

Timothy L. Nuvangyaoma  
CHAIRMAN

Clark W. Tenakhongva  
VICE-CHAIRMAN

December 6, 2019

Cal Joyner, Regional Forester  
United States Forest Service  
333 Broadway Blvd. SE  
Albuquerque, New Mexico 87102

Re: Arizona Snowbowl Agassiz Chairlift Replacement Project Decision

Dear Forester Joyner,

This constitutes an objection to the Decision Notice and Final Environmental Impact Statement of the Arizona Snowbowl Agassiz Chairlift Replacement Project Decision on the Flagstaff Ranger District of the Coconino National Forest, decided by Responsible Official Coconino National Forest Supervisor Laura Jo West. The Hopi Tribe hereby objects to the U.S. Forest Service finding that Arizona Snowbowl's request to replace the Agassiz chairlift would cause no significant impact to the Forest Service's values and there are no new or additional effects to the values of the mountain caused by this action.

The Hopi Tribe claims cultural affiliation to earlier identifiable cultural groups in lands managed by the Coconino National Forest. The Hopi Cultural Preservation Office supports the identification and avoidance of our ancestral sites and Traditional Cultural Properties, and we consider the archaeological sites of our ancestors to be "footprints" and Traditional Cultural Properties. Nuvatukya'ovi, the San Francisco Peaks, is a Traditional Cultural Property of the Hopi Tribe.

This decision is only possible by completely ignoring our values. In the enclosed letter dated May 9, 2018, the Hopi Cultural Preservation Office stated we understand the proposal involves replacing the existing fixed grip triple Agassiz chairlift with a detachable chairlift gondola combination and involves "1.89 acres of tree clearing" (FEIS at 12). We stated that to initiate formal consultation, the Coconino National Forest must address the Purpose and Need of the Hopi people and hundreds of thousands of other native and non-native people who continue to oppose the most recent misguided Record of Decision.

The Forest Service has repeatedly demonstrated that it values the ski industry and devalues the Hopi Tribe and other affected Tribes. This proposal was not approved in the 2005 master plan

and is separate from the proponent's Master Development Plan. Their plan for this year is to run the gondolas on the lift during the summer. The "annual winter and summer ski area operations" in the Purpose and Need for the Proposed Action Alternative emphasizes summer in a preview of the year round amusement park Master Development Plan to follow.

The Forest Service revealed significant new information that arose after the designated comment opportunities by acknowledging that it has received a draft of Snowbowl's new Master Development Plan (Draft Decision Notice and Finding of No Significant Impact at 1). The Forest Service is fully aware that this or another draft of the Master Development Plan is imminent and therefore it must be considered a Reasonably Foreseeable Action and cumulative effects of this lift and activities it is meant to serve must be considered together. The cumulative effects of the current action must be considered alongside the "year-round recreation activities" including amusement park rides and mountain bike trails, that are being proposed in the new Master Development Plan (<https://www.snowbowl.ski/the-next-chapter-sharing-snowbowls-future/>). The new lift could help enable those activities and those activities will increase ground disturbance and tree clearing, and therefore the effects of this project cannot be separated from the other reasonable foreseeable actions that will be part of the Master Development Plan.

## OWNERSHIP

We have repeatedly requested information from Coconino Forest on who the actual owners of the Arizona Snowbowl are. As we repeatedly pointed out to the Coconino National Forest during the comment period on the draft environmental assessment, the draft environmental assessment states, "Arizona Snowbowl is owned and operated by the Arizona Snowbowl Resort Limited Partnership." Coconino National Forest has been insisting Mountain Capital Partners owns and operates the Snowbowl.

In our May 9, 2018 letter and at our consultation meetings with Coconino National Forest on this proposal in July and November 2018 and May 2019, we cited a Snowbowl media release identifies Mountain Capital Partners collection of resorts: Arizona Snowbowl, Purgatory Resort, Sipapu Ski & Summer Resort, Pararito Mountain Ski Area and Hesperus Ski Area and stated:

For the past three years, more than \$35 million have been invested in projects providing significant improvements, including new lifts, more trails and additional snowmaking infrastructure across the five resorts from 2015-2018.

We note this website has since been updated to say, "For the past four years more than \$40 million have been invested in projects..." (<https://www.mcp.ski/growth/>).

We have provided the enclosed letter dated December 11, 2014 from the Hopi Tribe to the Coconino National Forest which cites the Sacred Sites Policy Review and Recommendations and states, "The Hopi Tribe has a significant interest in the outcome of the potential assignment of the Special Use Permit to the new owner of the Arizona Snowbowl..."

We have provided the enclosed letter dated January 6, 2015 from the Arizona State Historic Preservation Office to Coconino National Forest which states:

We suggest that a change in ownership of the Ski Area may constitute an undertaking that has the potential to affect the tribal values attached to the San Francisco Peaks TCP because there may be operational changes that the CNF believes are not significant, but may be of significance to the Tribes.

We have provided the enclosed response dated January 13, 2015 letter from the Coconino National Forest to the Arizona State Historic Preservation Office which states:

The October 30, 2014 Arizona Daily Sun newspaper article that stated that the Arizona Snowbowl was sold, and the new owner proposed additional improvements...contained several factual errors... As of this date the Arizona Snowbowl has not been sold to another party. Any sale would be evaluated for the need for reissuance of a new permit and any need for tribal consultation and consultation with the Advisory Council and your office.

We have provided the enclosed letter dated January 22, 2015 from Forest Service to the Hopi Tribe which states:

Eric Borowski and James Coleman filed Form FS-2700-3a, to the Coconino National Forest in preparation to reissue the special use permit to Mr. Coleman. However, on January 16, 2015, Mr. Borowski and Mr. Coleman requested that we cease processing the re-issuance. If there are any future requests to move forward on the re-issuing the special use permit for the Arizona Snowbowl, we will initiate consultation with you before that reissuance occurs.

