

WAITING FOR THE SNOW TO FALL: FIRST NATIONS, FEDERAL POLICY, AND  
ENVIRONMENTAL JUSTICE

by

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## ABSTRACT

Critical evaluation of the proposed expansion of the Arizona Snowbowl ski area will provide knowledge towards developing sustainable land-use policy. The San Francisco Peaks region in Arizona has endured numerous conflicts since the United States Forest Service (USFS) allowed the ski area's construction in 1938. The cultural importance of this region is evident in that over thirteen Native American tribes hold this area as *sacred* and central to their traditional way of life. Through this conflict, partnerships fostered between the tribes and several environmental groups have illuminated the significance of the cultural and natural resources involved. However, lost in the consciousness of many Americans today is the fact that Indigenous peoples have been fighting to save their sacred sites since Europeans made first contact.

The ski industry developed without oversight for decades even with negative impacts to both environment and community. The ski industry has failed to address these impacts due to the strength of corporate power that drives the industry. For example, loopholes found in the National Environmental Policy Act (NEPA) will allow the Arizona Snowbowl to spray wastewater over an uncontaminated mountainside for making artificial snow, which simultaneously damages the spiritual significance of the mountain for Native Americans.

I will use a methodological approach centered on qualitative interviews to examine historical actions that have paved the way for the present conflict involving the Arizona Snowbowl. Literature reviewed will examine Native American culture and

sacred sites, United States-Tribal relations, the history of the ski industry, and ecosystem health as integral to the understanding of this case study analysis. The purpose is to contribute to achieving greater governmental accountability, cultural sensitivity, and recommendations for sustainable recreational activity. Through this thesis, I intend to articulate the arguments and their reasoning behind this conflict, analyze its current structure, and make recommendations for a socially and environmentally just outcome.

Through in-depth interviews I will gather data to identify differing viewpoints so that this thesis may serve as a basis for understanding the greater issues connected to this case, including ski industry and USFS accountability, as well as sustainable and culturally equitable environmental policy. Environmental justice theory will be the conceptual framework of this analysis. To resolve this conflict, policy crafted to address the differing values and diverse constituencies is necessary. The implications intend to add to the dialogue for constructing sustainable land-use policy that centers on social and environmental justice.

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## CHAPTER ONE

### INTRODUCTION

This study is a story. It is a narrative, which speaks to culture with a deep attachment and respect for the environment. This story is also about a land-use conflict that involves economics and politics with impacts to cultural and natural resources. The objective of this research is to bring to light the disproportionate impacts faced by Native American communities in a neocolonial era, where ecosystems and the people that depend upon them are repeatedly confronted and defeated by industrial corporate powers. These environmental injustices are fueled through profit driven capitalistic intent backed by governmental law and policy. Beyond bringing the Arizona Snowbowl ski area expansion plan into critical analysis, this work serves to contribute to the wide body of knowledge centered on socially and environmentally just land-use decisions, which are predicated on ecological sustainability, and freedom for all people to live a high quality of life. This study locates a gap in research that concerns environmental justice in ski industry protocol. This research also serves to add to the work currently done by numerous individuals, activists, and environmentalists, specifically by those at the Save the Peaks Coalition.

As a graduate student, I study various aspects of environmental laws and policies, and the policy associated with the Snowbowl case is the main policy applied to domestic instances where a project may result in environmental impacts. NEPA is used by federal agencies, like the USFS, to ensure public participation plays a role in the implementation

of policy, and creates environmental impact statements to decide on alternatives to project plans that potentially affect the environment. In the Snowbowl case, numerous issues began to interlock to give rise to a multi-faceted land-use conflict, which facilitated the desire to research it in-depth as the topic of this thesis.

Personally, this case also brought forth my own deep interests formed well before my presence in an academic setting. I have been a skier since the age of two and it has formed some of my earliest and fondest memories and the beginning of my intimate relationship with alpine environments and earth-based natural processes and systems. The smell and feel of mountain air, snow and mountains, unique flora and fauna, and moving amongst it was something special that has had a lasting effect on me.

As I grew older, my consciousness towards socio-environmental relations evolved. I wondered how ski resorts began in the first place and what preceded them? I began to study the history of the ski industry, and have continued this pursuit at various levels in my life. I no longer view ski areas as the perfect idyllic paradise as I once did, although I still maintain an intimate relationship with the ski community and industry, and will always self-identify as a skier. Having been born in a ski town, growing up skiing, working at ski areas, and immersing myself in ski community life for most of my existence I have developed a deep rapport with ski culture.

My consciousness has evolved to question how the ski industry can operate in a sustainable manner by being healthy and just on a community level and an ecological level. A careful examination of the politics and economics involved are essential pieces to understanding how the industry operates, and are the base questions that have fostered

my desire to research the environmental and community aspects of the ski culture in the United States (US) and internationally.

When I began to research the issues related to the Arizona Snowbowl expansion plan, I knew I could fully give myself to this research. It has become clear to me the social aspect of environmental issues must be acknowledged more adamantly and at the outset. Without such a connection, disjointedness emerges from brushing aside the human aspect of issues surrounding ecological health. Moreover, as a skier, I felt acquainted with this research, having spent the majority of my life in and around these places, and with the understanding that I will never leave them.

The ski industry operates on federally managed public land under a USFS permit and uses NEPA to guide the discretion within this proposed expansion plan. The geographic location of the Arizona Snowbowl, also known as the San Francisco Peaks, is a sacred site to numerous Native American tribes in the region. These tribes have had a tumultuous history with the US government. Their perspective of this plan, which has called for the use of reclaimed wastewater to make artificial snow, is one where their cultural perspective is marginalized and not considered. On the other hand, the USFS and the Arizona Snowbowl believe they have obeyed the law, and followed through on their obligations in order to implement their expansion plan and promote growth for their business.

The question of this research is how do federal land-use decisions respect and honor cultural concerns expressed by marginalized populations, and take into account ecological sustainability, when land is managed in partnership with the ski industry. What

connections are there between Native American sacred site protection, federal policy governing public land-use decisions, and the ski industry? These questions have largely gone unexamined in the literature, which creates a gap in research, and more importantly, greater societal awareness. As a male of European descent, I do not want to hide behind the colonial history of the past, but recognize the post-modern issues today, which have shaped and formed by this past. My desires to situate ecological and social health as one, guide my theoretical orientation in environmental justice theory.

Throughout this work the perspective of the Indigenous people of the North American continent will be described as either: Native, Native American, Native Nation, American Indian, or First Nation and will focus the research. A particular designation will be used to name a particular tribe, or when the people themselves determine a name that bestows the greatest honor to a larger community of people. This paper is in agreement with works that celebrate cultural diversity, and above all, respect the varied views of diverse communities and their environments.

The intention of this work is to provide critical analysis to form recommendations and draw greater understandings from this case and not to criticize or demean any party, but ascertain the perspectives from those involved. The direction of this thesis is to uncover the best plan of action for the present situation, which may also shed light on related issues in the future. How can the ski industry operate justly, sustainably, accountably, and responsibly with its influences on ecology and the community?

Numerous communities have ski areas as part of their social makeup and although they mainly cater to affluence, there are numerous instances where ski resorts are an

integral part of a community. Where infrastructures now exist on a mountainside, there once was an uninterrupted habitat for diverse flora and fauna species, as well as numerous unaltered natural resources for the sustenance of human populations. Ski industry protocol must be critically examined to evaluate how the industry operates and to access the ways it creates burdens and benefits.

Listening to the community perspectives of those most affected by industrial and resource extractive/development activities can help lead to more socially just solutions—structured from the bottom-up, as opposed to from the top-down. An economy fueled by an exploitative and capitalistic mentality has shown that not all individuals have the ability to steer their own destinies. Within a capitalist system, something or someone exploits others for the profit of the “upper class.” The US government designs democratic agencies to fill this *void* in order to incorporate *all* perspectives on issues central to the nation’s welfare.

In the case of the Arizona Snowbowl, what are the barriers to resolving this diverse, multi-faceted land-use conflict? What has set the stage for this case to develop over the past ten years? Ultimately, in specific terms of this thesis research, are there greater implications derived from this case of ski area expansion and what is actually at stake?

The following pages of this thesis will explain background information necessary for a situated historical baseline of the San Francisco Peaks. Chapters 2 and 3 present the sources and methods used for the information gathering that informs this research. The

following chapter presents data derived from qualitative interviews while the fifth chapter offers analysis. The final chapter offers recommendations, implications, and conclusions.

## Background

I attended, in March of 2005; the Public Interest Environmental Law Conference held in Eugene, Oregon which is now in its 25th year. The conference, garnering international recognition, is the preeminent forum for the exchange of ideas associated with environmental law and policy. Evon Peters and Kelvin Long presented about issues related to drilling oil in the Arctic National Wildlife Refuge, and the proposed expansion of a ski area north of the city of Flagstaff, Arizona. As a graduate student, I attended this conference as a way to network, exchange, learn, debate, dialogue, and share knowledge with the various presenters and attendees. What I left with was an invitation from Kelvin Long to research and explore the various aspects associated with the proposed expansion plan of the Arizona Snowbowl ski area.

The Environmental Law conference facilitated numerous questions and thoughts associated with the various interactions that took place over the course of the weekend. What stuck with me was a conversation with Kelvin Long about the Arizona Snowbowl plan as an issue of social and environmental injustice. During his presentation, he expressed deep cultural concerns for this expansion plan. It also brought up several potential environmental impacts associated with the plan. The many constituents involved in the Snowbowl case wove a tapestry of issues together, and most notably, for

me, combined issues that I find central to my personal way of life, and a vision I share with others for a responsible and respectful society of coexistence.

### The San Francisco Peaks

Long before the establishment of the Arizona Snowbowl ski area, and prior to the establishment of Coconino National Forest, the San Francisco Peaks (the Peaks) have been an integral symbol to the way of life of several Native American tribes who have inhabited this region in the Southwestern US for thousands of years (Anderson, 1998). More than thirteen tribes hold this area as sacred and twenty-two tribes identify the Peaks as culturally significant (San Francisco Peaks Background, 2006). Among these Tribes are the Diné (Navajo), Hopi, Zuni, Tewa, Haulapai, Havasupai, Yavapai-Apache, Yavapai-Prescott, Tonto Apache, White Mountain Apache, San Carlos Apache, San Juan Southern Paiute, Fort McDowell Mohave-Apache, and the Acoma (San Francisco Peaks Background, 2006).

Rising to over 12,000 feet, the Peaks are a dramatic geological feature located on the southern section of the Colorado Plateau, which geologists contend are the remnants of ancient volcanic activity (Cline, 1976). For the Navajo people, the Peaks are the sacred mountains of the West, a place to gather the medicinal herbs within its flanks for healing ceremonies (San Francisco Peaks Background, 2006). The Peaks also represent one of their cardinal points informing cosmology and their creation story (San Francisco Peaks Background, 2006). For the Hopi, the Peaks represent an area where the great *Kachina* spirits live, which are the snow gods of the mountain that provide rain to crops for their

people, when celebrated (San Francisco Peaks Background, 2006). Although this area holds a deeply rooted sense of attachment to place for the Native Americans, the USFS maintains jurisdiction of the ski area section of the Peaks because it falls within the boundary of a national forest. This land area amounts to 777 acres of the total acreage (San Francisco Peaks Background, 2006). What began with the pursuits of a small ski club in the 1930s, manifested in 1979 as a ski area allowed to be built on the northern slopes of the Peaks under the discretion of the USFS (San Francisco Peaks Background, 2006). The small ski area infrastructure fostered conflict in the region, and this is but one of the many land-use conflicts which continue to exist with the Peaks (Land Use History of North America, 2006). Initial conflicts were born from resource extraction that was first implemented in the 1800s when white settlers made first contact with local Native American tribes (Land Use History of North America, 2006). Logging, mining, and grazing were the original principal activities of the Peaks beyond the traditional, sustainable, subsistence lifestyles local Native tribes had been engaged in for countless generations (Land Use History of North America, 2006). The USFS maintains an identity and management ideology which seeks to ensure 'multiple-uses' of the areas it manages. Prior to this stance by the USFS, the Peaks were viewed primarily as economic resources by non-Native Americans (San Francisco Peaks History, 2006).

The transcontinental Atlantic and Pacific Railroad system facilitated the development of the city of Flagstaff through timber extraction and shipping. It also allowed livestock be shipped to the Peaks for extensive grazing in the low-lying meadows (DeByle and Winokur 1985). This use of the forest dramatically altered the

landscape, and foresters began to take notice and question their management of the ecosystem (DeByle and Winokur 1985). Fire suppression, grazing, and logging all contributed to deforestation and loss of ecosystem integrity (DeByle and Winokur 1985). Situated ecological knowledge was missing from their management and Native American knowledge was never viewed as valid expertise (San Francisco Peaks Background, 2006).

In the 1960s, social and environmental movements flourished in the US. These movements also facilitated USFS plans to manage diverse forest uses and interests including recreation (San Francisco Peaks History, 2006). In the Peaks, the aesthetic beauty of the area has always attracted visitors (San Francisco Peaks History, 2006). As resource extractive industries began to wane, tourism and recreation took their place with multiple uses (San Francisco Peaks History, 2006). Foresters also began to burn areas and restore forest ecosystem health by promoting diverse tree stands through thinning as opposed to clear cutting (San Francisco Peaks History, 2006). Grazing was limited strictly to private land holdings, of which the Navajo Nations, who do not allow grazing, own a great deal of land on the north side of the mountain (San Francisco Peaks History, 2006). The change in land uses on the Peaks has evolved over time, although skiing remains a viable activity, and the USFS still struggles to work holistically with the diversity of cultures attached to the Peaks (San Francisco Peaks History, 2006).

