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13 *Attorneys for Plaintiff Hopi Tribe*

14 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
15 **IN AND FOR THE COUNTY OF COCONINO**

16 THE HOPI TRIBE, a federally recognized  
17 Indian Tribe,

18 Plaintiff,

19 vs.

20 THE CITY OF FLAGSTAFF, ARIZONA,

21 Defendant.

Case No.: CV2011-00701

**VERIFIED COMPLAINT  
FOR RELIEF**

22 Plaintiff the Hopi Tribe, for themselves and on behalf of the Hopi Tribe Economic  
23 Development Corporation as the sole shareholder, hereby files this Complaint for Relief  
24 against Defendant the City of Flagstaff ("the City") and alleges as follows:  
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PARTIES

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1. Plaintiff, the Hopi Tribe, is a Federally Recognized Tribe. The United States Department of the Interior Office of Indian Affairs approved the Constitution and By-Laws of the Hopi Tribe on December 19, 1936, and as amended on August 1, 1969, February 14, 1980, and December 7, 1993. The Hopi Tribal Council is located at 1 Main Street, Kykotsmovi Village, Arizona 86039.

2. The Hopi Reservation is approximately 1,542,306 acres, located in Coconino and Navajo Counties, in Northeastern Arizona.

3. Plaintiff is, and at all times material hereto was, the owner and sole shareholder of the Hopi Tribe Economic Development Corporation (“HTEDC”). Plaintiff brings this action on behalf of itself and the HTEDC to enforce a right of the HTEDC.

4. The HTEDC is a wholly owned corporation of the Hopi Tribe, with the Tribe as the sole shareholder.

5. The Hopi Tribe will fairly and adequately represent the interests of the corporation in enforcing the right of the HTEDC in issue in this case.

6. The HTEDC is, and at all relevant times has been, a taxpayer of the City of Flagstaff and the State of Arizona.

7. The HTEDC owns several parcels of property in the City of Flagstaff including at 6 East Aspen Avenue (the “Heritage Square Retail/Office Complex”); 2602 North Steves Boulevard, 2626 North Steves Boulevard, 2710 North Steves Boulevard and 2718 North Steves Boulevard (the “Kachina Square Shopping Center”); and 5200 East Courtland Boulevard (the “Continental Plaza Shopping Center”) (collectively, the “HTEDC Flagstaff Property”). The Hopi Tribe also owns additional property in Coconino County.

1           8.     The Heritage Square Retail/Office Complex, located in the heart of  
2 downtown Flagstaff in the business district, is a two story office and retail multi-use  
3 complex with 15,391 square feet of rentable property. The HTEDC owns both the  
4 building and the parking lot below the complex providing a 62-vehicle parking garage  
5 for this downtown area. The City enjoys a perpetual use easement for the square in the  
6 center of this property, which includes an amphitheatre for outside concerts and events.  
7 The City, through its Parks and Recreation Department provides a full schedule of  
8 activities for the Heritage Square and puts on weekly special events for the benefit of  
9 Flagstaff residents.

10           9.     The Kachina Square Shopping Center is a bustling neighborhood center in  
11 the City located on Route 66, and is located in a high-traffic area of the City. The  
12 Kachina Square Shopping Center houses 34 tenants in 56,606 square feet of rentable  
13 property on 3.1 acres.

14           10.    The Continental Plaza Shopping Center, located at the interchange of  
15 Country Club Drive and Route 40, includes five buildings with 28 tenants in 60,874  
16 square feet of rentable property on 6.3 acres. The Continental Plaza Shopping Center  
17 services the large number of Flagstaff residents living in the Continental Country Club  
18 area.

19           11.    The HTEDC pays property taxes to Coconino County for the HTEDC  
20 Flagstaff Property. The HTEDC also pays sales tax to the City for operations at these  
21 properties.

22           12.    In addition to being a taxpayer to the City, HTEDC is an active member  
23 and contributor to the Flagstaff Chamber of Commerce.

24           13.    Defendant, the City of Flagstaff, is now and at all relevant times has been a  
25 municipal corporation duly organized and existing under the laws of the State of  
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1 Arizona. The City of Flagstaff is located in Coconino County, and the Flagstaff City  
2 Hall is located at 211 West Aspen Avenue, Flagstaff, Arizona 86001.

3 **NATURE OF THE ACTION**

4 14. This action is brought by the Hopi Tribe to enjoin performance of, or in the  
5 alternative for damages due to, the contract between the City of Flagstaff and the  
6 Arizona Snowbowl Resort Limited Partnership (“the Snowbowl”) to sell municipal  
7 wastewater for snowmaking at the Snowbowl ski area, because the contract violates  
8 various provisions of the Arizona Code and the public interest, will infringe upon the  
9 Hopi Tribe’s water rights, and will cause a public nuisance.

10 **VENUE AND JURISDICTION**

11 15. Pursuant to A.R.S. § 12-401, venue is proper in Coconino County because  
12 Plaintiff the Hopi Tribe resides in Coconino County. The Hopi Reservation is located  
13 within Coconino and Navajo Counties.

14 16. Pursuant to A.R.S. § 12-401, venue also is proper in Coconino County  
15 because Defendant City of Flagstaff is a municipality within Coconino County.

16 17. Pursuant to A.R.S. § 12-401, venue also is proper in Coconino County  
17 because the City of Flagstaff contracted in writing to perform an obligation in Coconino  
18 County.

19 18. Pursuant to A.R.S. § 12-401, venue also is proper in Coconino County  
20 because this is an action against the City of Flagstaff and the claims for relief asserted by  
21 the Hopi Tribe against the City of Flagstaff arose in Coconino County.

22 19. Pursuant to A.R.S. § 12-401, venue also is proper in Coconino County  
23 because the City of Flagstaff has agents and/or representatives in Coconino County.

24 20. Pursuant to A.R.S. § 12-401, venue also is proper in Coconino County  
25 because the City of Flagstaff conducts business in Coconino County.

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1           28.    The Snowbowl's operations are limited by a Special Use Permit issued by  
2 the U.S. Forest Service, and its operations are limited to the area defined by the Permit  
3 (the "Snowbowl Resort Area").

4           29.    The Snowbowl Resort Area is surrounded on three sides by the Kachina  
5 Peaks Wilderness Area (the "Wilderness Area"), and protrudes nearly 10,000 feet into  
6 the Wilderness Area.