During those consultations on this chairlift replacement proposal, we have repeatedly asked the Coconino National Forest if Arizona Snowbowl Resort Limited Partnership or Mountain Capital Partners owns and operates the Arizona Snowbowl and the response has been James Coleman and Mountain Capital Partners. No consultation with us has occurred on re-issuing the special use permit for the Arizona Snowbowl. In spite of our letters, consultation meetings and providing additional information, the Response to Comments document dated October 15, 2019 does not include the Hopi Tribe in the list of those who submitted comments on the environmental assessment.

The draft environmental assessment dated July 2019 states: "It is owned and operated by the Arizona Snowbowl Resort Limited Partnership." (DEA at Section 1.2) The final environmental assessment dated October 2019 states: "It is operated under a special use permit (SUP) by the Arizona Snowbowl Resort Limited Partnership." (FEA at Section 1.2) It is years past the time for the Coconino National Forest to acknowledge that the Arizona Snowbowl Resort Limited Partnership is a shell game that exists for the sole purpose of avoiding the need to issue a new Special Use Permit.

The final environmental assessment continues a cover-up regarding the operator. The Coconino National Forest apparently decided not to even try identifying an owner in the final

environmental assessment and removed “ownership” language from the final environmental assessment entirely. The change in wording indicates that even the Forest Service is unclear about ownership, however several lines of evidence reveal that Mountain Capital Partners is the only entity operating Arizona Snowbowl.

The Mountain Capital Partners website states: “Our Company, Our Improvements, Arizona Snowbowl.” Mountain Capital Partners takes credit for all construction at the ski area since 2015 (<https://www.mcp.ski/snowbowl/>). The website has a tab, “Our Company, Our Mountains” that clearly claims ownership of Snowbowl (<https://www.mcp.ski/about-us/our-mountains>). Our Leadership cites J.R. Murray as Chief Planning Officer. (<https://www.mcp.ski/our-leadership/>). Arizona Snowbowl Resort Limited Partnership isn’t cited under the tab. Our Company, Our Partners (<https://www.mcp.ski/about-us/our-partners/#>). The Snowbowl website includes a 2017 Christmas greeting from James Coleman in the title calling him “Snowbowl owner,” and acknowledges he is responsible for all the improvements at the resort (<https://www.snowbowl.ski/merry-christmas/>).

During the winter of 2017-8mthe local marketing department was dissolved in favor of centralized marketing for all of Mountain Capital Partner’s resorts. The company that now markets Arizona Snowbowl states plainly on their website, “Mountain Capital Partners (MCP) owns and operates some of the nations most well known ski resorts including ...Arizona Snowbowl...” (<https://www.workhorsemtkt.com/work/mountain-capital-partners/>).

We have previously provided the Outside Magazine profile on James Coleman to the Coconino National Forest which states that he purchased the Arizona Snowbowl. We have previously stated that SE Group, a ski industry consultant for Snowbowl, knows who owns and operates the ski area on paper but the Coconino National Forest doesn’t. There is no way the Coconino National Forest can legitimately claim the Arizona Snowbowl Resort Limited Partnership is operating anything on the San Francisco Peaks.

At the November 5, 2019 Southwestern Regional Forester’s Intertribal Roundtable & Consultation Meeting you directed the Coconino National Forest to provide us with a copy of a legal review of the Snowbowl ownership and update on our FOIA claim. To date, we have received no response.

We therefore object to this environmental assessment as illegitimate and invalid because the proponent and Coconino National Forest are operating the ski area under an illegitimate and invalid Special Use Permit. A new Special Use Permit must accompany a change in ownership or management and must preclude any actions at the resort taken by the new owner/management.

## ADVERSE EFFECT ON TRADITIONAL CULTURAL PROPERTY

The Forest Service's August 29, 2019 correspondence enclosed a cultural resources report to "provide us with additional information about the analysis for this project." The Northland Research, Inc. cultural resources survey report prepared for the proponent identifies a 15.6 acre area of potential effects in the 777 acre Special Use Permit area.

The Coconino National Forest cultural resources report states, "continue tribal notifications and consultations. Implement action items developed and agreed to during tribal consultations." As cited in Table 1, Tribal Responses, I personally told you of our sadness by snowmaking and that this proposal continues to alter our pattern and practice of religion. Table 1 consolidates, minimizes, reduces, and digitizes tribal consultations into an incomprehensible one and a half page chart in a microscopic font. We do not support any of the Possible Mitigating Actions which assume that the Proposed Action will be approved.

The cultural resources survey report addresses National Historic Preservation Act, National Register Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Properties, only in Chapter 5. References. Therefore, we provided a copy of Bulletin 38 to Coconino National Forest. Pursuant to NRHP 1998 we consider the area of potential effect to be the San Francisco Peaks Traditional Cultural Property (AR-03-04-03-30), considered National Register eligible.

Hopi migration is intimately associated with a sacred Covenant between the Hopi people and M̄asaw, the Earth Guardian, in which the Hopi people made a solemn promise to protect the land by serving as stewards of the Earth. In accordance with this Covenant, ancestral Hopi clans traveled through and settled on the lands in and around Nuvatukya'ovi during their long migration to Tuuwanasavi, the Earth Center on the Hopi Mesas. The land is a testament of Hopi stewardship through thousands of years, manifested by the "footprints" of ancient villages, sacred springs, migration routes, pilgrimage trails, artifacts, petroglyphs, and the physical remains of buried Hisatsinom, the "People of Long Ago", all of which were intentionally left to mark the land as proof that the Hopi people have fulfilled their Covenant.