In the 1930s, the initial construction plans were implemented for the ski area with minimal infrastructure, which included an access road and a ski lodge (San Francisco Peaks History, 2006). A full-scale development in 1969 called the expansion of the ski

area boundaries and all of its facilities (San Francisco Peaks History, 2006). Several community groups who worked in conjunction with several Native American tribes thwarted this proposed expansion (San Francisco Peaks Background, 2006).

In 1979, the rewritten expansion plan had the support of the USFS; and after three years of lengthy court deliberations which eventually reached the Supreme Court, it was implemented (San Francisco Peaks History, 2006). In the precedent setting case for the San Francisco Peaks, *Wilson v. Block*, the American Indian Religious Freedom Act (AIRFA) of 1978 did not save the Peaks from ski area expansion (San Francisco Peaks History, 2006). The judge ruled that even though the ski area may offend the tribes, the provisions of AIRFA were upheld and the ski area should be built, as it did not prevent Native Americans from practicing their religion (San Francisco Peaks Background, 2006; San Francisco Peaks History, 2006).

This was a devastating loss to the tribes since the ski area expansion greatly affected their religious freedom, which they had hoped AIRFA would have protected under law (San Francisco Peaks History, 2006). By failing to take the Peaks integrity as a sacred site into account, the court greatly disenfranchised the religious beliefs of these tribes (San Francisco Peaks History, 2006). The ski area would be 777 total acres with larger lodges, and additional ski lifts, shops, and parking on the north side of the Peaks (San Francisco Peaks Background, 2006; San Francisco Peaks History, 2006).

In the 1980s, a conflict ensued with mining interests on the Peaks concerning the cultural and environmental impacts of pumice extraction (Anderson, 1998). Pumice mined from the eastern section of the Peaks, was used in the manufacture of stonewashed

jeans, a popular fashion trend at that time, and in cement mixing (Anderson, 1998). The company that owned the mine, Tufflite, wanted to expand its mining access even though this is an ecologically degrading activity, which, in this case, forced the removal of a large mass of vegetation, and caused run-off to leak into nearby sources of water (Anderson, 1998). The USFS opposed this expansion and, with the help of the then Department of Interior Secretary Bruce Babbitt, the mine was closed citing the main reason as ecological and cultural impacts to Native Americans (San Francisco Peaks History, 2006). Tufflite received compensation from the federal government for closing, and the USFS argued for 74,000 acres of the Peaks to be protected from mining indefinitely (San Francisco Peaks History, 2006). They also supported a recommendation for the Peaks to be listed as a Traditional Cultural Property (TCP) under Section 106 of the National Historic Preservation Act (NHPA sec. 106) (San Francisco Peaks History, 2006).

As fortunate as the outcome of the pumice mining case seemed for Native Americans, the TCP listing has not happened due to the USFS's lack of action on their prior recommendation (San Francisco Peaks Background, 2006). Had TCP status been designated the Peaks would have gained permanent protection from any further impacts on its slopes (San Francisco Peaks Background, 2006). In 1984, the area surrounding the Peaks, except the ski area was designated as a wilderness area under the 1964 Wilderness Act to maintain and protect ecosystem health (San Francisco Peaks History, 2006). The biodiversity of the Peaks is unparalleled in dry desert conditions with elevations of over 12,000 feet. The Peaks have several distinct biotic zones that include mixed-conifer

stands, spruce-fir stands, deciduous aspen stands, ponderosa pine forests, and pinyon-juniper woodlands (Philips, 1989). The top elevation of the Peaks is an alpine-tundra ecosystem (Philips, 1989).

The Arizona Snowbowl hosts thousands of skiers each year, depending on the condition of the season (San Francisco Peaks Background, 2006). In the past several years, the Snowbowl has been forced to reconsider its viability as a ski area due to a few ineluctable seasons that forced the ski resort to be open only a few days (San Francisco Peaks Background, 2006). One solution to the problem of minimal natural snowfall has been to utilize reclaimed wastewater from the city of Flagstaff to make artificial snow on the slopes of the San Francisco Peaks (San Francisco Peaks Background, 2006). To Native Americans this act is a desecration to their traditional cultural values and sacred site (San Francisco Peaks Background, 2006); while to the Snowbowl, this option is viewed as the only way to ensure a viable operating season for their business (San Francisco Peaks Background, 2006). There are also concerns with the leaching of the reclaimed water, which has been documented to contain certain chemicals, known as emerging contaminants, into the ground where pure mountain water collects in aquifers used for drinking water (San Francisco Peaks Background, 2006). The mountain has a large conveyance structure underground that channels fresh mountain water to the city of Flagstaff and is refurbished each season when the snow melts (San Francisco Peaks Background, 2006).

In 1997, the Arizona Snowbowl created an expansion plan for its ski area, which included using 180 million gallons of wastewater per season for artificial snowmaking,

channeled by a 14.8 mile submerged pipe, and upgrading ski trails and mountain infrastructures (San Francisco Peaks Background, 2006). Relying on the precedence of the *Wilson v. Block* case, the Arizona Snowbowl would also create sixty-six new acres of ski terrain, cut seventy-four acres of old-growth forest, thin forty-eight acres of forest, and eventually expand the profit use of the mountain by 47% (San Francisco Peaks Background, 2006).

The expansion plan has been met with community opposition that has taken the form of a coalition of Native American activists and environmentalists (San Francisco Peaks Background, 2006). Leading the way is the Save the Peaks Coalition, along with the Sierra Club, Flagstaff Activists Network, Center for Biological Diversity, Grand Canyon Trust, as well as numerous Native American tribes opposed to the expansion plan (San Francisco Peaks Background, 2006). The ecological impacts associated with this plan are numerous due to how it potentially affects the environment of the San Francisco Peaks (San Francisco Peaks Background, 2006). An Environmental Impact Statement (EIS) was prepared under the mandate of NEPA. In June of 2005, the regional forest supervisor approved the Final Environmental Impact Statement (FEIS), which stated the expansion plan was consistent with national forest service policy and environmental regulations (San Francisco Peaks Background, 2006).

This particular section in the turbulent land-use history of the San Francisco Peaks is currently within the court system (Litigation, 2007). This case has been argued in district court, as well as up to the Ninth Circuit Court of Appeals level in San Francisco, CA (Litigation, 2007). The USFS decision for a pro-expansion alternative was met with

opposition by Native American tribes, activists, and environmentalists (Litigation, 2007). The coalition of organizations who resisted the implementation of the expansion plan sued the USFS (Litigation, 2007). Activism has spread, and a documentary DVD, entitled “The Snowbowl Effect,” presents the perspective of Native Americans and environmentalists (San Francisco Peaks Background, 2006). While the District Court in Prescott, AZ upheld the USFS decision for ski area expansion, the Ninth Circuit Court of Appeals struck it down in March 2007 (Litigation, 2007).

A decision is currently pending concerning the overall outcome of the case (Litigation, 2007). Under the Religious Freedom Restoration Act (RFRA) the Appeals Court judges ruled Native American religion would be greatly restricted if this expansion plan was implemented (Litigation, 2007). NEPA was also held to be unfulfilled because the USFS failed to take into account the potential impacts of ingestion of this effluent-based snow by children and other recreationists (Litigation, 2007). The Ninth Circuit Court sided with the Native American tribes and environmentalists, and a brief victory was shared. However, on May 30<sup>th</sup>, 2007, the US Department of Justice filed for an appeal of this ruling, arguing on behalf of the USFS and its constituents to request a new hearing (Litigation, 2007). A full panel of Appeals Court judges reheard the case in December 2007 although, as of the printing of this study, no decision has come from the appeal (Litigation, 2007).

## CHAPTER TWO

### LITERATURE REVIEW

This literature review explores the history, debate, and current body of knowledge environmental justice has brought to the discourse of sacred site protection on federally managed land. In order to assess the efficacy of environmental justice shaping current federal policy, a review of literature will define what environmental justice is and why it situates Native American sacred site protection and the encroachment of ski industry interests as a case of environmental injustice.

Distributions of environmental hazards towards communities of color and low-income people in the US are inequitable (Cole & Foster, 2001). Federal policy continues to be a key agent in these inequities by providing the framework to implement social, economic, and environmental law. Cultural traditions of Native Americans have been disputed, within this framework, since first contact, as they continue to face unequal treatment due to their race, class, spirituality and worldview (Deloria, Jr., 1994a). The most salient instances of Native American cultural marginalization are found in struggles to protect sacred sites (Deloria, Jr., 1994b).

In today's world, outdoor recreation has evolved into a powerful corporate structure that includes such factions as the ski industry (Clifford, 2002). Many ski areas operate in partnership with federal public land managers like the USFS. US politics must change to accommodate a culturally diverse society with policies that incorporate

marginalized perspectives into legislation (Brown, 1999). Present federal efforts to address sacred site protection issues have failed as Native Americans continue to experience religious intolerance through US-determined interpretations of *their* cultural traditions (Mann, 2005). In contrast, self-determined perspectives will better inform cultural and natural resource protection policies that often affect the sanctity of Native American sacred sites (Alfred, 2005; Collins, 2003; Deloria, Jr. 1994a; Nagel, 1997).

Native Americans and Environmentalism: Juxtaposing the mainstream environmental movement with the environmental justice movement

While traditional environmentalists have historically separated humans from the natural world, this has not been the case for Native Americans (Gottlieb, 1993). The frontier and wilderness were a state of mind for European settlers who set the stage for traditional environmentalism through their development of concepts such as conservation and preservation of resources from continued extraction (Nash, 1982). While the concept of the mainstream environmental movement focuses on issues of conserving and preserving natural resources, it lacks a social justice element in its efforts to change federal policies to address environmental issues (Cronon, 1996). Diverse human and environmental relationships highlight the unique values that have shaped both the cultural worldviews of Native Americans and those of traditional or mainstream environmentalists. These values have helped facilitate contemporary efforts to address social justice in environmental work (Manus, 1996; Smith, 1999). While traditional environmentalism has developed as a method of confronting issues affecting the quality

of natural environments, beginning with the first Earth Day celebration in 1970, the social aspect of environmental concerns had gone largely unnoticed until the development of the environmental justice movement in the 1980s (Cole & Foster, 2001).

Eurocentric roots and colonization have, and continue to, displace Native American traditions that do not separate themselves from the Western concept of nature and emphasize the need for a counter movement to mainstream environmentalism (Alfred, 2005; Slotkin, 1992; Worster, 1992). Particular ideological orientations are diverse within these cultures, especially with regard to the separation of spirituality from day-to-day existence (Worster, 1992). This has contributed to diversions that have helped lead to white supremacy and the so-called “other” label by regarding people outside the Eurocentric mindset as disposable, illogical, and representing opposition to status quo realities (Hall, 1993; hooks, 1995; Omi & Winant 1989). Native American communities have faced disproportionate negative impacts based on their race and culture for centuries (Deloria, Jr., 1994a). As European settlements drove Native Americans onto reservations, policy designed by the US ultimately reinforced oppression by forcing assimilative and “other” identities onto Native communities (Deloria, Jr., 1994a; Hall, 1993).

Debate continues on a precise definition of environmental justice (Pulido, 1996). However, environmental justice can be broadly defined as connecting social and environmental ills through the examination of issues of equity related to uneven burdens placed on low-income communities, communities of color, and those with subaltern perspectives (Bullard, 1993; U.S. EPA, 2006; Pulido, 1996; Taylor, 2000). The environmental justice movement draws heavily from grassroots movements of

marginalized perspectives (Bullard, 1994a). Social activism in the 1960s, specifically the civil rights movement, is the model for current environmental justice mobilization (Bryant & Hockman, 2005). Attempts to define the specifics of the movement are impractical due to the complex nature of the movement itself, but do allow for the synthesis of definitions to shape the movement's scope and meaning (McGurty, 2000; Principles of Environmental Justice, 1991; Pulido, 1996; Taylor, 2000). For this research, environmental justice will be used as an intersectional analysis where systems of oppression through racism, sexism, classism, religious intolerance, unequal resource protection, and accessibility issues through struggles over environment and human health converge with one another (hooks, 1995; Omi & Winant, 1989). This definition crystallizes the intent of the environmental justice movement as a whole.

Mobilization of grassroots resistance efforts has brought national attention to local environmental and social problems that affect disenfranchised communities, especially Native Americans (Cole & Foster, 2001; IEN, 2006). The focus on conservation and preservation within mainstream environmentalism parallels the Eurocentric concept of natural resource use and greatly departs from traditional cultural views of Native Americans (Alfred, 2005; Cronon, 1996; Gottlieb, 1993). Native Americans have deep connections to wilderness and nature; something often romanticized in US society (Nash, 1982). Mainstream environmentalism remains preoccupied with the aforementioned in a regulatory, top-down, government-centered approach (Manus, 1996). Driven by policy, assimilation, and Eurocentrism, the mainstream movement is unsupportive of Native American struggles to maintain their cultural survival (Weaver, 1997).