7           30.    The Snowbowl has stated that its average ski season runs from mid-  
8 December through early-April, and that the average seasonal snowfall is 260 inches.

9           31.    During the 2010-2011 season, a record number of skiers visited the  
10 Snowbowl ski area. In January 2011 the Snowbowl reported that "As Flagstaff  
11 experiences a record dry month, Arizona Snowbowl has set a record for the most skier  
12 visits in a 30 day period (December 25 – January 24) with 68,237 visitors, and more than  
13 half coming from out of town." As of April 2, 2011, it was reported that the Snowbowl  
14 ski area had recorded over 196,000 visits. During the 2004-2005 season the Snowbowl  
15 ski area recorded 193,000 visits. Nonetheless, the Snowbowl is attempting to implement  
16 an expansion plan to increase its profits.

17           32.    The Snowbowl has pursued an expansion plan that calls for the production  
18 of artificial snow, and includes, among other things, a pipeline, an underground network  
19 of water lines, snowmaking equipment, and a ten-million gallon surface impoundment  
20 for storage of reclaimed wastewater, along with the addition of other expanded facilities.

21           33.    This expansion plan will result in a relatively small increase in profits for  
22 the Snowbowl while imposing a great cost on the users of the San Francisco Peaks,  
23 including the Hopi Tribe.

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1           42.    Reclaimed wastewater is not used as drinking water in Arizona.

2           43.    Amphibians, fish, and other animals with porous skin are particularly  
3 sensitive to endocrine disruptors. Studies have shown negative impacts of endocrine  
4 disrupters, which can include aberrant sexual development and behavior, and  
5 reproductive problems in animal populations.

6           44.    Studies of reclaimed wastewater from the Rio de Flag Treatment Plant  
7 found detectable levels of contaminants including human drug compounds, human and  
8 veterinary antibiotics, and industrial and household wastes. The U.S. Geological Survey  
9 has sampled water from the Rio de Flag reclamation facility and detected the presence of  
10 human drug compounds, pharmaceutical compounds, including Cotinine,  
11 Acetaminophen, Dhydronifedipine, Carbamazapine, and Caffeine, as well as numerous  
12 industrial and household waste products.

13          45.    Studies exposing female bullfrogs to reclaimed wastewater from the Rio de  
14 Flag reclamation facility found that such exposure adversely affected the bullfrogs'  
15 feeding behavior.

16          46.    Another study where tadpoles were placed in reclaimed wastewater from  
17 the Rio de Flag reclamation facility found that the tadpoles underwent metamorphosis in  
18 fewer days, weighed less, and were shorter than individuals from control groups,  
19 indicating that exposure to reclaimed wastewater from the Rio de Flag reclamation  
20 facility influences endocrine-directed development in this species.

21          47.    Reclaimed wastewater from the Rio de Flag reclamation facility has  
22 elevated levels of nitrogen.

23          48.    Elevated nitrogen levels in the reclaimed wastewater can lead to increased  
24 growth of weedy non-native species that could dominate and outcompete native species  
25 and can adversely impact both flora and soil fauna.

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2                                   **The City of Flagstaff's Contract with**  
3                                   **the Snowbowl for Sale of Reclaimed Wastewater**

4           49.    On or about March 20, 2002, the City entered into a contract with the  
5 Snowbowl for the sale of reclaimed wastewater to the Snowbowl ("the Contract") for the  
6 express purpose of making artificial snow from reclaimed wastewater as part of the  
7 Snowbowl expansion project.

8           50.    The Contract sat dormant for many years and no provision of reclaimed  
9 wastewater has yet occurred under the Contract.

10          51.    Along with many others, the Hopi Tribe has repeatedly and consistently  
11 voiced its opposition to both the sale of reclaimed wastewater and any additional  
12 development on the San Francisco Peaks, including through the specific actions outlined  
13 in Paragraphs 52 to 67 below.

14          52.    The 2002 Contract, including amendments thereto, provided that the  
15 Contract would become null and void within two years if Snowbowl did not obtain all  
16 necessary approvals for the snowmaking activity. Snowbowl failed to obtain these  
17 necessary approvals within two years.

18          53.    On January 20, 2004, the City amended the Contract to extend the term of  
19 the agreement and the deadline to obtain all necessary approvals for the snowmaking  
20 activity. The amendment provided that the Contract would become null and void if  
21 Snowbowl did not obtain all necessary federal and state environmental approvals for the  
22 snowmaking activity by March 20, 2006.

23          54.    The City and Snowbowl subsequently amended the Contract to further  
24 extend the term and the deadline to obtain all federal and state environmental approvals  
25 for the snowmaking activity.  
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1           55.    On March 31, 2004, Caleb Johnson, who was then the Vice Chair of the  
2 Hopi Tribe, submitted a letter to the Flagstaff Water Commission Chairman and  
3 Commissioners confirming the Tribe's prior request for a hearing to explain the Tribe's  
4 position on the proposed sale of recycled wastewater for snowmaking on the Peaks. This  
5 request was denied.

6           56.    In denying the request of the Hopi Tribe to further discuss the issue of use  
7 of reclaimed wastewater for snowmaking at the Peaks, the City of Flagstaff indicated it  
8 would take no action unless and until the U.S. Department of Agriculture and the U.S.  
9 Forest Service completed the National Environmental Procedure Act ("NEPA") process,  
10 and that the final decision would be made by the U.S. Forest Service, and not the City of  
11 Flagstaff Water Commission.

12           57.    On June 1, 2004, Mr. Johnson submitted a subsequent letter addressed to  
13 the Chairman of the Flagstaff Water Commission transmitting the Hopi Tribe's  
14 comments on the Snowbowl Facilities Improvement Draft Environmental Impact  
15 Statement and repeating the Tribe's objection to the proposed sale of recycled  
16 wastewater for snowmaking on the Peaks.

17           58.    In December 2004, the Hopi Tribe declined to sign the Memorandum of  
18 Agreement between the U.S. Department of Agriculture, Forest Service, the Advisory  
19 Council on Historic Preservation and the Arizona State Historic Preservation Officer  
20 regarding the Arizona Snowbowl Ski Area Proposed Modifications because it was the  
21 Tribe's position that there were no administrative actions described in the Memorandum  
22 of Agreement that could mitigate the adverse effects of using reclaimed wastewater for  
23 artificial snowmaking at the Snowbowl.