The Forest Service recognized the adverse effects of the White Vulcan Mine on the whole mountain, not just the mining area of potential effects. Therefore we determined that this proposal will adversely affect the San Francisco Peaks Traditional Cultural Property.

## ENVIRONMENTAL JUSTICE

Your July 29, 2019 correspondence enclosed a draft environmental assessment by SE Group, a ski industry consultant for Snowbowl. We have reviewed the draft environmental assessment which does not clearly identify, consider or address the content of our July and November 2018 and May 2019 consultation meetings. The draft environmental assessment is a tailor-made boilerplate advertisement, reducing and minimizing effects. The draft environmental assessment does not address Environmental Justice.

The draft environmental assessment cites the Traditional Cultural Property in the Purpose and Need, as “identification and discussion of any mitigating measures resulting from the National Historic Preservation Act compliance process to address tribal concerns associated with effects to the TCP. We do not support any mitigating measures which assume that the Proposed Action will be approved.

The United States Forest Service Sacred Sites Report concludes that, “To disrespect the value of Native American sacred sites would perpetuate the cycle of trauma.” The Arizona Snowbowl Record of Decision disrespects the values of Nuvatukya’ovi, the San Francisco Peaks, and perpetuates the cycle of trauma and permanent harm to the Hopi people.

We have informed you that these extraordinary circumstances require a full analysis in an environmental impact statement including significant effects that the transfer of ownership will reasonably and foreseeably have on the existing ski area term, water sources, and Forest Management Plan. Therefore, the Hopi Tribe has proposed the Coconino National Forest re-evaluate our continued opposition and take administrative action to thoroughly review the use of recycled wastewater in snowmaking at the Arizona Snowbowl on the San Francisco Peaks, and therefore, we strongly oppose Coconino National Forest considering this draft environmental assessment for the proposed chairlift replacement.

We have stated that we hope you fully understand our position on the whole Snowbowl issue and we hope it is not too late for you to realize the consequences of approving ongoing improvements on Nuvatukya’ovi. Nuvatukya’ovi is held in the light of reverence by Hopisimom who have spoken with one voice in opposition to the desecration of Nuvatukya’ovi that should not out weigh our Way of Life.

For the Forest Service to accept the proponent’s cultural report and this draft environmental assessment and identify the content of our consultations in a table demonstrates a willful blindness to our consultations on this proposal and our consultations over the last decades.

The Hopi ancestors buried in the area continue to inhabit the land, and they are intimately associated with the clouds that travel out across the countryside to release the moisture that sustains all life. The Hopi footprints and clouds are part of a living, sacred landscape that nourishes and sustains Hopi identity, and this landscape is steeped in cultural values and maintained through oral traditions, songs, ceremonial dances, pilgrimages, and stewardship, and as a cultural landscape, the archaeological sites and physical terrain situates the Hopi people in time and space, providing a geographical conception of history and religion that connects the past, present and future.

This proposal is “in order to meet public recreational demands in 2020.” We are also aware of the attached Master Plan and in a letter dated June 6, 2019, pursuant to the Freedom of Information Act (FOIA), the Hopi Tribe requested any and all records pertaining to the meeting held at your offices with Snowbowl Manager J.R. Murray and elected officials regarding a new Arizona Snowbowl Master Plan. We have not yet received the results of this FOIA request.

## MASTER DEVELOPMENT PLAN

The Master Development Plan, for which a meeting was conducted at the Forest Service offices in Flagstaff and which the Hopi Tribe has submitted a Freedom of Information Act claim, must be considered a “Reasonably Foreseeable Action” and cumulative effects of this action must be considered.

It was revealed in the Draft Decision Notice and Finding of No Significant Impact for the Agassiz Chairlift Replacement that at the time of the decision, a draft of the Master Development Plan had been submitted to the Forest Service. Because it hasn’t been accepted yet, it is not being considered a “Reasonably Foreseeable” activity and therefore is not analyzed in the environmental assessment. As Objection Officer, we recommend to you that this new chairlift be analyzed as part of the proposed Master Plan amusement park in an environmental impact statement and not segmented into this piecemeal environmental assessment. A new Master Development Plan is reasonably foreseeable.

Many new activities are being proposed and this lift is part of that. Other resorts owned by Mountain Capital Partners have greatly increased their summer operations. The Draft decision Notice states, “Coupled with ongoing improvements that the Snowbowl is making to its current summer program...” The Master Development Plan describes many changes to the proposed summer programs and the fact that the proponent is actively submitting a Plan to the Forest Service indicates that this is a reasonably foreseeable action.

Does money now makes this chairlift replacement so urgent that it can’t be analyzed as part of the new Master Development Plan and analyzed with cumulative effects of that plan? If Americans are to live together in America in the 21st Century, we must call together for another way of living. The laws of the past that are now being used against all American people must be consigned to the past, and replaced with laws that support life, and not destruction and death. For-profit developers with dark money are invading our government and public lands. Therefore, we object to this environmental assessment.

The Hopi people are committed to carrying out our world stewardship for all living things and have a significant responsibility to respectfully care for this special place and to transmit traditional knowledge about this place to the coming generations of Hopis.

Cal Joyner  
December 6, 2019  
Page 8

If you have any questions or need additional information, and please contact Stewart B. Koyiyumptewa at the Hopi Cultural Preservation Office, P.O. Box 123, Kykotsmovi, Arizona 86039. Thank you for your consideration.