However, the environmental justice movement is a departure from mainstream environmentalism as it highlights the interdependency of social and environmental concerns (Bullard, 1993; Michaelidou, Decker, & Lassoie, 2002). Embedded in the complex definition of environmental justice are issues concerning ecosystem health and social justice (Manus, 1996). Environmental justice seeks to be the nexus between environmental impacts at the ecosystem health level, and social impacts at the human health level (Goldman, 1996; Harvey, 1997). Less affluent and minority populations face greater undesirable land uses where they reside, unequal exposure to toxins, and disproportionate impacts to their quality of life. Not all of these concerns have been addressed by traditional environmentalism or present federal policy efforts (Bullard, 1993; Cole & Foster, 2001). From their marginalized perspective, environmental racism perpetuates environmental injustices to Native Americans based upon their race, class, and worldview (Bullard, 1993; Weaver, 1997).

### Environmental Racism

Environmental racism is an essential aspect in grasping the complexity of the environmental justice movement (Bullard, 1993). In the US, communities of color face unequal burdens because of the socially constructed tool of racism applied by European American settlers (Bullard, 1993; Hall, 1993; Omi & Winant, 1989). Tracing the roots of environmental and social injustice, the history of struggles between Native Americans and European colonists is significant (Nash, 1982). Native Americans are made to receive unwanted site pollution and are victim to hazardous industries in their communities

because they are “inferior” to colonial agendas (Alfred, 2005; Bullard, 1993; Weaver, 1997). Native Americans are struggling to save their traditional ways in spite of the numerous federal policy measures that have been implemented to enforce “fair” treatment. None of these policies has alleviated actions imposed on Native American communities that are rooted in environmental racism (Niezen, 2003).

Racism is a socially constructed tool fashioned by the dominant culture (Hall, 1993; Omi & Winant 1989). The experience of living in an oppressive society fueled civil rights activists to voice their oppression throughout protests in the 1960s (Cole & Foster, 2001). The results influenced other social concerns and environmental justice movements to focus on the role race plays in formulating federal policy (Bullard, 1994b; Cole & Foster, 2001). For example, a nuclear waste depository located on Native American sacred land makes *sense* because environmental racism informs that locale as a choice (Romm, 2002; Weaver, 1997). The political-economic structures that govern US society are the root causes of these divisions because “both ecological disorganization and race and class inequalities are inherent by-products of the social order” dictated by federal policy and law (Pellow & Brule, 2005, p.5).

A large percentage of minority communities focus on issues related to everyday survival, resulting in concerns about environmental issues unaddressed (Bryant & Mohai, 1992). Furthermore, the split in worldviews between mainstream environmental thought and Native American perspectives highlights race as a political tool that explains why Native American communities have received a disproportionate amount of environmental hazards (Bryant & Mohai, 1992; Weaver, 1997). Numerous cases solidify the

environmental injustice of policies that affect Native American communities, including those in mining and nuclear energy industries, toxic dumpsites, and other resource extractive industries such as timber and fishing (Cohen, 1971; Weaver 1997). All of these industries have disproportionately affected Native American communities (LaDuke, 1999; Weaver, 1997).

### Environmental Justice and Federal Policy

Resistance to the hegemony of the US, which institutionalizes oppressive policies throughout American social structures, has mobilized from grassroots efforts and found its way into the federal policy lexicon (Day, 2004; Pulido, 1996). The First National People of Color Environmental Leadership Summit was held in 1991 and allowed minority communities to determine their own Principles of Environmental Justice (Principles of Environmental Justice, 1991). The signing of Executive Order 12898, which is a call for alternative strategies developed by federal agencies to examine potential environmental justice issues within its organizational procedures, followed this declaration (Clinton, 1994). This Order calls for federal agencies to work towards environmental justice as part of their management goals, and is significant because it marks the first instance of environmental justice in federal policymaking matters (Cole & Foster, 2001). Although federal policy makers are now more aware that environmental justice is viable and necessary to a society in order to be socially, environmentally, and economically just, many have questioned whether the institutionalization of the movement through such procedures is beneficial or detrimental (Schlosberg, 1999).

The seventeen principles that resulted from the 1991 summit highlight the range of infringements people of color and low-income groups face within their day-to-day existence (Principles of Environmental Justice, 1991). Human-environmental relations are shaped in large part by policy-makers and, while environmental justice has assisted in widening the scope of federal policy to acknowledge the injustices perpetuated by those who craft policy, disproportionate impacts to people of color continue under current efforts (Cole & Foster, 2001; Cronon, 1996)

The Environmental Protection Agency (EPA) is the main federal agency that deals with environmentally related issues and has created a definition that contends,

Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA has this goal for all communities and persons across this Nation. It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work (U.S. EPA, 2006).

The EPA has not achieved minority equality and, with regard to Native Americans, has not recognized them as unique stakeholders in the federal land management process that affects their everyday lives (LaDuke, 1999). The EPA definition is on track with the agenda of the environmental justice movement, but because their definition does not mandate anything on the ground, it reinforces the oppression experienced by marginalized people (LaDuke, 1999).

### Native American Communities and Environmental Injustices

When Native Americans were forced on reservations, they were given sovereignty and afforded a special trust relationship with the US government (Nagel, 1997). This relationship has not allowed Native American traditions and perspectives to be incorporated into federal policy (Cohen, 1971). Over time, Native American identities have been delegitimized, suppressed from self-determination by law, and forced into assimilation (Smith, 2005; Smith, 1999). One perspective decides which actions are appropriate, and since European contact, it has not been a Native American perspective (Deloria, Jr. & Lytle, 1984; Limerick & White, 1994).

The affirmation of Native American sovereignty and cultural survival relates directly to the environmental justice movement and resistance against environmental racism (Nagel, 1997; Smith, 1999). The Red Power movement in the 1960s and 1970s brought Native American issues to national attention and culminated in occupying and reclaiming Alcatraz Island as Native land in 1969 (Nagel, 1997). The American Indian Movement (AIM) and Red Power activism have played crucial roles in the cultural revival of Native Americans and has paved the way for present efforts combating environmental racism and injustice (Nagel, 1997).

The Indigenous Environmental Network (IEN) was established to educate and support Native community members in various struggles to maintain traditional cultural ways, sustain economic-social-environmental livelihoods, and be involved in political processes that affect their communities like sacred site protection (IEN, 2006). The IEN has organized a direct link between Native Americans and issues of environmental justice

through grassroots efforts to build strategies for resistance, including those issues related to nuclear wastes and weapons (Weaver, 1997).

For example, when the U.S. Congress created the Office of Nuclear Waste Negotiator in 1987, they immediately sent letters to all federally recognized Tribes offering money for their consideration and installation of nuclear waste facilities (Stoffle, Halmo, Evans & Olmsted, 1990). Through this process, the Yucca Mountain waste repository was sited on Western Shoshone Nation land. The Department of Energy (DOE) argued it was the best place to situate the waste site (Stoffle et al., 1990). More importantly, this area has also been the test site for numerous nuclear weapons, and future nuclear weapons testing will likely take place on this land. Yucca Mountain, and other nuclear waste sites such as Ward Valley, clearly point to uneven distributions of nuclear hazards on Native American land (Stoffle et al., 1990).

Contamination of Native American local waterways has occurred through the expelling of industrial toxins such as polychlorinated biphenyls (PCB's) and mercury from nearby industrial facilities (LaDuke, 1999). These particulates, when expelled into the atmosphere produce bioaccumulations in fish in local streams and rivers used to nourish local Native American people (LaDuke, 1999). Although the industry does not take responsibility for these harmful effects, when mothers eat the local fish and then breast-feed their young, it has been documented their breast milk has the same contaminants as those being emitted from the industrial facility (LaDuke, 1999). Testimony given by a Utah politician opposing legislation that would protect Native

American sacred sites summarizes what Native people face when dealing with federal accountability, policy, and supremacy (LaDuke, 1999; Weaver, 1997) by stating:

Much of the country's natural resources are located on federal land. For example, federal lands contain 85 percent of the nation's crude oil, 40 percent of the natural gas, 40 percent of the uranium, 85 percent of the coal reserves, and 47 percent of the standing soft wood timber. Thus it is obvious that [federal protection of sacred sites] by creating a Native American veto over federal land use decisions will...severely interfere with the orderly use and development of the country's natural resources (Smith, 2005, p. 107).

The political power of the US government has created relationships between federal land management and Native Americans that fail to recognize cultural diversity (Deloria, Jr., 1994a).

The shift in traditional environmental research, policy, and goals is evidence of a swing toward activism and social change that environmental justice has brought to issues of environmental racism (Bryant & Hockman, 2005). However, as legal battles ensue, impacts are still felt by the poor, minority communities, and in the environment (Cole & Foster, 2001). Self-determined minority perspectives are still delegitimized by federal public land management policy. They also illustrate the numerous conflicts that have recently surfaced concerning national forest lands (Briggs, 2000; Norton, 1998). Since policy within existing political frameworks has failed to alleviate instances of environmental injustice, marginalized populations have begun to network and build coalitions to oppose these injustices (McGurty, 2006).

### Sacred Site Protection on Public Land

The discussion of the protection of Native American sacred sites found on federally managed public land has not been adequate. The potential exists for environmental injustice to occur in such instances, and pertinent literature that informs environmental racism and injustice locate where federal policy interferes with the protection of sacred sites.

The role of outdoor recreation and its relationship to sacred sites is an area where scant empirical research has been conducted (Driver, 1991; Tarrant & Cordell, 1999; Whitehead, 2000). The consequences of recreational activities on disenfranchised communities can be environmentally racist and unjust (Brown, 1999). Mitigation is argued as one possible solution presented in various policy forums when it is believed that impacts will arise (NEPA, 1970). However, in the case of impacts to Native Americans, often mitigation cannot alleviate the burdens placed on them and their culture (Deloria, Jr., 1994b; Floyd & Johnson, 2002).

For Native Americans the protection of their cultural identity, in relation to federal policy, has been a contentious issue (Charmichael, 1998). Traditional Native American culture does not separate spirituality from everyday life (Deloria, Jr., 1994a). Traditions are deeply rooted with a strong identity to place and a kindred affinity for nature (Deloria, Jr. 1994a). The religious intolerance and discrimination felt by Native American people coincides with the argument of environmental racism and injustice, specifically in relation to federal policy and sacred site protection (Weaver, 1997).

### Sacred Sites, Federal Policy, and Environmental Injustice

Perhaps the issue most closely tied to Native Americans and their struggle to attain true sovereignty is the fight to save sacred sites (Collins, 2003). Sacred sites are places central to traditional ways of being for Native people (Charmichael, 1998). It is believed that, “holy places are well known in what have been classified as primitive religions. The vast majority of Indian tribal religions have a center in a particular place; whether it is a river, mountain, plateau, valley, or other natural feature” (Deloria, Jr., 1994a). This has been a contentious issue between non-Native people and Native American people due to the rigid western conceptualization of religion (Churchill, 2005). Religious freedom was granted under the US Constitution Bill of Rights via the First Amendment’s free exercise clause (US Constitution, 1791). However, Native people have a history of confronting issues related to the safeguard of their sacred spaces, and have faced unjust infringements upon their liberties when attempting to absolve state interferences when practicing their religion and protecting their sacred sites (Deloria, Jr., 1994a).

Sacred site protection informs the past and present history of conflicting perspectives between colonial settlement and Native American traditions (Cohen, 1971). Federal policy, centered on tribal issues, was established to facilitate “governmental assistance in bringing the ‘red man’ the advantages of a European civilization” (Cohen, 1971, p.239). The overt racism in the description of Native American people as the “red man” illustrates the racial divide federal policy makers created between Native American people and the settler populations (Deloria, Jr., 1994a; Hall, 1993). These separations

have not fostered policy meant to acknowledge unique cultural worldviews, but have served to characterize Native American traditions as unacceptable or “uncivilized” (Nash, 1982; Tinker, 2005). Moreover, only federally recognized tribes are included under matters of federal Indian policy and many tribes face discrimination due to this particular policy (Cohen, 1971).

Federal laws and policies are sources of environmental injustice and include the Christianization of Native American religions by fostering Christian values to clash with Native cosmology (Deloria, Jr., 1994a; Tinker, 2005). Religious intolerance is one method that has stratified Native Americans because their oral tradition of passing down creation stories does not align with Christian dogmatic beliefs and scientism (Deloria, Jr., 1994a). Federal policy forces the assimilation of Native American spirituality, fosters language imperialism, and thrusts families into urbanization and promotes non-Native education (Alfred, 2005; Deloria, Jr., 1983, 1984, 1994a; Nagel, 1997; Smith, 2005). Cultural diversity has not been respected, but rather viewed as an inferior worldview and as a “result of this Christianizing process is to further erode the Indian value of community, and to bring us one step closer to the modern globalization of culture around Western values” (Tinker, 2005, p. 230) (Churchill, 2005; Nagel, 1997). Science not only disrupts the situated ecological knowledge of Native American tribes, but also conflicts with how federal policy has interpreted just treatment of Native American religious freedom (Churchill, 2005).

Federal laws and policy continuously conflict with Native American sovereignty (Cohen, 1971; Smith, 1999). The American Indian Religious Freedom Act (AIRFA)

passed in 1978 was an effort to ensure the protection of religious freedoms of Native Americans to engage in traditional religious ceremonies (AIRFA, 1978). Yet, many Native peoples have practiced their religion hidden from the eyes of non-Natives in order to protect the sanctity of their practices from federal policy and law infringements (Tinker, 2005).