24           59.    From 2005 through 2008, the Tribe continued to actively oppose proposals  
25 for the use of reclaimed wastewater for snowmaking at the Snowbowl.

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1           60. Throughout 2009 and into 2010, the U.S. Department of Agriculture, the  
2 City of Flagstaff, Snowbowl, and Tribal Leaders continued to discuss potential  
3 alternatives to the sale of reclaimed wastewater at the Snowbowl.

4           61. On May 20, 2010 the Flagstaff Water Commission held a meeting to  
5 introduce proposed alternatives to the sale of reclaimed wastewater for snowmaking.

6           62. On July 2, 2010, the U.S. Forest Service completed its permitting process  
7 and issued an Amendment to the Special Use Authorization to allow the Snowbowl  
8 expansion process to move forward.

9           63. On July 29, 2010, the Flagstaff City Water Commission held a public  
10 hearing to decide whether or not to approve a contract to sell potable water to Snowbowl  
11 in lieu of reclaimed wastewater.

12           64. Members of the Hopi Tribe attended the hearing and provided the Hopi  
13 Tribe's input on the proposal consistent with the Hopi Tribe's position.

14           65. In August and September 2010 the City considered alternatives to the  
15 contract with the Snowbowl and/or amendment to the Contract with the Snowbowl. A  
16 series of public hearings culminated in a public hearing that was many hours long, during  
17 which strong opposition to the implementation of the Contract was presented by the Hopi  
18 Tribe and many other taxpayers in Flagstaff.

19           66. Following these hearings, on September 2, 2010, the City voted to proceed  
20 with the Contract for sale of reclaimed wastewater to the Snowbowl for production of  
21 artificial snow.

22           67. On September 7, 2010, the Flagstaff City Council heard, debated, and  
23 accepted public comment a motion to reconsider the September 2, 2010 vote, but  
24 ultimately voted not to reconsider its decision to proceed with the Contract for sale of  
25 reclaimed wastewater to the Snowbowl.

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1           68. Under the Contract, the City will provide to the Snowbowl up to 1.5  
2 million gallons of reclaimed wastewater every day from November to February (the  
3 “Delivery Period”), or up to 552.4 acre-feet per year.

4                           **Sale of Reclaimed Wastewater for Snowmaking at the Snowbowl Ski Area**  
5                           **Violates Arizona Reclaimed Wastewater Regulations**

6           69. The Arizona Revised Statutes and the Arizona Administrative Code  
7 regulate use of reclaimed wastewater.

8           70. The Arizona Administrative Code “Direct Reuse of Reclaimed Water”  
9 governs permissible direct uses of reclaimed wastewater in Arizona.

10          71. The Arizona Department of Environmental Quality (“ADEQ”) issued a  
11 Type 3 General Permit to the City to allow it to operate as a Reclaimed Water Agent  
12 upon the City’s representation that all end users would meet the Arizona Administrative  
13 Code requirements for use of reclaimed water. The Notice of Intent that the City sent to  
14 ADEQ listed the Snowbowl among numerous other end users, but contained no analysis  
15 or explanation of how the Snowbowl would comply with Arizona regulatory restrictions  
16 on use of reclaimed water.

17          72. The Arizona Administrative Code provides that reclaimed wastewater may  
18 only be directly used if all of the requirements of Article 7 of the Arizona Administrative  
19 Code are met. R18-9-718(A).

20          73. Arizona Administrative Code Section R18-9-704 provides for “General  
21 Requirements” for direct discharge of reclaimed wastewater.

22          74. Use of reclaimed wastewater for the purpose of making artificial snow at  
23 the Snowbowl ski area violates several provisions of the Arizona Administrative Code  
24 regulating proper use of reclaimed wastewater.

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1 75. Snowmaking at the Snowbowl does not meet the requirements of the  
2 Arizona Administrative Code, despite the general listing of Snowmaking in the table at  
3 18 A.A.C. 11, Article 3, Appendix A. Moreover, snowmaking was added to Appendix A  
4 without any analysis or opportunity for public comment.

5 ***Runoff of Reclaimed Wastewater Is Prohibited***

6 76. The Arizona Administrative Code and the City's authorization to operate  
7 as a reclaimed water agent prohibit "[a]llowing runoff of reclaimed water or reclaimed  
8 water mixed with stormwater from a direct reuse site, except for agricultural return flow  
9 that is directed onto an adjacent field or returned to an open water conveyance." R18-9-  
10 704(G)(3)(c).

11 77. During spring snowmelt, some of the over 180 million gallons of reclaimed  
12 wastewater will runoff the application area and the Snowbowl Resort Area.

13 78. The sale of reclaimed wastewater to the Snowbowl for the express purpose  
14 of making artificial snow will impermissibly allow runoff of reclaimed wastewater or  
15 reclaimed wastewater mixed with stormwater from a direct reuse site, in violation of  
16 R18-9-704(G)(3)(c).

17 ***Reclaimed Wastewater Standing on Open Areas Is Prohibited***

18 79. The Arizona Administrative Code and the City's authorization to operate  
19 as a reclaimed water agent also require users to "Prevent reclaimed water from standing  
20 on open access areas during normal periods of use." R18-9-704(F)(2).

21 80. The Snowbowl plans to use the reclaimed wastewater from the City to  
22 create a base layer of artificial snow throughout the Snowbowl ski area on all ski runs  
23 and in the snowplay area.

24 81. Up to 552.4 acre-feet, or over 180 million gallons of reclaimed wastewater  
25 will accumulate on open access areas in the Snowbowl Resort Area, as well as in the  
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1 surrounding Kachina Peaks Wilderness Area during the winter season in violation of  
2 R18-9-704(F)(2).

3 82. During spring snowmelt, some of the over 180 million gallons of reclaimed  
4 wastewater will pool or stand on the surface in the Snowbowl Resort Area as well as in  
5 creeks and streams carrying runoff from the application area and the Snowbowl Resort  
6 Area in violation of R18-9-704(F)(2).

7 83. The Contract for the sale of reclaimed wastewater for the purpose of  
8 making artificial snow at the Snowbowl ski area violates Arizona Administrative Code  
9 provision R18-9-704(F)(2).

10 ***Human Contact with Reclaimed Wastewater Must Be Precluded***

11 84. The Arizona Administrative Code and the City's authorization to operate  
12 as a reclaimed water agent also require that end users of reclaimed water "Use  
13 application methods that reasonably preclude human contact with reclaimed water."  
14 R18-9-704(F)(1).