Respectfully,



Clark W. Tenakhongva  
Vice Chairman, The Hopi Tribe

Previously sent Enclosures:

December 11, 2014 letter from the Hopi Tribe to Coconino National Forest  
January 6, 2015 letter from Arizona State Historic Preservation Office to Coconino National Forest  
January 13, 2015 letter from Coconino National Forest to SHPO w/ January 14, 2015 letter to Hopi Tribe  
January 22, 2015 letter from Coconino National Forest w/ January 20, 2015 letter to Eric Borowski  
June 11, 2015 Hopi FOIA  
July 10 2015 letter from Coconino National Forest to Hopi Tribe  
July 22, 2015 letter from Regional Forester to Hopi Tribe  
May 9, 2018 letter from Hopi Tribe to Coconino National Forest  
June 6, 2019 FOIA re Master Development Plan meeting from Hopi Tribe to Coconino National Forest

xc: Laura Jo West, Jeannie Stevens, Coconino National Forest  
Heather Provencio, Kaibab National Forest  
Office of the Chairman, General Counsel  
Sierra Club, Save the Peaks Coalition  
Arizona State Historic Preservation Office





Timothy L. Nuvangyaoma  
CHAIRMAN

Clark W. Tenakhongva  
VICE-CHAIRMAN

June 6, 2019

Laura Jo West, Forest Supervisor  
Attention: Jeanne Stephens, Tribal Liaison  
Coconino National Forest  
1824 S Thompson Street  
Flagstaff, AZ 86001-2529

Dear Supervisor West,

Pursuant to the Freedom of Information Act, the Hopi Tribe hereby requests any and all records including invitations, attendee list, transcripts, recordings, notes and e-mail correspondences pertaining to the June 6, 2019 meeting held at your offices with Snowbowl Manager J.R. Murray and elected officials regarding a new Arizona Snowbowl Master Plan.

You cited this meeting at our government to government consultation meeting on May 29<sup>th</sup> and in e-mail correspondences on June 4<sup>th</sup> and 5<sup>th</sup>, provided some additional information on the meeting including a referral to J.R. Murray to address our questions.

If you have any questions or need additional information, please contact Stewart B. Koyiyumptewa at the Hopi Cultural Preservation Office. Thank you for your consideration.

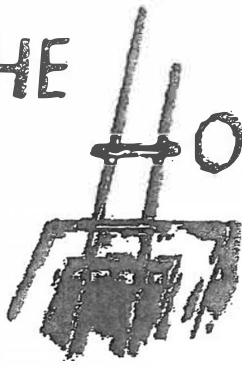
Respectfully,

Clark W. Tenakhongva, Vice Chairman  
THE HOPI TRIBE

Enclosure: June 11, 2015 FOIA letter

xc: Congressman Grijalva, Senator O'Halloran  
Flagstaff Mayor and City Council  
Sierra Club  
Save the Peaks Coalition

# THE HOPI TRIBE



Timothy L. Nuvangyaoma  
CHAIRMAN

Clark W. Tenakhongva  
VICE-CHAIRMAN

May 9, 2018

Laura Jo West, Forest Supervisor  
Attention: Craig Johnson, Brian Poturalski  
Coconino National Forest  
1824 S. Thompson Street  
Flagstaff, Arizona 86001

Dear Supervisor West,

This letter is in response to your correspondence dated April 24, 2018, regarding scoping pursuant to the National Environmental Policy Act for the Arizona Snowbowl proposed Agassiz chairlift replacement project.

The Hopi Tribe claims cultural affiliation to earlier identifiable cultural groups on the Coconino National Forest. The Hopi Cultural Preservation Office supports the identification and avoidance of our ancestral sites, and we consider the archaeological sites of our ancestors to be Traditional Cultural Properties. *Nuvatukya'ovi*, the San Francisco Peaks, is a Traditional Cultural Property of the Hopi Tribe. Therefore, we appreciate the Coconino National Forest's continuing solicitation of our input and your efforts to address our concerns.

The Hopi Cultural Preservation Office understands the proposal involves replacing the existing fixed grip triple Agassiz chairlift with a detachable chairlift gondola combination and involves "1.9 acres of overstory vegetation removal along the alignment." We do not support the Purpose and Need for this proposal, which was not part of the Record of Decision for the Arizona Snowbowl that the Hopi Tribe disputes. To initiate formal consultation, we request you to address the Purpose and Need of the Hopi people and hundreds of thousands of other native and non-native people who continue to oppose that misguided decision.

A recent Snowbowl media release identifies Mountain Capital Partners collection of resorts: Arizona Snowbowl, Purgatory Resort, Sipapu Ski & Summer Resort, Pararito Mountain Ski Area and Hesperus Ski Area and states, "For the past three years, more than \$35 million have been invested in projects providing significant improvements, including new lifts, more trails and additional snowmaking infrastructure across the five resorts from 2015-2018." We request information on who are the actual owners of Mountain Capital Partners. We further ask that Coconino National Forest inform the Hopi Tribe who the investors in the Snowbowl resort are.

Headlines in recent editions of *Daily Sun* include: (1) Mining ban on way out? USFS opens door to uranium mining in Colorado watershed. (2) Moving dirt, not snow, New lift, skybridge and restaurant set for Snowbowl. (3) Faster logging approvals OK'd . The United States Forest Service Sacred Sites Report concludes that, "To disrespect the value of Native American sacred sites would perpetuate the cycle of trauma." The Arizona Snowbowl Record of Decision disrespects the values of *Nuvatukya'ovi*, the San Francisco Peaks, and perpetuates the cycle of trauma and permanent harm to the Hopi people.