An essential aspect of many Native religions is the ability to engage in practicing one's religion (Deloria, Jr., 1994b). Therefore, the ability to practice at particular sacred sites is essential not only to ensure the viability of one's spirituality, but also one's way of being (Deloria, Jr., 1994b). This worldview is, "affirmed by their beliefs that they come from the earth, that they must live in mutual relationship with the earth, that they must constantly and responsibly observe ceremonies that revitalize and renew the earth, and that in the end they return to the earth" (Mann, 2005, p. 194). The principle of religious freedom for all is one that protects the practice of and access to religious places and spaces (Collins, 2003). Sacred sites are the places that connect and inform life for Native American people, their cultural lifeblood to celebrate the sacred sites that exemplify their way of life (Deloria, Jr., 1994a).

In *Sequoyah v. Tennessee Valley Authority*, Cherokee Indians fought a proposal for a dam that would flood numerous sacred sites, creating irreparable loss to their community and culture as well as destroying their religious practice (Sequoyah et al. v. Tennessee Valley Authority, 1980). The court decided that no law would stop the completion of the dam even though the areas of potential flooding would affect ancestral burial sites and prevent the gathering of traditional medicinal plants (Sequoyah et al.,

1980). Native Americans, standing against the US judicial system, have not had the authority to protect their sacred sites (Sequoyah et al., 1980).

Under the free exercise claim of the First Amendment, the court stated that the Natives had no property interests in land owned by the government, and argued that the area did not seem as important to the Cherokee as it seemed to the court (Sequoyah et al., 1980). Although there is an awareness of past infringement of Native American's First Amendment and free exercise rights, their worldview does not fit into the US determined universal policy and law systems. These mandates did not prevent the Tellico dam from being built and desecrating numerous sacred sites (Sequoyah et al., 1980).

In 1990, the Native American Graves Protection and Repatriation Act (NAGPRA) became law (Mann, 2005). NAGPRA was another step toward a federal policy to protect Native American sacred sites (Mann, 2005). Although this policy has seemingly worked in several cases to protect Native American burial grounds, and repatriate sacred objects and ancestral remains to tribes, not all sacred sites are universally protected (Mann, 2005). Furthermore, NAGPRA is only applicable to burial sites and repatriation, and does not protect sacred sites that lack a burial dynamic (Mann, 2005). While these measures are aimed at justice, the intent and practice does not reach the affected population (Mann, 2005).

Even with the amendment of AIRFA in 1996, it still lacked the strength to have any influence in court (Mann, 2005). NAGPRA was a step in the right direction, and led to President Clinton's passing of Executive Order 13007 (Mann, 2005). Executive Order 13007 is a direct call to create federal policy to protect disenfranchised Native

communities from disproportionate impacts based on their religious traditions (Brown, 1999; Clinton, 1996). The Order seeks to, “accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners, and avoid adversely affecting the physical integrity of such sacred sites” (Clinton, 1996, section 1). This policy shows a clear recognition by the US Government that sacred sites have been devastated in the past and that federal policy should be held accountable for protecting cultural resources from federal impacts. However, this order still does not mandate and ensure sacred site protection (Mann, 2005).

The passing of Executive Order 13007, while seen as a brief victory for Native Americans has not fully protected sacred sites from a self-determined Native American perspective (Deloria, Jr., 1994b). The National Historic Preservation Act section 106 (NHPA sec. 106) is also meant to protect Native American sacred sites (King, 1993; NHPA sec. 106, 1994). This Act stipulates that areas deemed as historic be protected and preserved under the law (NHPA sec. 106, 1994). Like Executive Order 13007, it specifically speaks to federal agency dealings with Native American issues, namely sacred sites. Many argue this will give Native Americans the ability to protect their sacred sites (Opacki, 2002). The drawback is the federal agency that employs this Act has the discretion to support listing a place, but then not follow up on it (Opacki, 2002). While NHPA sec. 106 is the strongest legislation to date for achieving sacred site protection, lawful precedents, and agency discretion continue to suppress Native American voices (King, 1993; Tinker, 2005).

The reason these acts, orders, laws, and policies are a source of disagreement is that, despite their enactment, sacred sites remain unprotected (Collins, 2003; Deloria, Jr., 1994b). Federal land managers play a significant role in their dealings with sacred sites, and the policies that federal agencies, such as the USFS, implement (USFS, 2006). A better understanding of issues faced by Native Americans is derived by examining the relationship with the USFS. An understanding of this relationship will demonstrate how Native American communities and sacred site protection fit into federal policy and environmental justice as they relate to the Snowbowl expansion plan.

#### Native Americans and the USFS

In 1988, the landmark court case, *Lyng v. Northwest Cemetery Protection*, provided the groundwork to pass other policy measures centered on Native American religious freedom (Brown, 1999). This case superseded AIRFA as the protective law that defended the sanctity of sacred sites affected if a road were built across the Siskiyou Mountains of northern California (*Lyng vs. Northwest Indian Cemetery Protective Associate et al.*, 1988). The land is under USFS management and this court case exhibits the ease by which federal agencies can bypass environmental justice policy and defeat Native American sacred site protection (Brown, 1999). Moreover, when USFS authority and policy are questioned, bringing about the need for judicial review, the legal system then creates precedents and decisions based on discretionary interpretations (Brown, 1999).

While subsequent sacred site policies have passed since this case, the decision in *Lyng* stated that AIRFA did not provide enforceable provisions to deny the construction of a logging road on USFS managed land (Lyng et al., 1988). Although a USFS anthropologist concurred that the road would cause irreparable cultural damage, the USFS disregarded these findings (Lyng et al., 1988). The court stripped away any enforceable powers of AIRFA when the court determined that Native Americans were able to practice their religion in the Siskiyou Mountains with or without the road (Brown, 1999; Collins, 2003). As a result, “the precedent also affirmed that federal land management agencies can do whatever they want with public land, even if it results in the death of a people’s religion”(Mann, 2005, p. 201).

The USFS-Native American relationship reflects the struggles Native people face with federal policy (Collins, 2003). The USFS has incorporated certain regulations to deal with Native American issues, but if situations go unresolved on the ground, the courts end up as the place conflicts play out (Collins, 2003; Deloria, Jr. 1983, 1994a; Jaimes-Guerrero, 2005). A synthesis of federal policies applied to Native American issues highlights the environmental justice aspects of this relationship as “the Supreme Court will refuse to recognize the constitutional status of indigenous religious claims, if the land that the tribes seek to preserve has been appropriated and held as government property” (Brown, 1999, p.16).

Federal agencies that manage public land have ultimate discretion over how to address environmental justice in their agency’s day-to-day operations and how policy affects land-use decisions that may disproportionately affect marginalized communities,

such as Native Americans (Clinton, 1994). Therefore, the federal management units of public lands, such as the USFS, have an inherent duty to ensure they are “caring for the land and serving the people,” as the USFS mission statement proclaims (Clinton, 1994; USFS, 2006).

Executive Order 12898 requires environmental justice be a part of federal agency goals, stating:

[t]o the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States (Clinton, 1994, sec 1).

This *progressive* policy does not allow minority or subaltern perspectives to be considered on an equal level with those of government officials and reinforces stratification through the marginalization of social perspective (Jaimes-Guerrero, 2005; Manus, 1996). This federal Indian policy is significant in its failure to protect sacred sites and the wishes of those affected, maintaining the theory of subaltern marginalization of Native American people in the US (Guha, 1997; Niezen, 2003).

### NEPA, Environmental Justice, and Sacred Sites

The National Environmental Policy Act (NEPA) was written to address and assist in protecting the environment from potential harmful impacts, is the main policy governing impacts to natural resources, and has stipulations to cover social impacts and cultural resources (NEPA, 1970). Opportunities for public feedback and participation are

provided to assist in shaping how decisions are made by the agency when employing policy (NEPA, 1970). NEPA guides its policy in recognizing potentially adverse impacts that affect the quality of natural and cultural resources (NEPA, 1970). With NEPA it seems Native Americans would receive more environmentally and socially just interactions with agencies such as the USFS because the policy's intent speaks directly to these concerns (Opacki, 2006). The USFS uses NEPA frequently to document any impacts that may result from actions of the agency on a particular ecosystem or community (USFS, 2006).

NEPA became federal policy to alleviate numerous environmental ills and to facilitate sound environmental policy for the future (Khanna, 2001). NEPA's efficacy is essential to understanding environmental justice policy applied by federal management enforcers in charge of maintaining processes that affect sacred site protection.

Twenty-five years after its implementation, the Council on Environmental Quality (CEQ) found that, "NEPA's most enduring legacy is a framework for collaboration between federal agencies and those who will bear the environmental, social, and economic impacts of agency decisions" (Council on Environmental Quality, 1997). The public participation aspect of NEPA stresses collaboration, meant to ensure diverse perspectives, beyond the agency's voice, are heard (Council on Environmental Quality, 1997). The NEPA framework has been an integral component in guiding the outcome of USFS-Native American land-use conflicts because it attempts to incorporate a grassroots voice in a top-down policy approach (Council on Environmental Quality, 1997). Although the EPA and the CEQ support federal policies, particularly NEPA's ability to

address issues of social and environmental impacts, the 1997 study conducted by the CEQ cited numerous gaps to be filled (IENR & CRMW, 1999). For example, one finding concluded “agencies make decisions before hearing from the public,” which is a loophole to allow a federal agency to exercise authority over the public (Council on Environmental Quality, 1997). The report highlights a lack of attention with regard to policy implementation and a disregard for local concerns has created friction between local communities and government (Dreher, 2005).

Many stakeholders have continually argued that NEPA and other related land-use policies have ultimately created lengthy litigation processes (Dreher, 2005). NEPA lacks the mandatory enforcement for proper mitigation and monitoring abilities (Dreher, 2005). Agencies such as the USFS request Environmental Impact Statements (EIS), to identify potential impacts of a particular plan, and can request proposal alternatives (NEPA, 1970). NEPA’s effectiveness in protecting natural and cultural resources has come into question although policy proponents argue that without it these resources would have zero defenses (Dreher, 2005; IENR & CRMW, 1999).

Social Impacts Assessments are the part of the EIS process that specifically addresses socio-economic impacts, which recently cited that weak social impact assessments were the result of poor performance by NEPA (Interorganizational Committee on Principles and Guidelines for Social Impact Assessment, 2003). Social Impact Assessments provide an arena for marginalized voices to give their opinions although NEPA has not facilitated or implemented lasting solutions to ensure all voices are heard (Interorganizational et al., 2003). Arguments and report analysis point to a

need for the fair mitigation of negative impact outcomes, but do not offer solutions for those viewpoints that cannot be mitigated (Opacki, 2002). This view essentially excludes sacred site protection from the discourse as there is no mitigation for their disturbance (Deloria, Jr., 1994a; Opacki, 2002).

### Repercussions of Hegemonic Policy

Native Americans would benefit from a strong social impact aspect incorporated into NEPA based on their past treatment with federal policy (Opacki, 2002). This could allow their voice to be incorporated more stringently into the decision-making processes with federal entities such as the USFS (Opacki, 2002). The call for stronger collaboration and public decision making into the NEPA process, despite continued environmental degradation under the policy, undermines its intent and perpetuates the inequalities it seeks to repel (Opacki, 2002). NEPA becomes enforceable through agency discretion or litigation, and judicial review has emphasized NEPA's main flaws, which some critics claim, are not providing environmentally just outcomes (Collins, 2003; Outka, 2006).

The USFS policies, crafted by the US government, also reflect how the environment and Native Americans historically have been negatively impacted in a disproportionate manner (LaDuke, 1999; Manus, 1996; Pena & Mondragon-Valdez, 1992; Romm, 2002). Federal policy and law, in regards to outdoor recreation on federally managed public land, provides more understanding for the tension between outdoor recreation and its role in the environmental justice dialogue.

Numerous examples of environmental injustice exist, from Devil's Tower (*Mato Tipila*), WY to Cave Rock, NV, however environmental justice policy is still new to these cases (Brady, 2000; Boham, 2002). The double standard employed in these cases signals that NEPA, as a universal policy, does not apply to Native Americans the same way it would to rock-climbers, thereby juxtaposing religion with recreation. NEPA also allows impacts to persist, even though policy processes explicitly state they should not continue (Boham, 2002; Burton & Ruppert, 1999).

NEPA has paved the way for other policies to follow in its path, such as the Sustainable Slopes Initiative employed by the National Ski Area Association (NSAA), which creates environmental policy for the ski industry (NSAA, 2000). The ski industry and other outdoor recreation activities are closely tied to management plans by federal agencies, such as the USFS, and have created many partnerships to engage in activities under the guise of federal policy (Briggs, 2000). The ski industry has not adequately informed disproportionate impacts associated with sacred site protection and environmental justice issues in regards to land it operates on.

#### The Ski Industry, Ecosystem Health, and Environmental Injustice

Outdoor recreational activities come into conflict with ecologically sensitive areas, and impact Native American sacred sites (Bear Lodge Multiple Use Association et al., 1998). Many areas which are desirable for recreation, managed by federal agencies like the USFS and use federal policy like NEPA, end up being situated in environmentally and culturally sensitive areas (Outka, 2006). The diversity in land-use

ideology comes in conflict with tourism interests, often fueled by outdoor recreation, and creates friction with local communities (Murphy, 1985; Power, 1998). Policy makers argue that decisions like *Mato Tipila* are steps in the direction of environmental justice (Bear Lodge Multiple Use Association et al., 1998). However, the current policy framework continues to legitimize federal agencies' decisions that perpetuate injustices (Jaimes-Guerrero, 2005; Khanna, 2001; King, 1993; Outka, 2006).