15 85. The sale of reclaimed wastewater for snowmaking at the Snowbowl ski  
16 area will result in human contact with reclaimed wastewater both in and outside the  
17 boundaries of the Snowbowl Resort Area.

18 86. Artificial snow made from reclaimed wastewater at the Snowbowl  
19 snowplay area will come into contact with humans, particularly children.

20 87. The sale of reclaimed wastewater to the Snowbowl for the express purpose  
21 of making artificial snow for ski and snowplay areas does not reasonably preclude  
22 human contact with reclaimed wastewater, in violation of R18-9-704(F)(1).

23 **Efforts to Obtain Action from the HTEDC**

24 88. Plaintiff has made diligent effort to have the present action instituted by the  
25 HTEDC in its own right. On or about August 3, 2011, the Hopi Tribe made formal  
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1 demand upon the directors of HTEDC that they take prompt action to enforce the rights  
2 of the corporation asserted against the City of Flagstaff.

3 89. On August 10, 2011, the Hopi Tribe's General Counsel appeared before  
4 the directors of the HTEDC to again demand immediate action to enforce the rights of  
5 the corporation asserted against the City of Flagstaff.

6 90. On August 15, 2011, the HTEDC provided written notification to the Hopi  
7 Tribe respectfully declining the Hopi Tribe's demand to file litigation to enforce the  
8 rights of the corporation against the City of Flagstaff.

9 **The San Francisco Peaks**

10 91. The San Francisco Peaks area has wide variation in elevation, and consists  
11 of diverse ecosystems, making it an important and unique area for biodiversity within  
12 Arizona and the Southwest.

13 92. The Peaks, and more specifically the Snowbowl Resort Area, are  
14 ecologically significant, containing rare types of habitat and numerous threatened,  
15 endangered, and sensitive species.

16 93. Tundra habitat is extremely rare in Arizona, consisting of less than 1400  
17 acres on the Peaks in the vicinity of the Snowbowl Resort Area.

18 94. The San Francisco Peaks have been described in the following way:

19 The San Francisco Peaks, at 12,633 feet the highest point in  
20 Arizona, tower over the flat, heavily timbered Colorado Plateau,  
21 home of the largest contiguous stand of ponderosa pine in the  
22 world. The Mogollon Rim, a high rocky escarpment, slashes  
23 across the southern reaches of the Forest and forcefully separates  
the cool timber country from the arid, high desert scrub along the  
Verde River, the Forest's southern boundary. Deep canyons and  
natural lakes round out the picture of a Forest that spans the  
major life zones of Arizona.

24 Forest Management Plan for Coconino National Forest, at p.3.

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1           95.    The Arizona Game and Fish Department has issued “Arizona’s  
2 Comprehensive Wildlife Conservation Strategy: 2005-2015.” It states that tundra  
3 habitat is significantly stressed and that “[t]he trend in this habitat type is to continued  
4 loss of species and populations of rare components of the tundra. Many of these  
5 influences are being actively managed by the [U.S. Forest Service] under strict rules  
6 which lack a significant enforcement effort due to restricted funding and the remote  
7 location at which tundra is found.”

8           96.    Rare Alpine Confer Forests in Arizona are also found exclusively in and  
9 around the Snowbowl Resort Area and “have been disproportionately affected by a small  
10 number of development projects such as ski runs, communication towers, and  
11 observatories . . . .” Arizona Comprehensive Wildlife Conservation Strategy.

12           97.    Over three-quarters of all species in the Coconino National Forest fall  
13 within a category defined by the U.S. Forest Service planning directives such as  
14 endangered or threatened, wildlife of special concern, species of concern, and species of  
15 interest.

16           98.    The Northern Leopard Frog, Northern Goshawk, Olive-Sided Flycatcher,  
17 Western Purple Martin, American Peregrine Falcon, the Pine Grosbeak, Red-Naped  
18 Sapsucker, and Mexican Spotted Owl, are present in the Snowbowl ski area and have  
19 been identified as “Species of Greatest Conservation Need” by the Arizona  
20 Comprehensive Wildlife Conservation Strategy.

21           99.    Several species that inhabit the Snowbowl Resort Area and surrounding  
22 areas are also nationally designated as endangered or threatened including the Mexican  
23 Spotted Owl and the San Francisco Peaks Groundsel.

24           100.   The U.S. Fish and Wildlife Service also has commenced the listing process  
25 for the Northern Leopard Frog, which is found in the Snowbowl area. *See* 74 Fed. Reg.

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1 31,389 (July 1, 2009) (finding that listing the Northern Leopard Frog to the endangered  
2 species list may be warranted). The petition to list the Northern Leopard Frog cited  
3 exposure to pesticides and water pollution as among the factors affecting the species'  
4 continued existence.

5 101. The Snowbowl Resort Area is surrounded on three sides by the Kachina  
6 Peaks Wilderness Area, which was established in 1984 by the United States Congress.  
7 Arizona Wilderness Act of 1984, Pub. L. No. 98-406, § 101(a)(22), 98 Stat. 1485  
8 (1984). The Snowbowl Resort Area protrudes nearly 10,000 feet into the Wilderness  
9 Area.

10 102. The purpose of the Wilderness Act of 1964 is stated by Congress as:

11 In order to assure that an increasing population, accompanied by  
12 expanding settlement and growing mechanization, does not  
13 occupy and modify all areas within the United States and its  
14 possessions, leaving no lands designated for preservation and  
15 protection in their natural condition, it is hereby declared to be  
16 the policy of the Congress to secure for the American people of  
17 present and future generations the benefits of an enduring  
18 resource of wilderness. For this purpose there is hereby  
19 established a National Wilderness Preservation System to be  
20 composed of federally owned areas designated by Congress as  
21 "wilderness areas", and these shall be administered for the use  
22 and enjoyment of the American people in such a manner as will  
23 leave them unimpaired for future use and enjoyment as  
24 wilderness, and so as to provide for the protection of these areas,  
25 the preservation of their wilderness character, and for the  
26 gathering and dissemination of information regarding their use  
and enjoyment as wilderness . . . .

20 16 U.S.C. § 1131(a).