Therefore, the Hopi Tribe hereby proposes the Coconino National Forest re-evaluate our continued opposition and take administrative action to thoroughly review the use of recycled wastewater in snowmaking at the Arizona Snowbowl on the San Francisco Peaks. And therefore, we strongly oppose Coconino National Forest considering a categorical exclusion of the proposed chairlift replacement.

We hereby inform you that these extraordinary circumstances require a full analysis in an environmental impact statement including significant effects that the transfer of ownership will reasonably and foreseeably have on the existing ski area term, water sources, and Forest Management Plan.

And therefore, we invite you to an initial meeting of our Hopi Cultural Resources Advisory Task Team to discuss the Arizona Snowbowl's proposal and our proposal. We hope you fully understand our position on the whole Snowbowl issue. We hope it is not too late for you to realize the consequences of approving the use of recycled wastewater for snowmaking on *Nuvatukya'ovi*.

To schedule this initial consultation meeting or if you have any questions or need additional information, and please contact me at the Hopi Cultural Preservation Office. Thank you for your consideration.

Respectfully,



Stewart B. Koyiyumptewa, Interim Manager  
Hopi Cultural Preservation Office

xc: Offices of the Chairman, Vice-Chairman, General Counsel



United States  
Department of  
Agriculture

Forest  
Service

Southwestern Region  
Regional Office

333 Broadway SE  
Albuquerque, NM 87102  
505-842-3800  
FAX: 505-842-3292

File Code: 6270  
Date: JUL 22 2015

**RECEIVED**

**JUL 28 2015**

**THE HOPI TRIBE  
OFFICE OF THE CHAIRMAN**

Mr. Herman Honanie  
Chairman, Hopi Tribe  
P.O. Box 123  
Kykotsmovi, AZ 86039

RE: Freedom of Information Act Request, Case Number 2015-FS-R3-04152-F

Dear Mr. Honanie:

This is our final determination to your Freedom of Information Act (FOIA) request dated June 11, 2015. Your request was received and clarified by the Coconino National Forest (NF) FOIA Service Center on June 22. Your case was rerouted and received by the Southwestern Regional FOIA Service Center on July 13, 2015. Your request is assigned Case Number 2015-FS-R3-04152-F. Please include this case number in all communications regarding your request.

You requested:

*"... any and all correspondence, e-mails, and records regarding the ownership of the Arizona Snowbowl since the enclosed January 22, 2015, correspondence from the Forest Supervisor to the Hopi Tribe."*

Enclosed please find a CD containing 38 pages of responsive records of which 11 pages are withheld in part and 27 pages are provided in their entirety. Pursuant to Exemption 6 of the FOIA, 5 U.S.C. § 552(b)(6), we are withholding cell phone numbers issued to federal employees as well as information of a private nature. Exemption 6 protects information about individuals in "personnel and medical files and similar files," where disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." The determination as to whether the disclosure of private information is required under Exemption 6 does not rest on the identity of the requester or on the particular purpose for which the records is sought, but on the nature of the information requested and its relationship to the core purpose for which Congress enacted the FOIA: to shed light on an agency's performance of its statutory duties. We have determined that the information withheld implicates the respective personal privacy interests of those individuals and would not shed light on the government activities or operations. Therefore, the privacy interest outweighs the public interest in release of this information and it is withheld per Exemption 6 of the FOIA.

Pursuant to Exemption 4 of the FOIA, 5 U.S.C. § 552(b)(4), we are withholding information of a financial nature pertaining to Snowbowl. Exemption 4 permits the government to withhold trade secrets, commercial or financial information obtained from a person that is privileged or confidential. The exemption also affords protection to those submitters who are required to furnish commercial or financial information to the government by safeguarding them from the competitive disadvantage that could result from disclosure.

C: G.C. w/CO, DNR, CPO  
7/28/15 AB



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Pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5), we are withholding information under the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. Under the deliberative process we are withholding discussions between employees and supervisors for which no decision was made. The deliberative process privilege prevents injury to the quality of agency decisions. For the deliberative process privilege to apply, three requirements must be met: (1) the communication must be inter-or intra-agency, (2) the communication must be pre-decisional and developed prior to the adoption of an agency policy, and (3) the communication must be deliberative, and a direct part of the deliberative process that makes recommendations or expresses opinions on legal or policy matters. The three policy purposes that constitute the basis for the deliberative process privilege are (1) to encourage open, frank discussions on matters of policy between subordinates and superiors, (2) to protect against premature disclosure of proposed policies before they are adopted, and (3) to protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action.

The attorney work-product privilege of FOIA Exemption 5 protects records and documents prepared by an attorney or at an attorney's direction in contemplation or anticipation of litigation, including administrative proceedings.

The attorney-client privilege of FOIA Exemption 5 protects confidential communication between an attorney and a client relating to a legal matter for which the client has sought professional advice. The privilege applies to facts divulged by a client to an attorney and communications between attorneys which reflect client-supplied information.

The FOIA provides you the right to appeal my decision to partially withhold 11 pages of responsive records. Any appeal must be made in writing, within 45 days from the date of this letter, to USDA, Forest Service, FOIA Service Center by (1) email to [wo\\_foia@fs.fed.us](mailto:wo_foia@fs.fed.us); (2) by regular mail to 1400 Independence Avenue, SW, Mail Stop 1143, Washington, DC 20250-1143; (3) by FedEx or UPS to 201 14<sup>th</sup> Street, SW, Mail Stop 1143, Washington, DC 20250-1143 with telephone number (202) 205-1542; or (4) by fax at (202) 260-3245. The term "FOIA APPEAL" should be placed in capital letters on the subject line of the email or on the front of the envelope. To facilitate the processing of your appeal, please include a copy of this letter and/or the FOIA case number assigned to your request.

We feel this fully satisfies your request with the Southwestern Region FOIA Service Center.