The ski industry has grown in recent years and has sought ways to improve its social and environmental impacts (NSAA, 2000). Heavily marketed as an economic incentive through tourism, skiing has been sold to communities as an investment with the potential for a high rate of return despite creating disturbances to ecosystems and community demography (Clifford, 2002). Questions arise about whether the industry is moving towards a more socially and ecologically sustainable venue, or is perpetuating itself as a powerful player in an industry that is seemingly controls whatever it desires (Clifford, 2002).

Economic disparity and community viability remain juxtaposed against corporate control of industry protocol and concerns for ecosystem health in the current ski area debates (Clifford, 2002). The historical way an area has functioned is altered immediately with the construction of a ski resort within a mountain ecosystem (Clifford, 2002; Rapport, 1998). Development displaces flora and fauna species from their habitats, artificial snowmaking adds chemical inputs to the environment, waterways degrade in quality, and, with fossil fuel dependent industry, exacerbates global climate change (Clifford, 2002; Ski Area Citizens, 2006). These impacts, compounded with the growing

trend of the industry to cater to real estate development and an affluent customer base, mix to create a potent experience for how communities and ecosystems interact where ski resorts are situated (Clifford, 2002).

As an industry, the demand for ski resorts and their amenities has remained relevantly stable in recent years, even as land developments for second homes and high-priced tourist facilities continue to rise (Dobbs, 1998). Fueled by recreation and tourism, the expanded impact of the ski industry degrades environmental health and alters community makeup (Clifford, 2002). Capitalism heightens the income gap in communities through the lack of access to affordable housing; amenity industrial factions divide community relations and foster class stratification (Clifford, 2002; Power, 1998). Low-wage jobs flood the seasonal ski industry, and reflect the manipulation of the environment, which serve to stratify the community and environmental relations (Clifford, 2002). The voice that is suppressed in decision-making processes is one in opposition to the major power holders who are receiving the burden of industry injustices (Clifford, 2002). This is the experience of Native populations situated on lands deemed as exceptional ski-industry properties (Alfred, 2005).

Four companies own twenty-three percent of North American ski resorts and fifteen of the top thirty-five resorts (Dobbs, 1998). The local community voice is not guiding these developments and ventures, and the USFS, which partners with many ski resorts on national forest land, plays a role in perpetuating social and environmental ills (Briggs, 2000). The exploitation of the natural world for profit is not a new venture (Alfred, 2005; Collins 1993). Many areas are expanding recreation and tourist driven

economies and abandoning previous economic strategies of resource extraction that are no longer profitable (Power, 1998).

The USFS works with ski resorts in many instances, but communities and the environment do not receive as much attention as profits do (Clifford, 2002). For example:

no other land management prescription on the forest directly results in more stream-water depletion, wetland impacts, air pollution, permanent vegetation change, or permanent habitat loss [than ski areas]. In the last planning cycle, more wetland impacts and stream depletions resulted from ski area expansion and improvement than from all other forest management activities combined, including many direct and indirect impacts that are permanent (irreversible and irretrievable) (Cody, 2000).

The question of whether USFS leadership employed tools, such as NEPA, in a way that ensures health to the human and natural environment opens the discourse in regards to environmental justice (Briggs, 2000). The partnership between ski resorts and the USFS has clouded the ability of other stakeholders to grasp the intricacies of this relationship that implement plans despite public concerns (Clifford, 2002). “The US Forest Service is landlord to ski areas on sixty-two national forests in eighteen states, and these ski areas account for about 50 to 55 percent of the more than fifty million skier days tallied each winter” (USFS, undated fact sheet). Resource extraction is not the financial means by which the USFS operates as it once did, and as the USFS teams up with the ski industry in expansion plans and proposed real estate developments, many EIS’s have been accepted with adverse impacts to cultural and natural resources (Clifford, 2002).

Vail Ski Resort, under corporate ownership and operation, expanded its ski area by working with the USFS through the NEPA process (Clifford, 2002). Although the ski area expansion created adverse environmental impacts, the USFS has the authority to

deny approval for any project with numerous negative impacts (Briggs, 2000; Clifford, 2002). However, the ski resorts have the power and economic means to create more demand for their services, and with USFS support, a potent force is created that has shown it can implement plans using the tools of NEPA (Clifford, 2002). “Although the Forest Service presents itself as a steward of the public lands, the truth is that it is no longer capable of acting as one. The agency has become badly compromised in its ability to regulate the ski industry because of the partnership with that industry— a textbook example of conflict of interest that leaves the public holding the bag” (Clifford, 2002, p. 156).

#### The Sustainable Slopes Initiative

The National Ski Area Association (NSAA) created a plan to deal with the ecological and social impacts the ski industry perpetuates within the model of NEPA (NSAA, 2000). The Sustainable Slopes Initiative, created in 2000, addresses concerns about an unaccountable industry (NSAA, 2000). In an attempt to “green up” their operations, numerous ski areas have undertaken this voluntary policy (NSAA, 2000). Their vision and mission statements convey a commitment to public satisfaction with a strong stewardship of ecosystems within the background of the ski industry (NSAA, 2006).

The Sustainable Slopes Initiative reflects many of the same problems as NEPA (Rivera & de Leon, 2004). Mainly, the concrete goals, meant to ensure environmental and social health, are not explicit and only treated superficially (Rivera & de Leon,

2004). Like NEPA, there is no stringent monitoring of projects for environmental impacts, and there are no critiques of real estate development impacts felt by local community members (Colorado Wild, 2000). While ski area expansion is celebrated, it lacks a solid engagement with how ecological footprints of the industry maintain its historic baseline, and alleviate environmental and social ills before expanding its jurisdiction to be sustainable (Rivera & de Leon, 2004). Current policies do not balance diverse stakeholder ideas with the competing interests of ski resorts on national forest lands, of which 90 percent operate in conjunction with the USFS in the West (Colorado Wild, 2000).

The enforceable goals of the Sustainable Slopes Initiative are incapable of addressing the impacts created to environment and community in such a predominantly corporate financed industry (Rivera & de Leon, 2004; Rivera, de Leon & Koerber, 2006). One way to create sound policy is the application of third-party oversight to foster non-biased policymaking and instill sanctions for poor performance because, at present, it does not ensure environmentally sound operations (Crabtree & Bayfield, 1998; Rivera & de Leon, 2004; Rivera et al., 2006).

Findings gathered on critical material related to ski industry policy attack the merit of the Sustainable Slopes Initiative (Rivera et al., 2006). Third-party oversight is a non-biased voice created to bring justice to industry actions when there is no means to enforce accountability (SACC, 2006). While the ecologically centered policy used to govern ski industry practices is much like NEPA in the wider sphere of environmental

policy, social issues take a back seat in the ski industry's recreational agenda (Floyd & Johnson, 2002, Rivera et al. 2006).

This literature review has focused on the limitations of current federal policy and the strong influences of corporate industrial power. The result is often the inability of ecosystems and communities to be sustainable due to conflicts of interest. The review of this literature has also illuminated the difficulty Native Americans have had, and continue to have, with federal policy acting to reinforce neocolonialism.

### Conclusions

Although there have been numerous attempts to incorporate marginalized voices in matters of federal policy, no clear path has emerged towards mandating protection of sacred sites on federally managed land, regardless of Native Americans participation in the process (Brady, 2000; Burton & Ruppert, 1999; Cohen, 1971; Hull & Robertson, 2000; Jaimes-Guerrero, 2005). Within the NEPA process, public input into EIS's has been flagged as an issue of concern needing vast improvement in order to allow the local community and marginalized voices to have the clout to influence the implementation of policy (Dreher, 2005, IENR and CRMW, 1999).

In conclusion, no concrete avenues ensure the protection of ecosystems and natural resources for low-income and minority communities, especially concerning Native American sacred site protection (Alfred, 2005; Deloria, Jr., 1983, 1984, 1994a, 1994b; Mann, 2005). The sovereignty of self-determined Native individuals and their perspectives, not the discretion of policymakers, will allow for greater opportunities for

sacred site protection (Churchill, 2005; Pena, 2005). Sovereignty that expands beyond imposed US government definitions to facilitate Native American autonomy will allow each government to engage as two Nations with an equal voice in matters relevant to both, not one inferior to the other, and can facilitate a stronger relationship to end environmentally unjust actions against Native Americans (Alfred, 2005; Pena, 2005).

NEPA is a policy enforceable through judicial review (NEPA, 1970). In the court, present definitions of Native American sovereignty have been defeated and weakened through litigation (Cohen, 1971; Lyng et al. 1988; Sequoyah et al. 1980). Environmental justice can be obtained by allowing Native perspectives to engage in fair debates over land use, sacred sites, and other related claims (Alfred, 2005; Collins, 2003; Mann, 2005; Pena, 2005; Romm, 2005).

For Native American communities all matters relevant to ensuring socio-cultural and environmental health concerns link inextricably to one another (Deloria, Jr., 1994a; Michaelidou et al., 2002). Facilitating a framework of collaboration and public discourse recognizes, “that ecosystem and community viability are interdependent, so efforts to enhance one dimension would be unsuccessful if the other dimension is ignored” speaks to the necessity of resolving these deeply rooted conflicts (Michaelidou et al., 2002, p. 613).

The history of Native American-US governmental relations illuminates dominant political-economic forces minimizing the efforts of Native Americans to retain their cultural ways of life (Mann, 2005). Ecological health and Native American land

stewardship are deeply rooted with strong community attachments and senses of place (Deloria, Jr., 1983).

The synthesis of this literature can inform sound recommendations for socially and environmentally just land-use policy that affirms the protection of ecosystem health and sacred sites within federal managed boundaries. This would be true sustainable land-use policy where ecosystems and communities can coexist now, and into the future, fairly and justly. The literature examines whether it is possible for environmental justice to ensure sacred sites protection on USFS-ski industry managed lands, given the current frameworks of policy. In light of the literature reviewed the need to incorporate perspectives from Native Americans to inform, guide, and provide recommendations for solutions are indispensable. Furthermore, the need to highlight local perspectives most affected by the potential expansion of the Arizona Snowbowl ski area is essential in resolving this land-use conflict.

## CHAPTER THREE

### METHODOLOGY

Qualitative interviews investigated how federal land-use policies and decisions can respect, integrate, and honor cultural concerns expressed by marginalized populations. In addition, incorporating ecological sustainability with land managed in partnership with the ski industry is a central focus. Each participant, with their vested personal perspectives, will aid in deconstructing the complexity of the issues and concerns surrounding the Arizona Snowbowl expansion plan.

#### Theoretical Orientation

The foundations of the conceptual orientation for this study include standpoint theory, environmental justice theory, as well as the precautionary principle. The precautionary principle guides sustainable ecological theory when a lack of complete scientific certainty exists with regard to an action's affect on human and ecosystem health. This method ensures that those who may foster the potential of irreversible damage also bear the burden of proof (O'Riordan and Cameron, 1995). Environmental justice theory connects social and environmental issues through recognition of inequitable access to natural resources available to low income individuals and communities of color (Bullard, 1993). This inequality then translates to the unequal distributions of benefits and burdens attached to applicable land use plans (Bullard, 1993). Standpoint theory puts forth the idea of achieving an objective worldview by

focusing on the perspectives of disenfranchised and historically marginalized populations (hooks, 1995). Since this research combines various divergent issues and concerns related to the Snowbowl expansion plan, the theoretical orientation of this study is interdisciplinary. In addition, the essential ingredients that construct each theory and conceptualize these theoretical foundations are the evidence found throughout this work.

### Rationale for Methodology

A qualitative method offers a richness of responses and allows the researcher to give a voice to individual participants. This approach allows for depth in the diversity of participant standpoints through critical examination of diverse personal interpretations to guide this methodology (Booth, 2003; Miles and Huberman, 1994; Smith, 1999). In addition, due to the lack of literature on environmental justice and the ski industry, a quantitative assessment is inadequate. This method's credibility is enhanced in a relatively unexamined area.

### Sample

The USFS prepared a proposed action concerning the Arizona Snowbowl expansion plan that was formally introduced in 2002. The development of this plan generated an initial list of stakeholders. The sampling process began by forming a list of these stakeholders during preliminary rounds of investigation in the summer of 2006. This initial list of potential interviewees consisted of local activists, the local Coconino USFS, local wastewater specialists, other Flagstaff organizations and citizens involved,

as well as Snowbowl ski area employees, Flagstaff snowriders, and various members of the ski industry.

A total of forty-three interviews were conducted over the course of five months consisting of thirty-two formal interviews using full questionnaires and eleven interviews addressing only Flagstaff snowriders' views of the expansion plan. Sixteen interviews were in person, with eleven over the telephone, and six through email. Each interviewee was told the purpose of the research and that it would be confidential, and that their consent was necessary to proceed. First, each potential interviewee was contacted by email, with a follow-up telephone call to set a time for an interview. Thirty-six people were contacted, with four people declining the invitation. Eleven were interviewed at random in the field.

This research incorporates an array of perspectives involved in the Snowbowl expansion plan, although the total sample size is not large enough to draw generalizations. The snowball method of sampling was applied (Miles and Huberman, 1994; Rubin and Rubin, 2005). Access and awareness to alternative perspectives involved in the Snowbowl case that were previously unknown to the interviewer were gained (Rubin and Rubin, 2005). Table 1 illustrates the categorical dimensions and numerical labels used for the six interview questionnaires in this study.