21 103. The Kachina Peaks Wilderness Area is named for the Hopi deities, in  
22 recognition of the importance of the Peaks to the Hopi way of life and use of the area for  
23 traditional practices. 130 Cong. Rec. H8908 (Aug. 10, 1984) (Statement of Rep. Udall)  
24 ("the San Francisco Peaks Wilderness has been changed to Kachina Peaks to reflect the  
25 deep Hopi religious significance of the area"); *see also* 130 Cong. Rec. S10361 (Aug. 9,

1 1984) (Statement of Senator DeConcini) (“I am also pleased that we will add Kachina  
2 Peaks, an area sacred to the cultures of the Navajo and Hopi peoples”).

3 104. In introducing the bill that designated the Kachina Peaks Wilderness Area,  
4 sponsoring Representative Udall specifically noted that “the San Francisco Peaks are  
5 considered sacred to several Indian tribes, including the Hopi and the Navajo. Religious  
6 practices and herb gathering are still conducted on the mountain by these people and the  
7 wilderness designation is in no way intended to interfere with these practices.” H.R.  
8 Rep. No. 98-643, at 18 (1984). Representative Udall also noted the significant and  
9 unique ecological importance of the Peaks area. *Id.* at 18-19.

#### 10 **The Impact of the Snowbowl Ski Area on the Surrounding Environment**

11 105. Pursuant to activities specifically contemplated in the Contract between the  
12 City and the Snowbowl, reclaimed wastewater will be discharged to the slopes of the San  
13 Francisco Peaks, contaminating sensitive ecosystems.

14 106. Runoff cannot be contained to the application area or the Snowbowl Resort  
15 Area.

16 107. Some of the snowmelt from the Snowbowl ski area will infiltrate regional  
17 perched aquifers and subsequently be discharged to the surface via springs.

18 108. All of the springs and seeps in the Coconino National Forest that may be  
19 recharged by snowmelt from the Snowbowl ski area support important ecosystems for  
20 wildlife and plant communities. Arizona’s Comprehensive Wildlife Conservation  
21 Strategy states with respect to springs and seeps in the Arizona-New Mexico Mountain  
22 Region of Arizona that “All are critical to maintain due to the role they play in providing  
23 key habitat components to wildlife.”

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1           109. Snowmelt from artificial snow made from reclaimed wastewater will be  
2 environmentally harmful because it contains chemicals including endocrine disruptors  
3 that adversely affect certain species.

4           110. Some of the springs in the Coconino National Forest that may be recharged  
5 by snowmelt from the Snowbowl ski area, including the Wilson and Colton Springs, are  
6 used for domestic water supply.

7           111. In addition, prevailing winds will blow the artificial snow, made with  
8 reclaimed wastewater, beyond the boundaries of the application area and the Snowbowl  
9 Resort Area. The artificial snow made from reclaimed wastewater cannot be contained  
10 within the Snowbowl Resort Area, but rather will accumulate and coat trees and plants  
11 outside the Snowbowl Resort Area, including in the Wilderness Area. The blown snow  
12 will impact substantially more of the environment than just that within the Snowbowl  
13 Resort Area.

14           112. The creation of artificial snow will also result in a significant increase in  
15 unnatural noise that will penetrate into the Wilderness Area and surrounding  
16 environment. The significant increase in unnatural noise cannot be contained within or  
17 limited to the Snowbowl Resort Area.

18           113. The snowmaking equipment will generate exhaust and other fumes  
19 affecting the air quality and environment in the Snowbowl Resort Area and surrounding  
20 areas. It is expected that the snowmaking will attract additional traffic in the vicinity of  
21 the Snowbowl Resort Area, thus further increasing air pollution and associated impacts  
22 to the natural environment.

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1                                   **The Impact of the Snowbowl Ski Area on the Hopi Tribe**

2           114. The Hopi Tribe has lived in Northeastern Arizona for centuries. Old  
3 Oraibi, one of the cities on the Hopi Reservation, is believed to be the oldest  
4 continuously inhabited village in the United States, established as early as 1150 A.D.

5           115. The Peaks have played a central and essential role in Hopi culture,  
6 traditions, and way of life for centuries. The Peaks, known as Nuvatukya'ovi to the  
7 Hopi, are the single most important sacred place the Hopi have. Every month Tribe  
8 members go to the Peaks for prayers, and during some months tribe members collect  
9 water, greens, and herbs for the ceremonies.

10          116. The Hopi have been making regular pilgrimages and trips to the Peaks  
11 since before recorded history as a central part of their culture and the Hopi way of life.  
12 The various Hopi ceremonies conducted during the year, particularly Powamuya in the  
13 winter and Niman in the summer, require visits and offerings to specific shrines on the  
14 Peaks.

15          117. The Hopi also frequent the Peaks to hunt deer, elk, and small game and to  
16 gather plants, herbs, tobacco, food, and other natural resources.

17          118. The Peaks mark a cardinal direction defining the Hopi universe.

18          119. The U.S. Forest Service has identified the Peaks as a Traditional Cultural  
19 Property and has determined that the Peaks are eligible for the National Register of  
20 Historic Places. Through this determination, the U.S. Forest Service recognizes that the  
21 Peaks contain shrines and other places where ceremonies and prayers are performed; are  
22 the source of life-giving water and soil, plant and animal resources that are necessary for  
23 ceremonial and traditional purposes; mark the boundaries of traditional and ancestral  
24 lands; form the ceremonial calendar; contain places that relate to legends and stories

1 concerning Hopi origins, clans, traditions, and ceremonies; and contain specific sites and  
2 places that are significant in the history and cultural practices of the Tribe.

3 120. Before the Snowbowl ski area was established on the Peaks, the Hopi made  
4 regular pilgrimages to and used the area where the Snowbowl Resort is now located, as  
5 well as to Hart Prairie and other areas immediately surrounding the Snowbowl Resort  
6 Area.

7 121. The Snowbowl Resort Area and its immediate vicinity have been  
8 traditionally used by the Hopi because the topography and existence of paths and roads  
9 in this area allowed greater accessibility for members of the Hopi Tribe, whereas other  
10 portions of the Peaks are less accessible and harder to reach.

11 122. There are Hopi sacred areas, including shrines, in the immediate vicinity of  
12 the Snowbowl Resort Area.

13 123. The presence of the Snowbowl Resort has forced the Hopi to move their  
14 trips to and use of the Peaks into the adjacent areas, including the Kachina Peaks  
15 Wilderness Area and Hart Prairie.

16 124. As one example, Hart Prairie at the base of the Snowbowl is a tipkya (or  
17 "womb") that the Hopi consider to be the spiritual birthing place of the Kachina (known  
18 to the Hopi as the "Katsina"). This prairie has been sacred to and traditionally used by  
19 the Hopi for hundreds of years.