Sincerely,



CALVIN N. JOYNER  
Regional Forester

Enclosure

cc: Melanie Lawrence

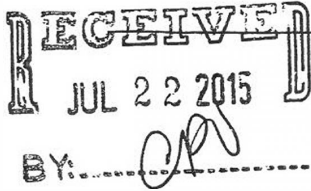


United States  
Department of  
Agriculture

Forest  
Service

Coconino National Forest  
Supervisor's Office

1824 South Thompson Street  
Flagstaff, AZ 86001  
928-527-3600  
FAX: 928-527-3620



File Code: 6270  
Date: July 10, 2015

Mr. Herman Honanie  
Chairman, Hopi Tribe  
P. O. Box 123  
Kykotsmovi, AZ 86039

Dear Chairman Honanie,

**RECEIVED**

**JUL 15 2015**

**THE HOPÍ TRIBE  
OFFICE OF THE CHAIRMAN**

The Coconino National Forest is responding to your Freedom of Information Act (FOIA) request that was dated June 11, 2015. Your clarified request was received by the Coconino National Forest FOIA Service Center on June 22, 2015. Your request has been assigned Case # 2015-FS-R3-04152-F.

You requested the following:

"any and all correspondence, e-mails, and records regarding the ownership of the Arizona Snowbowl since the enclosed January 22, 2015, correspondence from the Forest Supervisor to the Hopi Tribe."

By copy of this letter, we are rerouting your FOIA request to the Southwestern Region FOIA/Privacy Act (PA) Service Center for review. They will respond directly to you. To check on the status of your request, please contact Raquel Cantu, Southwestern Region FOIA Liaison. She may be reached by phone at (505) 842-3121. You may also write to her at Southwestern Region FOIA/PA Service Center, USDA Forest Service, 333 Broadway Blvd. SE, Albuquerque, NM, 87102, facsimile at (505)842-3111, or [raquelcantu@fs.fed.us](mailto:raquelcantu@fs.fed.us).

Sincerely,

*for* SCOTT RUSSELL  
Acting Forest Supervisor

cc: Raquel Cantu

C: DNR, CPD, G.C., HTC 7/15/15  
-TB





Herman G. Honanie  
CHAIRMAN

Alfred Lomahquahu Jr.  
VICE-CHAIRMAN

June 11, 2015

Scott Russell, Acting Forest Supervisor  
Attention: Craig Johnson, Tribal Liaison  
Coconino National Forest  
1824 S Thompson Street  
Flagstaff, AZ 86001-2529

Dear Supervisor Russell,

Pursuant to the Freedom of Information Act (FOIA) the Hopi Tribe hereby request any and all correspondence, e-mails, and records regarding the ownership of the Arizona Snowbowl since the enclosed January 22, 2015, correspondence from the Forest Supervisor to the Hopi Tribe.


The enclosed correspondence from the Forest states:

On January 16, 2015, Mr. Borowski and Mr. Coleman requested that we cease processing this reissuance. If there are any future requests to move forward on reissuing the special use permit for the Arizona Snowbowl, we will initiate consultation with you before that reissuance occurs.

We understand the Manager of the Arizona Snowbowl has been openly referring to the new owners of the Snowbowl. Therefore, in addition to this FOIA request, the Hopi Tribe also hereby requests government-to government face to face consultation on the status of reissuance of the Arizona Snowbowl special use permit.

If you have any questions or need additional information, please contact Leigh J. Kuwanwisiwma at the Hopi Cultural Preservation Office at 928-734-3611 or lkuwanwisiwma@hopi.nsn.us. Thank you for your consideration.

Respectfully,

  
Herman G. Honanie, Chairman  
THE HOPI TRIBE

Enclosures: January 22, 2015 letter from the forest to the Tribe  
January 20, 2014 letter from the Forest to Eric Borowski



United States  
Department of  
Agriculture

Forest  
Service

Coconino  
National  
Forest

1824 S. Thompson Street  
Flagstaff, AZ 86001  
FAX (928) 527-3620

File Code: 2360  
Date: January 22, 2015

Mr. Herman G. Honanie  
Chairman  
The Hopi tribe  
P.O. Box 123  
Kykotsmovi, AZ 86039

**RECEIVED**

JAN 28 2015

THE HOPI TRIBE  
OFFICE OF THE CHAIRMAN

Re: Proposed Sale of the Arizona Snowbowl

Dear Chairman Honanie,

Enclosed is a correspondence letter the Coconino National Forest sent to Mr. Eric Borowski on behalf of the Arizona Snowbowl Resort L.P. Our letter to the Arizona Snowbowl is a response to their request to not move forward or transfer the special use permit that would occur as a result of a sale of the business.

Eric Borowski and James Coleman filed, Form FS-2700-3a, to the Coconino National Forest in preparation to reissue the special use permit to Mr. Coleman. However, on January 16, 2015, Mr. Borowski and Mr. Coleman requested that we cease processing this re-issuance. If there are any future requests to move forward on re-issuing the special use permit for the Arizona Snowbowl, we will initiate consultation with you before that reissuance occurs.

If you have any additional questions regarding this discussion, please do not hesitate to contact us through our Tribal Relations Specialist, Craig J. Johnson at 928-527-3475 or by email at [cjohnson@fs.fed.us](mailto:cjohnson@fs.fed.us) or at the address on our letterhead.