Table 1. *Breakdown of participants by assigned interview questionnaire. Numbers indicate the amount of perspectives gathered in each questionnaire category.*

Interviewee Numbers (43)	Interview Questionnaires (6)
1-7	Activist
8-12	Wastewater Specialist
13-22	Flagstaff Local Stakeholder
23-29	Ski Industry
30-33	USFS
34-43	Flagstaff Snowriders

### Design

The stakeholders involved could not be interviewed using one uniform questionnaire due to their diversity; this precluded the design of six semi-structured, qualitative interview questionnaires (Miles and Huberman, 1994; Rubin and Rubin, 2005). Semi-structured interviews were important to the qualitative process used in this study. This allowed the interviewer to clarify any questions interviewees had during the interview process. As a result, rich monologues where interviewees interpreted questions freely, richly, and in a unique manner emerged (Miles and Huberman, 1994; Rubin and Rubin, 2005). For example, wastewater specialists, when asked about potential impacts to

human or ecosystem health due to ingesting reclaimed wastewater, initially answered they were “unsure,” or that impacts were “unknown.” However, when follow-up questioning sought clarification with specific examples, the responses reveal how reclaimed wastewater is viewed in this case.

Due to the friction this land use conflict has brought to the Flagstaff region, one goal of this research is to ensure that participation in this study would not negatively affect interviewees. The participant responses omit individual identities and, in order to protect confidentiality, are being represented numerically. Organizational identities used in this study were easily accessible to the public prior to the undertaking of this research.

#### Data Collection

The study consists of interviews with forty-three participants. Initially, two in person, six via email, and ten telephone interviews were conducted with participants found outside of the Flagstaff area. In February 2007, twenty-five interviews were conducted in person in the Flagstaff area. Thirteen in-person interviews were tape recorded, although fourteen interviewees were uncomfortable and it was removed. In these instances, collecting data took the form of hand notation. Six questionnaires were emailed, and interviewees replied through written responses. Seven phone interviews were tape recorded, with three recorded by hand, depending on interviewee preferences. The thirty-two formal interviews lasted between thirty to sixty minutes. The eleven informal interviews lasted from five to twenty minutes.

## Tools

Of the six questionnaires used in this study, seven interviewees were given the activist questionnaire. This category consists of participants who do grassroots organizing for environmental and/or socio-cultural groups, such as the Save the Peaks Coalition.

### Activist Questionnaire:

- I. Tell me about the organization you work with. (probe for cultural and natural resource ideology)
- II. How do you personally understand federal Indian policy? (probe for personal and organization's perspective, also policy concerning sacred sites and environmental justice)
- III. Can you share your opinion of the Arizona Snowbowl ski area expansion plan? What would your recommendations be in this particular case?

The second questionnaire was given to five interviewees who specialize in reclaimed wastewater. These participants include chemists, biologists, biochemists, and wastewater technicians.

### Wastewater Specialist Questionnaire:

1. Are there any differences between reclaimed wastewater and potable water? (probe for endocrine disruptor's and/or emerging contaminants)
2. Are you aware of any potential human health impacts for ingesting reclaimed wastewater? How about any potential environmental impacts for an ecosystem introduced to reclaimed wastewater (follow up)?
3. What would your opinion be of reclaimed wastewater used to make artificial snow at a ski area?

The design of the third interview questionnaire reported on perspectives of the USFS as the main federal land managers involved in this case with three USFS representatives interviewed.

USFS Questionnaire:

1. Tell me about United States Forest Service (USFS) policy concerning cultural and natural resources. (probe for Native American and sacred site policy, as well as environmental justice policy)
2. How is the National Environmental Policy Act (NEPA) incorporated in USFS policy? (probe for interviewee's opinion of merit of policy, knowledge of social impact assessments, community/public involvement in the processes)
3. Can you tell me what you know of any land management partnerships the USFS maintains? (probe for ski area partnerships)
4. Are you aware of the Arizona Snowbowl expansion plan? Can you share your recommendations for this particular plan?

Seven individuals working in the ski industry completed the fourth interview questionnaire. These perspectives were sought to gather data about the ski industry on a domestic level, in order to better comprehend its industry protocol.

Ski Industry Questionnaire:

1. Tell me about your ski area's relationship with the USFS. (probe for management policy)
2. Does your ski area have a policy specifically related to cultural and/or natural resources? (probe for NEPA, sacred site analysis, sustainability policy)
3. Does your ski area use artificial snow? What is your opinion of artificial snow (follow up)?
4. Would your ski area use reclaimed wastewater to make artificial snow? Why or why not (follow up)?
5. Are you aware of the Arizona Snowbowl ski area expansion plan? Can you share your recommendations for that particular plan?

The fifth interview questionnaire was given to Flagstaff local stakeholders and given to ten participants from diverse representations of the local Flagstaff community who did not fit into other questionnaire categories (see question 1).

Flagstaff Local Stakeholder Questionnaire:

1. How long have you been affiliated with (Northern Arizona University, the Flagstaff Chamber of Commerce, Flagstaff City Council, your law firm)? What is your or your organization's mission within the local community (follow up)?
2. Are you aware of the Arizona Snowbowl proposed expansion plan? Have you engaged in any work related to this expansion plan? (probe for findings)
3. Can you share your recommendations for this particular plan?

The sixth and final questionnaire was informally delivered to interviewees, which included eleven Flagstaff snowriders. These interviews served to access perspectives of those that use Snowbowl ski area services.

Flagstaff Snowrider Questionnaire:

1. Are you aware of the Arizona Snowbowl ski area expansion plan? Can you share your thoughts concerning that particular plan?

### Coding

All interviews were completed by April 1, 2007. Raw data from interviewee responses was reviewed, transcribed, and coded for analysis. Over the course of transcription, numerous themes emerged that became the codes for research explanation. Table 2 lists the major codes that surfaced and act as a guide to the results chapter.

Table 2. *Codes that emerged through transcription of qualitative interviews.*

<i>Codes</i>
1. Identity Politics
2. Economic Health
3. Ecosystem Health Concerns
4. Religious and Spiritual Tolerance
5. Justice
6. Accountability

### Reliability

Reliability was addressed through coding once, then re-coding data two more times, over the course of six weeks to ensure the codes that emerged from the transcription were consistent (Kirk and Miller, 1988). The same six codes that were reflected in themes initially were found a second and third time.

### Validity

This research was conducted in the field objectively and its validity is addressed through reexamination of the codes that surfaced from transcribed interviews in three separate instances (Kirk and Miller, 1988). Theoretical validity is essential to maintain reliable social science research, proven by the same six codes being identified and named during each new round of coding (Kirk and Miller, 1988). Moreover, theoretical validity

matches the theoretical conception of this work, aligns with literature reviewed, and illuminates what participants shared in interviews that were captured through the qualitative process.

The use of semi-structured qualitative interviews allows for the reflection of perspectives from local stakeholders in the Arizona Snowbowl expansion plan (Smith, 1999). The rich data gained from interviewees showcase diversity of participants' life experience. This diversity gives voice to the personal narratives of those involved in this expansion plan. In the following section, the results are discussed by the codes that emerged as themes in interviewee responses.

## CHAPTER FOUR

### RESULTS

The following chapter presents the results of qualitative interviewing for this study. It consists of six sections, organized by the major codes used for reporting, which will subsequently organize the analyzed data. These codes are: (1) identity politics, (2) economics, (3) ecosystem health concerns, (4) religious and spiritual tolerance, (5) justice, and (6) accountability. Each code is defined to anchor it into a framework from which to understand its significance within this study. The results of the methodology are presented via these codes as they emerged as the most salient issues and concerns of the Snowbowl expansion plan.

The first section of the results chapter begins by examining the identity politics of interviewees, categorized within the six questionnaires used in this study. The next section builds upon the topic of economics, which leads into the findings of ecosystem health concerns in the third segment. The fourth section presents a discussion of religious and spiritual tolerance. The fifth code centers of justice, both environmental and social. In conclusion, a dialogue on accountability leads into an analysis of the compiled findings. This analysis will examine the expansion plan's impact on the local community and the environment.

## Identity Politics

Identity politics emerged as a code to explain the viewpoint of interviewees. Each perspective shared sheds light to understand this case. This study also recognizes the diversity of life experience that each interviewee brings to the qualitative process. An interviewee's self-identity shapes their fundamental perspectives and values in understanding the Snowbowl expansion plan and its greater impact.

Identity politics plays an important role in determining if stakeholders support or oppose the Snowbowl expansion plan proposal. During interviews, interviewees expressed their views in a manner to make their identity politics known to the researcher. These conversations helped inform what identities are being proclaimed in this case, the values shape them, and what it means to be a USFS employee, activist, wastewater expert and so on.

Local snowriders varied from informed to unaware of this proposed expansion plan. The ski industry stands firmly behind its business protocol and operators to do what they must to remain viable businesses. The USFS is a major supporter of the ski industry and both feel they are environmentally progressive institutions and, therefore, justified in arguing on behalf of the Snowbowl ski area expansion. Scientists do not fully understand the long-term effects reclaimed wastewater will bring to the San Francisco Peaks ecosystem and this is one reason why the plan should be halted. Another argument against the proposal is how it marginalizes individuals practicing Native American

religion. Local stakeholder views vary depending on whether they feel skiing and its potential economic gains are compelling reasons to support this plan.

### Ski Industry (Seven Interviews)

It is necessary to first define the identity of the ski industry, in order to comprehend the unique issues connected with the Arizona Snowbowl expansion plan. Individuals from two ski industry organizations were interviewed, along with five representatives from ski resorts. Each of the five representatives explained that the ski industry was moving towards more environmentally sound business and operating practices. Much of the information to support the claim of “green skiing” practices centers around efforts to address climate change and increase the implementation of renewable energy infrastructure into industry protocol. For example, interviewee 23 from the Community and Environmental Responsibility Division at Aspen Ski Company shared that one can, “see Aspen and the ski industry as a lever that can drive broader policy on climate change” (Interview Group 4, Interviewee 23). This statement speaks to an identity of a majority of ski area employees who wish to proclaim they are environmentally progressive.

The Sustainable Slopes Charter identifies artificial snowmaking as essential to the economic viability of the ski industry. Aspen Ski Company, Mad River Glenn, and Alpine Meadows use some form of artificial snowmaking to ensure uninterrupted business operations. The majority of ski resorts use this technology to produce sufficient snow levels to operate their businesses if natural snow is insufficient. Arizona Snowbowl

has never used this technology, however, their representative explained to ensure dependable revenues, the ski area must upgrade to artificial snowmaking technologies. They consider this an absolute necessity to be a prosperous business.

The identity shared from these seven interviews depicts the ski industry's focus on economic viability. Ski resorts are businesses that provide opportunities for recreation, striving to develop and grow in a profitable manner. In recent years, the ski industry has attempted to shift its business operations to include more environmentally focused plans in their day-to-day operations.

Since environmental shifts in the industry have become more marketable to patrons, ski resorts commonly cite their shift towards environmentalism as a way to appeal to consumers. Current literature and policy discussions continue to focus on how to sustain this industry and implement ways to lessen ecological footprints. Most ski resort owners and policy makers are open to discussing change within business operations, but are equally sensitive to critiques of their business philosophies. For example, dialogue questioning the population it serves and its integrity in enacting lasting environmental improvements is met with criticism.

Interviewee 27 explained the Ski Area Citizens Coalition (SACC) is viewed as an outsider organization because:

the industry seems threatened by what we are doing and have taken a black ball approach to what we are doing. There are exceptions with certain skiers and ski resorts, but the NSAA (National Ski Areas Association) ignores and belittles our efforts and emphasizes we are radical outsiders and not a part of the ski industry (Interview Group 4, Interviewee 27).

Interviewee 27 explained there is no standard ski industry identity stating:

the resorts that like to work with us and like us, even they try to keep a low profile because they are afraid of the backlash from the industry, because the way [we] presents info is too black and white, and [some ski areas] want things more vague because they're afraid of industry backlash (Interview Group 4, Interviewee 27).

The SACC grades ski areas on their environmental performance, and as interviewees explained, this work is inextricably linked with the ski industry's politics to identify as environmentally conscious. However, the SACC was formed because resort owners were not concerned about long time skiers anymore. Interviewee 27 explained that some owners offer "low" season pass prices with a few "family" owned and operated ski resorts, but economic uncertainty jeopardizes how long they will survive with the dominant attitude of "Wall Street takeover and profit drive" (Interview Group 4, Interviewee 27).

Nonetheless, a majority of those in the industry are optimistic and positive that they provide a valuable service in an environmentally progressive manner. A representative of the Sustainable Slopes Charter shared that its guidelines are used as a national non-mandated policy model to achieve increased environmental sustainability. The Sustainable Slopes Charter also corroborates claims made by Alpine Meadows, Aspen Ski Company and other resorts that the ski industry and the Charter are fulfilling the agenda for skiing to be a more environmentally conscious activity.

#### Flagstaff Snowriders (Eleven Interviews)

As local skiers and snowboarders, eleven Flagstaff snowriders were asked their opinion of the Snowbowl expansion plan. These participants identify themselves as

snowriders and are consumers of Snowbowl services and by virtue are stakeholders in matters involving the ski resort. The responses concerning the proposed Snowbowl expansion plan varied, with the first two snowriders explaining they love to ski, but they “don’t accept the [plan’s] impacts to the Natives” (Interview Group 6, Interviewees 33 and 34). A third snowrider agreed with Interviewees 33 and 34, explaining the desire to be able to ski, “but not on fake snow as [Interviewee 35 is] connected to this place and feel[s] the proposal is culturally insensitive” (Interview Group 6, Interviewee 35). Two more snowriders also said they “are all about [fresh natural snow] but not fake snow...it has created this negative vibe in the community” (Interview Group 6, Interviewees 36 and 37).