20 125. The Hopi collect water from springs on the Peaks and use the water for a  
21 variety of ceremonial activities. Several of the springs on the Peaks are associated with  
22 specific ceremonies and religious societies. In addition, "Lakonva" is a sacred spring on  
23 the west side of the Peaks that is used by members of a women's society.

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1           126. Multiple times each year, members of the Hopi Tribe make pilgrimages to  
2 the Peaks, including trips to areas in the immediate vicinity of the Snowbowl Resort  
3 Area.

4           127. When making trips to the areas near the Snowbowl Resort Area, the Hopi  
5 collect ceremonially important objects, including Douglas fir and spruce boughs, water,  
6 tobacco, and other natural resources. These materials are taken back to the Hopi  
7 Reservation, where they are used for ceremonial and utilitarian purposes by many  
8 members of the Hopi Tribe. During the trips, the Hopi leave gifts and offerings to the  
9 Peaks including feathers and cornmeal.

10          128. Douglas fir, white fir, and aspen are used for a variety of ceremonial  
11 materials. Native tobacco, mixed with white fir, is used for ritual smoking in preparation  
12 of and during ceremonies. Boughs of Douglas fir and spruce are collected and used for  
13 several ceremonies, including for use as symbolically important portions of the Katsina  
14 clothing. Oak, holly grape, mountain mahogany, and beeweed are used for a variety of  
15 cultural activities.

16          129. The Hopi gather boughs and other natural resources throughout the vicinity  
17 of the Snowbowl Resort Area, along Snowbowl Road and the Inner Basin. These are  
18 important collecting areas because of their accessibility and traditional use.

19          130. In recognition of the Hopi Tribe's use of the Snowbowl and the  
20 surrounding areas, the U.S. Forest Service constructed pull-offs along the Snowbowl  
21 Road specifically for the Hopi to gather boughs and to perform religious ceremonies.  
22 These places have been used every year for Hopi pilgrimages since their creation.  
23 However, the Snowbowl expansion project has already resulted in destruction of some of  
24 these areas and will deprive the Hopi of their use.

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1           131. The purity of the ceremonial objects collected by members of the Hopi  
2 Tribe during pilgrimages is of particular importance. These objects cannot be used for  
3 ceremonial purposes if they are tainted or impure.

4           132. When making trips to the areas near the Snowbowl Resort Area, the Hopi  
5 also observe wildlife. After returning to the Hopi Reservation, the individuals who made  
6 the trip report to other Hopi members what plants and animals are present. The wildlife  
7 observed and the pristine conditions of the Peaks are essential to the Hopi's use and  
8 enjoyment of these areas.

9                           **Harms to the Hopi Tribe From the Introduction of Reclaimed Wastewater**  
10                           **Into the Snowbowl Ski Area and its Vicinity**

11           133. The Snowbowl plans to use reclaimed wastewater from the City to create a  
12 base layer of artificial snow and then to supplement natural snowfall with artificial snow  
13 as needed throughout the ski season.

14           134. If permitted to proceed, the Snowbowl would be the first ski resort in the  
15 country to use undiluted reclaimed wastewater for snowmaking.

16           135. Artificial snow made with reclaimed wastewater will introduce numerous  
17 chemicals that are not degraded or removed in the wastewater treatment process to the  
18 San Francisco Peaks, in particular to the areas in the Snowbowl Resort Area and its  
19 vicinity that have been a part of Hopi use for ceremonial pilgrimages and hunting and  
20 gathering trips for centuries.

21           136. The chemicals that will be introduced to the Snowbowl Resort Area,  
22 surrounding environment, and the Wilderness Area include, but are not limited to  
23 endocrine disrupters and other pharmaceuticals, personal care products, legal and illicit  
24 drugs, veterinary drugs, hormones, caffeine, cosmetics, food supplements, sunscreen  
25 agents, solvents, insecticides, plasticizers, detergent compounds, and other chemicals.

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1           137. Artificial snow made with reclaimed wastewater will melt in the spring,  
2 causing drainage of reclaimed wastewater from the Snowbowl Resort Area into the  
3 Wilderness Area and surrounding environment, causing the chemicals found in  
4 reclaimed wastewater to spread throughout the environment.

5           138. In addition, prevailing winds will blow the snow, made with reclaimed  
6 wastewater, beyond the application area and the boundaries of the Snowbowl Resort  
7 Area. Natural resources that the Hopi collect, as well as shrines, sacred areas, and  
8 springs on the Peaks will come into contact with the blown reclaimed wastewater,  
9 including the chemicals and endocrine disruptors the reclaimed wastewater contains.  
10 This will negatively impact the Hopi's use of the Snowbowl Resort Area, the Wilderness  
11 Area, and surrounding areas, and cause Hopi practitioners to stop using the areas they  
12 have traditionally used.

13           139. The spread of chemicals from the use of reclaimed wastewater to make  
14 artificial snow cannot be limited or controlled.

15           140. Chemicals from the use of reclaimed wastewater to make artificial snow  
16 will have a significant adverse impact on animal and plant species that are important to  
17 the Hopi belief system and cultural practices.

18           141. If artificial snow made from reclaimed wastewater is used at the Snowbowl  
19 ski area, the Hopi will be forced further outside of the area they have used and visited for  
20 centuries as a part of their way of life.

21           142. The increased unnatural noise caused by the generation of artificial snow  
22 that will penetrate into the wilderness areas will disrupt the Hopi's use and visits to and  
23 ceremonies on the Peaks.

24           143. The Hopi have a specific interest in protecting the physical and spiritual  
25 purity of the Peaks.

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1 153. There is currently insufficient groundwater to meet the current and future  
2 needs of the Hopi Reservation.

3 154. The City of Flagstaff is currently recharging the aquifer with reclaimed  
4 wastewater, which has offset part of the City of Flagstaff's over-use of water.

5 155. Under the Contract, the City of Flagstaff will sell up to 552.4 acre-feet, or  
6 over 180 gallons, of water to the Snowbowl each year instead of using that water to  
7 recharge the local aquifer.

8 156. Much of the reclaimed wastewater used for snowmaking at the Snowbowl  
9 will be lost to evaporation, transpiration, and infiltration to other aquifers and will not  
10 recharge the local aquifers, forcing the City and the Hopi to rely on other sources of  
11 water to meet their needs.

