), so their special-use permit must be revoked and terminated for the greater public good.

Duly Authorized to Sign,

A photograph of a handwritten signature in black ink on lined paper. The signature reads "Robert Curley" followed by a stylized, cursive flourish.

Robert Curley, President
Dine' Medicine Men Association
PO Box 4574, Gallup, NM 87305

A photograph of a handwritten signature in black ink on lined paper. The signature reads "Leland Grass" followed by a stylized, cursive flourish.

Leland Grass, Vice-President
Dine' Medicine Men Association
PO Box 4574, Gallup, NM 87305