Some snowriders support the expansion of the Snowbowl ski area and as Interviewee 38 explains, the expansion is “all good” because snowmaking will further improvements to Snowbowl facilities (Interview Group 6, Interviewee 38). These examples support claims for pro-expansion improvements, such as new chairlifts, a larger lodge, more dining areas, and replacing outdated cash registers (Interview Group 6, Interviewee 38).

Two other snowriders, Interviewees 39 and 40, were not aware of the expansion plan, although after learning the ski area would have greater guest capacity if the proposal were implemented, they agreed the plan sounded viable. Interviewee 41 expressed no opinion about the proposed expansion plan because this participant was unaware of its creation even though they are a full-time Snowbowl employee.

The last two snowriders explained they ski at the Snowbowl because it offers the capability to travel off-piste (beyond the ski areas boundaries). They also explained that “fake snow means nothing to us,” and while they do not fully support the expansion plan, they do not want the resort to close (Interview Group 6, Interviewees 42 and 43). Their preference is to hike, instead of riding the lifts all day, as one lift ride to the top of Snowbowl allows easy access to the backcountry. They stressed that snowmaking would not benefit snowriders like themselves who “ski the backcountry anyway, [and] never on the inbounds runs really,” or Snowbowl because “it’s so hot in March and all that [artificial] snow will melt and evaporate anyway, especially on the south facing aspects” (Interview Group 6, Interviewee 43).

#### USFS (Three Interviews)

Since the USFS is the main federal agency involved in this study, it is essential to ascertain their position and their relationship with the ski industry. Aspen Ski Company, Alpine Meadows, and the Arizona Snowbowl work with the USFS and have, as they describe, solid working relationships. Many ski resorts operate on public land managed by the USFS. Interviewee 23 explained if ski area projects are large enough an EIS would be administered through the NEPA process by the USFS.

The Sustainable Slopes Charter participant shared they “have a successful public private partnership [with the USFS] dating back to the ‘40s. Together we provide the public an amazing recreation opportunity on public land” (Interview Group 4,

Interviewee 29). The Arizona Snowbowl participant also attested to a great relationship between the USFS and the Snowbowl.

Interviewee 30 from the Tahoe USFS district explains, “typically there is a very good relationship” between the USFS and the ski industry (Interview Group 5,

Interviewee 30). As Interviewee 30 describes:

one of the philosophies of the USFS is we have a lot of partners out there and ski areas are one of our larger partners within recreation, and we are landlords and they pay us a pretty hefty fee for running the ski area on national forest land. On both sides we work very hard at maintaining a good working relationship, essentially they cannot do any type of improvement of anything on national forest land without our approval. Operation wise we have oversight authority to inspect ski areas. We now call it monitoring to take a good look at their operation, what services are they providing, what’s going on, on the [mountain]. It’s a good working relationship in most areas and it’s hard but ski areas and the USFS work hard to keep it that way and by having good relationship there are huge advantages to everybody (Interview Group 5, Interviewee 30).

Interviewee 31 is a local Flagstaff USFS employee who works with the management of the San Francisco Peaks and the Snowbowl ski area. Interviewee 31 explains the USFS utilizes conservation policy, and is a multiple use agency managing for recreation, timber, cultural resources, minerals, water, and wildlife which “is a challenge to manage [with] all of this in mind” (Interview Group 5, Interviewee 31).

According to Interviewee 31, the USFS management policies and overall mission “is to provide a service to the public. The USFS has facilitated recreation with skiing and the public... there wouldn’t be as many ski areas without the USFS in the ‘30s and ‘40s” (Interview Group 5, Interviewee 31).

Interviewee 32 from a northern California USFS district confirmed the USFS mission to provide service to the public. In addition, our conversation focused on the

USFS cultural resource policies that govern USFS lands. Interviewee 32 provided a multitude of information concerning cultural and natural resource management employed by the USFS. This USFS participant is Native American and knowledgeable of the traditional tribal ways of managing ecosystems and human communities.

Interviewee 32 explains, “the learning curve for the forest is quite steep unless you’ve spent time here like [Native Americans] have, to know the species’ responses,” to management and alteration (Interview Group 5, Interviewee 32). Interviewee 32 feels torn at times, working for the USFS and being a Native American, because, “tribal views are sometimes in contrast with USFS policy” (Interview Group 5, Interviewee 32). In the end, the USFS, as the federally authorized agency, has jurisdiction over land it manages. However, the USFS “does try to meet and consult with tribes,” but:

this has only been happening since the ‘70s, before that [the USFS] would come into communities and just design management plans and call it that way, and they also played roles in saying, for example, this land is better for agriculture than Native Americans, and Natives may say, ‘Hey, that land is too steep for agriculture,’ but their word was not taken into consideration, and we are a people directly tied to the land, harvesting acorns and salmon, living off the land, and they would say, ‘You can’t live off the land anymore’ (Interview Group 5, Interviewee 32).

The USFS and the ski industry collaborate on many projects throughout the United States. This relationship is based upon the respect amongst professionals and agreed upon policy, but there is a history of conflict between the USFS and Native American tribes.

### Flagstaff Local Stakeholders (Ten Interviews)

In this category, ten local members of the Flagstaff community were interviewed. One member of the Flagstaff ski club, one member of the Flagstaff Chamber of Commerce, two representatives of the Flagstaff City Council, four NAU professors, and two local lawyers represent this sample.

Each local stakeholder shared a unique perspective. For example, Interviewee 18 from the Flagstaff ski club explained they are involved in this issue because the Snowbowl is their home ski resort. They have not had adequate race training for a number of years due to insufficient natural snowfall. The ski club may disband if the expansion plan is denied and is why they support the snowmaking efforts. Interviewee 18 explained the ski club actively supports expansion because “we feel as though snowmaking would improve our season for us, and that the improvements recommended for the Arizona Snowbowl would better our opportunities for training and racing” (Interview Group 3, Interviewee 18).

The Flagstaff Chamber of Commerce partners with the Flagstaff ski club in an organization known as “Reclaim the Peaks.” Interviewee 18 explained groups supporting the Snowbowl case have not been vocal because they initially won a District Court decision. However, Interviewee 18 now thinks this side of the case must be promoted in order to “educate people that don’t know what is going on and inform others of our position because, of late, the only real voices being heard have been opposing [the expansion plan]” (Interview Group 3, Interviewee 18).

Interviewee 13 from the Flagstaff Chamber of Commerce explained the “Reclaim the Peaks” mission statement, which proclaims:

“RECLAIM the PEAKS!” was founded by the Flagstaff Chamber of Commerce and the Flagstaff Ski Club to educate the general public about the Coconino National Forest’s Upgrade Plan for the Arizona Snowbowl ski resort, including the making of artificial snow. Our mission is to support the Arizona Snowbowl ski resort, its owners, employee’s, season pass holders and supporters by educating the public on reclaimed water and its uses in Flagstaff, Arizona and across the world, to fundraise to help provide financial assistance towards existing and future litigation costs and to advocate for the reversal of the March 12, 2007 Ninth Circuit Court of Appeals decision on snowmaking at the Arizona Snowbowl (Interview Group 3, Interviewee 13).

The Flagstaff City Council members who participated did not offer their personal opinions, but said they would abide by any court decision in the Snowbowl outcome.

Two Flagstaff lawyers interviewed stated they believed the Snowbowl expansion plan to be injustice to Native American communities. Both Interviewee 19 and 20 maintain their desire to argue this case within the US court system. In the past, religious freedom and sacred site protection cases brought forth by Native Americans have been defeated. Yet, they both think the path to reclaiming justice for Native Americans is through victories within the legal system by establishing new precedents under the Religious Restoration and Freedom Act (RFRA).

The final four interviewees were NAU professors who question the validity of pro-expansion arguments. Interviewee 16 and 17 cite economic health and justice concerns as their opposition to the plan, while Interviewee 21 and 22 question the potential impacts to ecosystem and human health from the proposed use of reclaimed

wastewater to make artificial snow. Due to these concerns, all four are against the proposed expansion plan.

#### Wastewater Specialist Questionnaire (Five Interviews)

Of the five interviewees in this category, two are wastewater technicians and three are scientists. Interviewee 8 from the Flagstaff treatment facility shared that reclaimed wastewater slated for use on the Peaks meets federal regulations and will be used to ensure sound business operations for the Snowbowl. Interviewee 9 explained reclaimed wastewater is usually used for irrigation projects, throughout the US, however, was unsure how it would react when applied to making artificial snow. Interviewee 9 also cited cultural concerns expressed by the Native American tribes should surpass any arguments regarding wastewater use on the Peaks.

Interviewees 10, 11 and 12, a biologist, chemist, and biochemist respectively, shared reservations concerning the use of reclaimed wastewater in the Snowbowl expansion plan. They explained science has yet to prove them causing harmful, irreparable, or irreversible damages, yet each scientist cited empirical research that shows certain life forms are greatly impacted and altered when exposed to this water. Although used widely in the state of Arizona and across the US, there could be dramatic ramifications if this expansion plan were to proceed before further scientific evidence is gathered.

### Activist Questionnaire (Seven Interviews)

Interviewee 1 identifies as an activist who believes the continued marginalization of Native Americans plays a role in traditional environmental movements not recognizing issues of social and environmental injustice. Interviewee 1 opposes the Snowbowl expansion plan because it affects the local ecology of the region, as well as greatly disenfranchises the Native American community, who deem the Peaks to be sacred lands.

Interviewees 2 through 7 are affiliated with the Save the Peaks Coalition. However, Interviewee 2 works as an environmental justice activist with the Sierra Club, and interviewees 3 through 7 are involved in other grassroots organizations whose justice efforts center on the environment and concerns within the Native American community. For example, Interviewee 3 states the local Flagstaff activist organizations, such as Native Movement and Save the Peaks, are groups who espouse “living sustainably with the Earth and all life” (Interview group 1, Interviewee 3). The standpoint of the Save the Peaks Coalition is that Snowbowl wants to introduce reclaimed wastewater to create a for more profitable business operation. According to Interviewees 2 through 7 Save the Peaks represents over 13 Native American tribes adamantly opposed to this expansion plan. They acknowledge the project will cause irreparable harm to the ecosystem and the desecration of this scared site will destroy the Peaks spiritual integrity. The Save the Peaks Coalition’s identity is, as Interviewee 7 explains:

the goal of the Save the Peaks is that we desire to have healthy communities, and we don’t see that snowmaking with 180 million gallons of effluent on a mountain that is sacred to 13 tribes, clear cutting acres of old growth forest in a sensitive ecosystem and the other aspects of this proposal are in line with that value. [The Snowbowl is] not in line with healthy communities because a healthy community

has respect for diversity- for all people's religious practices and ways of life (Interview Group 1, Interviewee 7).

Through participants sharing their standpoints, several other codes emerged to define multiple issues surrounding the Snowbowl expansion plan. Economics is the first code being presented as one of the prevailing concerns involving the economic stability, viability, and justice associated with the Snowbowl expansion plan.

### Economics

Those who identify as pro-expansion believe this plan is economically viable and, for this reason, support its implementation. On the other end of the spectrum, those opposed to the plan believe economic arguments are unfounded, and it represents a short-term gamble for profits versus cultural integrity and ecosystem health concerns. In either case, economics is a code that surfaced as a recurring theme in this research. Moreover, interviewee perspectives highlighted economics as a major obstacle to finding a consensus with regard to land use policy for the San Francisco Peaks.

### The Ski Industry, Pro Expansion, and Artificial Snowmaking

Interviewee 27 from the SACC explains the state of current ski area protocol fosters extraordinary costs associated with resort skiing. For example, Interviewee 27 had recently traveled to a major Colorado ski resort where a one-day ticket was in excess of eighty dollars. This raises the question of access for limited numbers of people. The barriers which high costs present are, as Interviewee 27 explains:

the money-driven, capitalistic development project mentality [that developed] in the middle to late '90s. They were huge projects and not for locals, because the resorts want more intermediate terrain to attract more visitors, which is good business. But they want a specific market of ski-in, ski-out real estate to make money off those who come out one to two times a year... that's the business plan (Interview group 4, Interviewee 27).

Interviewee 24's perspective resonates regarding the overall vision of the expansion proposal. The Snowbowl owners wish to increase the ski area's intermediate terrain in order to satisfy customers from Phoenix and other outlying areas who are the Snowbowl's main financial contributors. This will allow safer access for novice skiers. A large portion of the plan increases safe skiing, such as adding chairlifts to avoid overcrowding trails and would build a pay snow-play area so guests will not need to travel to a neighboring free snow play area. However, the role which artificial snowmaking plays in this plan is the Snowbowl's main argument for boosting economic growth.

The belief is this proposed expansion would not be worthwhile if snowmaking is not part of the package. Even though numerous improvements are included in the ski area expansion plan, artificial snowmaking is the most important upgrade to ensure the Snowbowl remains a functioning business. According to Interviewee 24 from the Snowbowl:

We'll blow snow to make a base, but not blow all the time. It's tough to rely on Mother Nature, and hard for employees without predictability, so local skiers are leaving for Colorado, and hotels are hurting, no one is in the bars and the economy drops. It's been cold enough to blow snow and we've been monitoring that for years ...the Midwest snowmaking industry, they get less than 100 inches [of snow] a year, so without it they couldn't operate. Skiers want snowmaking. All the Phoenix and Tucson skiers ask when will we have snowmaking! We tell

Flagstaff to think snowmaking, and really, this is the environmentalists and the Natives against the Snowbowl (Interview Group 4, Interviewee 24).