12 157. The City's purchase of Red Gap Ranch included the purchase of two  
13 groundwater supply wells. The City plans to develop a well field at the Red Gap Ranch  
14 with the express intent to supplement Flagstaff's long-term water supply, which is  
15 currently insufficient to meet projected demand.

16 158. Red Gap Ranch is located directly adjacent to the Hart Ranch, which was  
17 purchased by the Hopi Tribe in 1998 as an effort to regain ancestral Hopi lands.

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19 **FIRST CLAIM FOR RELIEF:**  
20 **PERMANENT INJUNCTION OF CONTRACT FOR SALE OF**  
21 **RECLAIMED WASTEWATER TO THE SNOWBOWL**  
22 **DUE TO VIOLATION OF ARIZONA LAW AND PUBLIC POLICY**

23 159. Paragraphs 1 through 158 above are incorporated by reference.

24 160. The Contract with the Snowbowl for sale of reclaimed wastewater for use  
25 in making artificial snow violates a number of provisions of Arizona law and public  
26 policy.

1 161. The sale of reclaimed wastewater to the Snowbowl for the express purpose  
2 of making artificial snow for ski and snowplay areas will impermissibly allow runoff of  
3 reclaimed wastewater or reclaimed wastewater mixed with stormwater, in violation of  
4 Arizona Administrative Code R18-9-704(G)(3)(c).

5 162. The sale of reclaimed wastewater to the Snowbowl for the express purpose  
6 of making artificial snow for ski and snowplay areas does not “reasonably preclude  
7 human contact with reclaimed water,” in violation of Arizona Administrative Code R18-  
8 9-704(F)(1).

9 163. The sale of reclaimed wastewater to the Snowbowl for the express purpose  
10 of making artificial snow for ski and snowplay areas will impermissibly allow reclaimed  
11 wastewater to stand on open access areas during normal periods of use, in violation of  
12 Arizona Administrative Code R18-9-704(F)(2).

13 164. The Contract for the sale of reclaimed wastewater to the Snowbowl for the  
14 express purpose of making artificial snow is contrary to public policy.

15 165. As a taxpayer, the HTEDC has an interest in the lawful expenditure of  
16 taxpayer money by the City of Flagstaff, Arizona.

17 166. On behalf of the HTEDC, as the owner and sole shareholder, the Hopi  
18 Tribe has a derivative interest in the lawful expenditure of taxpayer money by the City of  
19 Flagstaff, Arizona.

20 167. The City of Flagstaff will expend taxpayer money under the Contract to  
21 connect the pipeline conveying reclaimed wastewater to the Snowbowl to the Rio de  
22 Flag treatment plant.

23 168. The City of Flagstaff will expend taxpayer money to treat wastewater at the  
24 Rio de Flag treatment plant for delivery to the Snowbowl under the Contract.

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1           169. The City of Flagstaff must be permanently enjoined from spending any  
2 taxpayer money in performance of the Contract.

3           170. The Hopi are regular users of the wilderness areas in the immediate  
4 vicinity of the Snowbowl Resort Area and have been for centuries. The Hopi and the  
5 natural resources they use will be injured by the sale of reclaimed wastewater for  
6 snowmaking at the Snowbowl.

7           171. The sale of reclaimed wastewater to make artificial snow is contrary to  
8 public policy because it will result in unreasonable harm to the environment and public  
9 health.

10          172. The sale of reclaimed wastewater to make artificial snow is contrary to  
11 public policy because it will result in unreasonable harm to natural resources in the  
12 region.

13          173. The sale of reclaimed wastewater to make artificial snow is contrary to  
14 public policy because it will unreasonably imperil the diverse and ecologically  
15 significant flora and fauna present in the Snowbowl Resort Area, the Wilderness Area,  
16 and the surrounding areas.

17          174. The sale of reclaimed wastewater to make artificial snow is contrary to  
18 public policy because it will result in injury to the public through diversion of water that  
19 would otherwise be used to recharge the local and/or regional groundwater aquifers. The  
20 misuse of this reclaimed wastewater is contrary to public policy.

21          175. The sale of reclaimed wastewater to make artificial snow is contrary to  
22 public policy because it violates principles of environmental justice in desecrating a site  
23 sacred to many Native American Indian Tribes.

24          176. Because the sale of reclaimed wastewater to the Snowbowl for the express  
25 purpose of making artificial snow for ski and snowplay areas violates the provisions of  
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1 the Arizona Administrative Code and is contrary to public policy, performance of the  
2 Contract must be enjoined.

3 **SECOND CLAIM FOR RELIEF:**  
4 **PERMANENT INJUNCTION OF, OR IN THE ALTERNATIVE**  
5 **DAMAGES FOR, INFRINGEMENT OF THE TRIBE'S WATER RIGHTS**

6 177. Paragraphs 1 through 176 above are incorporated by reference.

7 178. The Tribe has a reserved water right to the volume of water necessary to  
8 accomplish the current and future needs of the Hopi Reservation. This right vested in  
9 1882, when the U.S. Government established the Hopi Reservation.

10 179. The City of Flagstaff is currently drawing so large of a volume of water out  
11 of the C-Aquifer and R-Aquifer, as to infringe upon the Hopi Tribe's water rights.

12 180. The Contract for sale of reclaimed wastewater will exacerbate the City's  
13 infringement on the Hopi Tribe's water rights.

14 181. The City's planned withdrawal of water from the Red Gap Ranch will  
15 adversely impact availability of groundwater at the Hart Ranch.

16 182. The planned well field at Red Gap Ranch will adversely impact the  
17 availability of groundwater for the Hopi Tribe.

18 183. The City of Flagstaff's use of water that impinges on the Tribe's water  
19 rights must be enjoined or in the alternative, damages awarded to the Hopi Tribe.

20 **THIRD CLAIM FOR RELIEF:**  
21 **PERMANENT INJUNCTION, OR IN THE ALTERNATIVE,**  
22 **DAMAGES FOR PUBLIC NUISANCE**

23 184. Paragraphs 1 through 183 above are incorporated by reference.

24 185. The sale of reclaimed wastewater to make artificial snow will result in  
25 unreasonable harm to the environment and the Hopi Tribe.