Sincerely,

M. EARL STEWART  
Forest Supervisor

Enclosure: Coconino National Forest letter to Eric Borowski







United States  
Department of  
Agriculture

Forest  
Service

Coconino  
National Forest  
Supervisor's Office

1824 S. Thompson Street  
Flagstaff, AZ 86001-2529  
Phone: (928) 527-3600  
Fax: (928) 527-3620

File Code: 2720

Date: January 20, 2015

Eric Borowski  
President  
EGB Enterprises, Inc.  
22214 N. Lasenda Drive  
Scottsdale, AZ 85255

Dear Mr. Borowski,

Thank you for your email dated January 16, 2015, requesting that the U.S. Forest Service disregard Form FS-2700-3a. This form is titled "Holder-initiated revocation of existing authorization / Request for a special use permit or term special use permit".

Form FS-2700-3a was signed October 30, 2014 by you, Eric Borowski, on behalf of Arizona Snowbowl Resort L.P., and by James Coleman on behalf of Snowbowl Recreation I L.P.

Per your request we will take no further action unless indicated by you and Mr. Coleman. If the situation changes and you decide to continue the process, we would review the draft technical and financial determination letter and obtain the current version of the National Ski Area Term Permit; terms are updated periodically.

Sincerely,

M. EARL STEWART  
Forest Supervisor, Coconino National Forest





United States  
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National Forest  
Supervisor's Office

1824 S. Thompson Street  
Flagstaff, AZ 86001-2529  
Phone: (928) 527-3600  
Fax: (928) 527-3620

File Code: 2360

Date: January 13, 2015

Mr. James W. Garrison  
State Historic Preservation Officer  
Arizona State Parks  
1300 W. Washington  
Phoenix, AZ 85007

Re: Arizona Snowbowl Ski Area status

Dear Mr. Garrison,

Thank you for your inquiry regarding the possible sale of the Arizona Snowbowl. We look forward to working with your office on this matter in the future however, we would like to clarify the current status of this issue.

On December 2, 2014, Coconino National Forest Supervisor Earl Stewart met with Hopi Chairman Herman Honanie in Washington D.C. This meeting was at the request of Chairman Honanie as a result of the October 30, 2014, Arizona Daily Sun newspaper article that stated that the Arizona Snowbowl was sold, and the new owner proposed additional improvements. However that article contained several factual errors.

Although there are ongoing discussions regarding a sale, as of this date the Arizona Snowbowl Ski Area has not been sold to another party. The Ski Area is still operating under its previously issued Special Use Permit. Any sale would be evaluated for the need for reissuance of a new permit and any need for tribal consultation and consultation with the Advisory Council and your office.

The Arizona Snowbowl is in the process of making improvements as defined in the Master Development Plan approved in 2004 and approved in its current permit. Additionally the 2005 Memorandum of Agreement for the Arizona Snowbowl Ski Area Proposed Modifications developed from the Environmental Impact Statement stipulates the provisions for consultation. No additional improvements have been proposed to the Forest Service at this time. Any authorization for improvements beyond the Master Development Plan and existing Permit would require a new federal action under the National Environmental Policy Act and National Historic Preservation Act.





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Forest  
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1824 S. Thompson Street  
Flagstaff, AZ 86001  
FAX (928) 527-3620

File Code: 2360  
Date: January 14, 2015

Mr. Herman G. Honanie  
Chairman  
The Hopi tribe  
P.O. Box 123  
Kykotsmovi, AZ 86039

RECEIVED

JAN 21 2015

THE HOPI TRIBE  
OFFICE OF THE CHAIRMAN

Dear Chairman Honanie,

Please be aware that on October 30, 2014, the Arizona Daily Sun newspaper published an article that stated that the Arizona Snowbowl was sold, and the new owner proposed additional improvements. That article contained several factual errors, and we would like to take this opportunity to clarify what has transpired as a result of this newspaper article.

Although there are ongoing discussions regarding a sale, as of this date the Arizona Snowbowl Ski Area has not been sold to another party. The Ski Area is still operating under its previously issued Special Use Permit. Any sale would be evaluated for the need for reissuance of a new permit and any need for tribal consultation and consultation with the Advisory Council and State Historic Preservation Officer (SHPO).

We are enclosing a letter we sent to the Arizona SHPO that will provide you with our response to their inquiry regarding the proposed sale of the Snowbowl. We are sharing this information with you as we have done for all actions conducted by the Arizona Snowbowl and will continue to do so. If you have any additional questions regarding this discussion, please do not hesitate to contact us through our Tribal Relations Specialist, Craig J. Johnson at 928-527-3475 or by email at [cjohnson@fs.fed.us](mailto:cjohnson@fs.fed.us) or at the address on our letterhead.

Sincerely,

M. EARL STEWART  
Forest Supervisor

Enclosure: Coconino National Forest letter to Arizona SHPO

2015 JAN 27 PM 12:32  
NATIONAL FOREST SERVICES



Janice K. Brewer  
Governor

Bryan Martyn  
Executive Director



Board Members

Alan Everett, Sedona, *Chair*  
Walter D. Armer, Jr., Vail  
Mark Brnovich, Phoenix  
R. J. Cardin, Phoenix  
Kay Daggett, Sierra Vista  
Larry Landry, Phoenix  
Vanessa Hickman,  
State Land Commissioner

January 6, 2015

Earl Stewart  
Forest Supervisor  
Coconino National Forest  
1824 South Thompson Street  
Flagstaff, AZ 86001-2529

Re: Recent Sale of the Arizona Snowbowl Ski Area

Dear Mr. Stewart:

On December 30, 2014, Mr. Leigh Kuwanwisiwma, Director of the Hopi Cultural Preservation Office, informed us that the Arizona Snowbowl Ski Area (Ski Area) recently has been sold. As you know, the Ski Area is within the Coconino National Forest (CNF) and it is our understanding that the Ski Area requires a Special Use Permit from the CNF in order to continue operation. Furthermore, the Ski Area is situated within the San Francisco Peaks Traditional Cultural Property (TCP), a place of considerable importance to the Hopi and many other Native American Tribes.