26 186. The release of various pollutants, including, but not limited to endocrine  
disruptors and other pharmaceuticals, personal care products, legal and illicit drugs,

1 | veterinary drugs, hormones, caffeine, cosmetics, food supplements, sunscreen agents,  
2 | solvents, insecticides, plasticizers, detergent compounds, and other chemicals will harm  
3 | the environment.

4 |       187. The release of these pollutants will significantly interfere with the public  
5 | use and enjoyment of the San Francisco Peaks, in particular the Snowbowl Resort Area  
6 | and its vicinity, including the Wilderness Area.

7 |       188. The Contract for the sale of reclaimed wastewater for snowmaking at the  
8 | Snowbowl will cause material annoyance, inconvenience, and discomfort to the Hopi  
9 | Tribe and its members.

10 |       189. The City is responsible for the harm to the Hopi Tribe because it is the  
11 | City's Contract for the reclaimed wastewater that sets into motion the forces that cause  
12 | the harm to the Hopi Tribe.

13 |       190. The harm caused by the City's Contract is a substantial, unreasonable and  
14 | intentional interference with a right common to the general public.

15 |       191. The Contract for the sale of reclaimed wastewater for snowmaking on the  
16 | San Francisco Peaks is contrary to Arizona law.

17 |       192. The Contract for the sale of reclaimed wastewater for snowmaking at the  
18 | Snowbowl is contrary to Arizona species conservation policies and will unreasonably  
19 | harm sensitive and threatened species.

20 |       193. The harms to the Hopi Tribe, its members, the unique environmental  
21 | resources, and the public from the sale of reclaimed wastewater for snowmaking at the  
22 | Snowbowl outweigh any benefit of making snow from reclaimed wastewater.

23 |       194. The harms to the Hopi Tribe, its members, the environment, and the public  
24 | from the sale of reclaimed wastewater for snowmaking at the Snowbowl will be  
25 | irreparable and substantial, because the presence of artificial snow will permanently  
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1 compromise the pristine nature of these areas. These permanent alterations will affect  
2 the use and enjoyment of the Peaks by the Hopi and other direct users, as well by as the  
3 public at large.

4 195. The sale of reclaimed wastewater poses a significant risk of harm to the  
5 Hopi Tribe and the thousands of its members and community, and all other users of the  
6 wilderness areas who rely on the purity and sanctity of the Peaks. This harm outweighs  
7 the slight incremental economic benefit the City and the Snowbowl may realize if the  
8 expansion plan proceeds.

9 196. The risk of additional harm created by the abundance of unknown factors  
10 involved in the sale of reclaimed wastewater for snowmaking will be borne by the Tribe  
11 and other users of these unique and important ecosystems, including the Wilderness  
12 Area.

13 197. The utility that the Snowbowl expansion project may provide to the City is  
14 minimal in comparison to the harm and risk facing the Tribe and other users of the  
15 Wilderness Area and other areas in and around the Snowbowl Resort Area.

16 198. The sale of reclaimed wastewater for snowmaking on the Peaks is  
17 unreasonable.

18 199. The Hopi Tribe has standing to bring this action for public nuisance.

19 200. The Hopi Tribe will suffer specific injury from sale of reclaimed  
20 wastewater for snowmaking at the Snowbowl because it has special interests in the  
21 environment, including the flora and fauna, of the San Francisco Peaks in the immediate  
22 vicinity of the Snowbowl Resort Area.

23 201. The Hopi Tribe will suffer specific injury from the sale of reclaimed  
24 wastewater for snowmaking because the prevailing winds will blow the artificial snow  
25 outside the boundaries of the application area thus negatively impacting Hopi's use of  
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1 these areas, including for ceremonial practices, hunting and the gathering of natural  
2 resources.

3 202. The Hopi Tribe will suffer specific injury from the sale of reclaimed  
4 wastewater for snowmaking because the artificial snow will blow towards, and melting  
5 snow will runoff into, springs and water bodies the Hopi Tribe uses for ceremonial and  
6 utilitarian purposes. The Hopi Tribe will suffer specific injury by the disturbances in the  
7 Hopi's use and enjoyment from the increased unnatural noise caused when making  
8 artificial snow from the reclaimed wastewater.

9 203. The sale of reclaimed wastewater for snowmaking in such a manner that  
10 runoff, windblown snow, increased unnatural noise, and elevated air pollution will  
11 pervade beyond the Snowbowl Resort Area is inconsistent with the Congressional  
12 establishment of the Kachina Wilderness Area. Congress established the Kachina  
13 Wilderness Area for preservation and protection of wilderness in its natural condition  
14 and intended the wilderness area to be left "unimpaired for future use and enjoyment as  
15 wilderness."

16 204. The Hopi Tribe will suffer specific injury from the sale of reclaimed  
17 wastewater for snowmaking at the Snowbowl because it will interfere with the Hopi  
18 Tribe's reserved right to the volume of water necessary to accomplish the current and  
19 future needs of the Hopi Reservation.

20 205. Unless enjoined by the Court, the Contract with the Snowbowl will result  
21 in a public nuisance.

22 206. The City of Flagstaff's Contract for the sale of reclaimed waste water must  
23 be enjoined or in the alternative, damages awarded to the Hopi Tribe.

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Alternatively, require the City of Flagstaff to recharge the aquifer to preserve sufficient water for the present and future needs of the Hopi Reservation.

- I. Award costs and attorneys fees to Plaintiff Hopi Tribe.
- J. Grant any other relief that the Court deems appropriate.

DATED this 19th day of August, 2011.

By: 

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*Attorneys for Plaintiff Hopi Tribe*

VERIFICATION

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I, Lionel Puhuyesva, pursuant to Arizona Rules of Civil Procedure 23.1 and 80.1, hereby verify under penalty of perjury:

1. That I am the Director of the Water Resources Program of the Hopi Tribe, and as such, I have the authority to make this Verification on behalf of the Hopi Tribe;
2. That I have read the foregoing Verified Complaint and know the contents thereof, and that the allegations made therein are true and correct to the best of my knowledge and belief.

DATED this 19th day of August, 2011

By:



Lionel Puhuyesva  
P.O. Box 123  
Kykotsmovi, AZ 86039  
Telephone: (928) 734-3711



1 further certifies that this case is not subject to compulsory arbitration, as provided by  
2 Rules 72 through 77 of the Arizona Rules of Civil Procedure, because, among other  
3 things, Plaintiff seeks affirmative relief other than a money judgment.  
4

5 DATED this 19th day of August, 2011.  
6

7 By:  \_\_\_\_\_

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