At present, we are working with very limited information on the current situation, but understand that the CNF does not believe that this process is a federal action requiring Section 106 consultation because it believes there will be no change in the operation of the Ski Area. However, we suggest that that a change in ownership of the Ski Area may constitute an undertaking that has the potential to affect the tribal values attached to the San Francisco Peaks TCP because there may be operational changes that CNF believes are not significant, but may be of significance to the Tribes. For example, an October 30, 2014 Arizona Daily Sun newspaper article states that improvements such as increasing the area of artificial snowmaking, and adding new lifts and other facilities, are planned. We would appreciate information clarifying CNF's rationale for its decision.

Additionally, pursuant to Stipulations I.2 and II.7 of the 2005 CNF Memorandum of Agreement concerning the Ski Area, please inform us of what Tribal consultation has been conducted on this matter, and the status of this consultation. We would also like to point out that this MOA will be expiring on February 7, 2015.

We appreciate your cooperation and attention to this subject of mutual concern, and look forward to receiving further information on this undertaking from your agency.

If you have any questions, please feel free to contact me at (602) 542-4009, [jgarrison@azstateparks.gov](mailto:jgarrison@azstateparks.gov), or Ann Howard, Deputy State Historic Preservation Officer, at (602) 542-7138, [ahoward@azstateparks.gov](mailto:ahoward@azstateparks.gov).

Sincerely,

A handwritten signature in black ink that reads "James W. Garrison". The signature is written in a cursive style with a large, stylized "J" and "G".

James W. Garrison  
State Historic Preservation Officer

Cc:

~~Leigh Kuwanwisiwma, Hopi Cultural Preservation Office~~

Peter Pilles, Forest Archaeologist, Coconino National Forest

Craig Johnson, Tribal Liaison, Coconino National Forest

Katry Harris, Program Analyst, Advisory Council on Historic Preservation

William Dancing Feather, Native American Program Analyst, Advisory Council on Historic Preservation



Herman G. Honanie  
CHAIRMAN

Alfred Lomahquahu, Jr.  
VICE-CHAIRMAN

December 11, 2014

Earl Stewart  
Forest Supervisor  
Coconino National Forest  
1824 South Thompson Street  
Flagstaff, AZ 86001-2529

**RE: Request for Government-to-Government Consultation on Assignment of Arizona Snowbowl Special Use Permit**

Dear Mr. Stewart:

This letter follows up on our prior correspondence and our meeting on December 4, 2014 in Washington, DC. As we discussed last week, the Hopi Tribe has a significant interest in the outcome of the potential assignment of the Special Use Permit to the new owner of the Arizona Snowbowl north of Flagstaff, Arizona, and near the Hopi Reservation.

As you know, the U.S. Department Agriculture, as trustee for the Hopi Tribe, has a legal obligation to provide opportunity for full government-to-government consultation and coordination on any action that has a direct or substantial effect on the Hopi Tribe. As recognized in USDA Departmental Regulation 1350-002, "Tribal Consultation, Coordination and Collaboration" (Jan. 18, 2013) ("USDA Tribal Consultation Regulation"), this requirement is meant to ensure "that tribal perspectives on the social, cultural, economic, and ecological aspects of agriculture, as well as tribal food and natural resource priorities and goals are heard and fully considered in the decision-making processes of the Department and its agencies." USDA Tribal Consultation Regulation at 2.

There can be no question that the U.S. Forest Service ("USFS") actions with respect to the Arizona Snowbowl significantly impact the Hopi Tribe. Indeed, the recent USDA and Forest Service "Sacred Sites Policy Review and Recommendations" (the "Sacred Sites Report") specifically recognized the importance of the San Francisco Peaks to many Tribes, including the Hopi Tribe, and also acknowledged the need for better communication with the various Tribes as to actions taken with respect to the Arizona Snowbowl.

We recognize that this decision has had profound impacts on the agency's relationships with many AI/AN people and communities, but we hope this review and the changes that will result from it will begin to address some of the concerns we heard. We understand that the dialogue this review has generated is merely a beginning, and that better, more consistent, and more

meaningful consultation, communication, and understanding between the agency and AI/AN people will be necessary if we are to avoid similar circumstances in the future. The Forest Service will strive to achieve these ideals while meeting its statutory mandates:

Sacred Sites Report at 15.

Pursuant to these authorities and guidance, the USFS must provide the opportunity for meaningful consultation. Consultation is meaningful only where the affected Tribe has all pertinent information.

Consultation is not merely about process. It is about working together in good faith toward informed, workable decisions. Because of the unique Government-to-Government relationship that exists, the Tribes are not treated like other public agencies, the public, or special interest groups; the Tribes' input is tracked separately and may be treated as confidential and exempt from disclosure under the Freedom of Information Act (FOIA) under certain circumstances.

Sacred Sites Report at 8.

In the spirit of meaningful government-to-government consultation with the United States concerning the potential assignment of the Special Use Permit for the Arizona Snowbowl to the new owner, the Hopi Tribe requests the information being considered by the USFS to determine whether assignment of the permit is appropriate.

We also request the opportunity to consult with the USFS prior to any assignment. Please feel free to contact me at [Hehonanie@hopi.nsn.us](mailto:Hehonanie@hopi.nsn.us), 928-734-3102 to set a date for the consultation meeting.

Sincerely,



12-12-14

Herman G. Honanie, Chairman

Cc:

Hopi Tribal Council  
Hopi Cultural Preservation Office  
Hunsucker Goodstein, PC  
General Counsel