Interviewee 24 emphasizes the dire need for updated facilities stating:

Whistler [Ski Resort] has used some reclaimed water, Mt. Hotham in Australia was first to use it...we just want to make snow and ski. We need dependable revenue to upgrade lifts, need to fix the building, and need more capacity to meet the demand to hit the hill. Snowmaking means more money and infrastructure, and no lines for guests. We opened January 24 this year and last year it was March 17, and Christmas is one-third of our total revenue, so we need this...the wind blows the snow around so snowmaking is a reliable base (Interview Group 4, Interviewee 24).

Interviewee 13 from the Flagstaff Chamber of Commerce shared many of the same sentiments concerning economics. The Flagstaff Chamber of Commerce has co-founded an organization with the Flagstaff ski club specifically related to the Snowbowl expansion plan. Their organization, “Reclaim the Peaks” was founded to support the Snowbowl as a key business in the local community because “when the Ninth Circuit [Court] opinion came down on the 12<sup>th</sup> of March, [the Flagstaff Chamber of Commerce] raised our concern it would hamper Snowbowl’s ability to continue operating in Flagstaff” (Interview Group 3, Interviewee 13). Interviewee 18 from the Flagstaff ski club added, “this is a business, we are all economically-minded, unfortunately, we are a slave to the greenback and this investor who purchased the Snowbowl in 1990 never expected to be up against a legal battle like he is and he’s just trying to survive as a business man...and at this rate, with global warming, that ski area is gonna be gone” (Interview Group 3, Interviewee 18).

Interviewee 13 also shared the Flagstaff Chamber of Commerce’s mission “is to support business in the community,” and studies have shown a positive “impact on the

economy when Snowbowl was running at a full pace, and that's all [they] are asking for" (Interview Group 3, Interviewee 13). According to interviewee 13 Snowbowl drives the tourist-driven, winter economy in Flagstaff. The Chamber wants the Snowbowl to make artificial snow if insufficient natural snowfall does not allow the ski resort to operate. There has been a drought in the last two years, and if temperatures are cold enough to make snow, the ski area could make snow that "will be able to maintain, and be kept as a base, with more certainty and predictability" thereby allowing the ski resort to function (Interview group 3, Interviewee 13).

Interviewee 13 explains that two years ago Snowbowl was open for more than one hundred days and had record skier visits during that time. Conversely:

two to three years prior to that there was little to no precipitation. Literally, in 2001-2002 [the Snowbowl was] open four days out of four months and that's hard on the economy. Our winter economy is slow, and there's the idea that if there's nice weather people will come and visit and that offsets the loss from people that don't want to travel when it's snowing. Well, the truth is we are not saying that we have to have four months of snow in winter and, in fact, we don't need four months of snow, but they would have a much more sustainable ski season under drought conditions even if they were able to make snow and people don't understand that and they'd have the best of both worlds: you'd have a predictable ski season for four months, and still have people coming in times of good weather, too (Interview Group 3, Interviewee 13).

When asked how much Native Americans contribute to the local economy, Interviewee 13 explains they "play a significant role in the economy, for sure" and [Interviewee 13] think[s] "they also play significant roles in other economies as well, surrounding Flagstaff" (Interview Group 3, Interviewee 13). Interviewee 13 says that many younger generation Native Americans who ski and snowboard appreciate the Snowbowl recognizing their importance to the Flagstaff economy. Moreover, "certainly

[the Snowbowl] strengthens the entire community, and if [Native Americans] are a part of that [then] they are certainly a part of the 400 employee base of the Snowbowl's full-time winter employees when they are operating so, they stand to benefit too from Snowbowl operations. There's a lot to consider with the economic impacts [of the Snowbowl]" (Interview Group 3, Interviewee 13).

Interviewee 8, a representative of the Flagstaff wastewater treatment facility, explained reclaimed water is very important to the local economy because of its citywide use for various irrigation projects. Reclaimed wastewater also plays an integral role in the expansion proposal, and when asked about the plan specifically, Interviewee 8 shared:

Arizona Snowbowl can utilize a maximum of 1.5 million gallons per day of class A+ water during a set period of time. That does not mean they will use that much water every day within that timeframe. Why? It will cost them not only the cost of the water, but also the cost of pumping the water from Flagstaff to the resort, the costs of then pumping the water again to the snowmaking guns, these costs are significant. They are not trying to cover large areas of the resort with manmade snow; they are not trying to make a base that is several feet thick, they will not continue to make snow if it is not truly needed on the ski runs. The idea with snowmaking is to establish a base on certain ski runs that will then be covered in natural snow; this would allow the resort to have some consistency in their ski season (Interview Group 2, Interviewee 8).

Flagstaff's economic health was discussed with two Flagstaff City Council members. Interviewee 14 explains, "the Snowbowl contributes somewhat to the Flagstaff economy, but nothing compared to what the tribes contribute" (Interview Group 3, Interviewee 14). Both Interviewee 14 and 15 explain recreation and tourism are the major drivers in the Flagstaff economy, but strides are being taken to diversify this dependence. Interviewee 15 from the City Council adds:

that the tourism industry, particularly the hotel industry, noticed an economic loss during the years Snowbowl was closed or was delayed in opening. Paradoxically, the Bed, Board, and Booze (BBB) revenues applied to lodging and restaurant bills actually increased during the years Flagstaff did not have snow. It should be pointed out, however, that the BBB tax has increased incrementally every year, so the increase in the tax during drought years may have occurred anyway (Interview Group 3, Interviewee 15).

The local Coconino USFS employee did not touch upon economic issues, but shared that the initial decision in the Snowbowl NEPA process came about because, “the [Coconino USFS] supervisor chose what is best with all issues, and the use of the permit area is more efficient with the proposal for skiers, like lessened lift lines and more infrastructure, so it’s better for the public” (Interview Group 5, Interviewee 31).

### Anti-Expansion and Economic Justice

Some interviewees dispute that proponents arguments linked to economics are unfounded. For example, one lawyer explains, “a lot of people think the Flagstaff economy and Snowbowl are tied, but it has minimal impacts on the economy” (Interview Group 3, Interviewee 19).

An archeologist from a separate USFS jurisdiction was interviewed based on a recommendation by the Coconino USFS employee. Our conversation centered on economic health and the USFS. Interviewee 32 explains the USFS has been struggling financially for several years due to changes in federal budget allocations. In the past, the USFS relied on timber extraction as its main source of revenue; however, this option is no longer available. Interviewee 32 explains “a lot of the meat of the USFS is the money allocated from Congress, and lack of it...without USFS projects I wouldn’t be here... the

USFS is doing a lot more different projects now than in past because they can't rely on timber, so [they] need other projects" (Interview Group 5, Interviewee 32). The USFS has been dealing with an increasing number of lawsuits and opposition to project proposals has cost the agency a great deal of time and money. Ultimately, as Interviewee 32 indicates, "the USFS has power, but needs money" (Interview Group 5, Interviewee 32).

Interviewee 12 points to how the USFS has dealt with this case, by stating:

the USFS thought they'd get sued either way, and they had the decision, and in our small community, the owners aren't local, and the county is locals and is Natives, and there are skiers that side against this expansion, religious diversity causes separation and she [the USFS Supervisor] could have brought the community together, and why she went that route, well I know, the USFS needs money, and you get money from projects, you don't get anything for preserving a mountain, or preserving religion, or trees, cause our society is ruled by capitalism (Interview group 2, Interviewee 12).

To clarify this view Interviewee 12 explains that inactive projects do not increase USFS agency revenues. Thus, the Snowbowl expansion plan could provide them with a valuable financial base to ensure the agency's profitability in the Coconino district.

Two professors from NAU commented on economic issues related to the Snowbowl expansion plan. Interviewee 16 is a geologist who cited economics as the main aspect that had not been adequately reviewed. Interviewee 16 explains issues should remain focused on economics, not wastewater, and a community economic impact study would help to clarify the situation. Interviewee 16 questions whether the Snowbowl expansion plan's infrastructure investment is good for the Flagstaff community, and that:

the wastewater is certainly an issue we do not completely understand yet, there's more to learn, and we're still getting facts, but as a community, because we are not a large community, we don't have a lot of infrastructure, and that's a major infrastructure to really extend the ski season by six weeks. On average, Snowbowl

opens between Christmas and New Year's Eve and they're looking for Thanksgiving, and I wasn't shown, on really dry years, they can make enough snow to run the whole resort...Flagstaff is warm, and snowy winters are similar with economics because in warm years people can drive up here easier, so it's not real clear to me the economic benefits for the community. Certainly some stand to gain more, but could the community invest in something that could provide a better rate of return, twelve months a year instead of six weeks? (Interview Group 3, Interviewee 16)

Interviewee 16 stresses this case should be a community decision-making process and that thus far the community has not had a voice in this matter. Moreover, because economic figures were not mandated as part of the EIS process, Interviewee 16 would like to see the Snowbowl business plan extended to the community as a way to resolve this conflict and to generate more community involvement.

Interviewee 17, an economist from NAU, agrees with these sentiments and says the economic and financial interests of Snowbowl's owners have not been fairly discussed. Moreover, Interviewee 17 explains conflicts exist because the USFS has "to jockey competing interests" while the Snowbowl "accountants are worried about profit" (Interview Group 3, Interviewee 17). Interviewee 17 shared an economic outlook very different from that expressed in interviews with Snowbowl owners and Chamber of Commerce participants.

The NAU economist explained a lack of clarity concerning the Snowbowl owners profit incentives for proposing the expansion plan. A background story followed this thought explaining:

the owner bought the ski area 13 years ago with the idea of profit. The first few years were okay then [the Snowbowl] had some bad years and the rate of return on his investment went down. So he could sell it, or [the owner] had the idea to make snowmaking, to be more profitable, then sell it if it's all approved, and that

equals huge profit...and he may not even be losing money, just not making as much profit, but why won't he tell us? There was once a chance that [the owner] would sell the resort to the tribes and the city, but that went away. Why not have the city and tribes own it? Winter Park [Ski Resort] is owned by the city of Denver (Interview Group 3, Interviewee 17).

The financial motives of the primary Snowbowl business owner continued to be questioned during this interview. Interviewee 17 explains that although the owner argues that Snowbowl has a direct impact on a healthy Flagstaff winter economy, “there is no direct correlation with snow skier days [at the Snowbowl] and the winter economy” (Interview Group 3, Interviewee 17). Regarding the Flagstaff Chamber of Commerce and local Flagstaff businesses, Interviewee 17 argues, “businesses will support snowmaking because it costs them nothing. But even if there's a small bit of extra revenue, they'll support it; this is a great example of the ‘if you build it they will come’ mentality” (Interview Group 3, Interviewee 17).

Interviewee 17 spoke about unresolved questions regarding economic health issues connected to the Snowbowl expansion plan, stating “capitalism has risks, [the Snowbowl expansion plan is] a bad move, and snowmaking may be to bail [the Snowbowl owners] out” (Interview Group 3, Interviewee 17). Furthermore, it was shared that the owner of the Snowbowl:

tried to buy the Nordic [cross-country ski] center to make more money, and did buy the nearby motel, and this is just capitalism and big investments. What is the risk and cost-benefit analysis? What is [the Snowbowl owners'] rate of return, and why won't he disclose it with everything else going on? And why should the Natives go down for his rate of return to go up? [The Snowball owner] made several bad decisions—should the environment and Native Americans bail him out? (Interview Group 3, Interviewee 17).

Interviewee 17 argues the Snowbowl proposal was designed to create more infrastructure in order to bring more people to the Flagstaff area, and the city should look at their winter reclaimed water as ‘opportunity costs’ because it “is a determining variable” (Interview Group 3, Interviewee 17). Another argument presented is if the city charged more money than the Snowbowl was willing to pay, the case would be moot. Interviewee 17 spoke of the increasing tension around the case, and explained the argument by the Snowbowl and the Chamber of Commerce is that without snowmaking the ski area will not survive. However, Interviewee 17 states “the DEIS (Draft Environmental Impact Study) does not see Snowbowl as profitable, and it makes sense [the owner] will just sell it in the end” (Interview Group 3, Interviewee 17).

Interviewee 11, along with many locals, wonders if the Snowbowl will be able to afford the high costs of pumping water from the city to the ski resort, and if this is economically feasible and a responsible use of energy. Interviewee 11 adds “if this plan goes through, Snowbowl will be worth more, and if the owners can’t afford to implement the plan post-litigation, it’ll be worth much more to sell” (Interview Group 2, Interviewee 11).

Interviewee 17 also shares the issues in this case are framed as skiers versus Native Americans, yet the real issue is the rate of return for Snowbowl owner(s) and, as a parting thought states:

what if the town said, as it could, ‘we stand in solidarity with the Native Americans in our community, and the environment, over profit, as we are fine [economically]?’ If the town stood up for Native Americans, it would be the first time in 500 years, and the community, as a whole, would be so much stronger (Interview Group 3, Interviewee 17).

This recommendation was followed by more questions about climate change and “what about this project really being unfeasible, then what? It goes down as a ski area and the Natives and environment lose, [but] the town and community could build an effort to build a strong Southwest community and promote it that way, over same old status quo” (Interview Group 3, Interviewee 17).

Activist Interviewee’s 3 through 7 shared a belief that the main driver of the pro-expansion argument is economic gain. Interviewee 7 explains “that’s why [the Snowbowl will] say if they don’t get snowmaking they’re gonna be forced to go out of business” (Interview Group 1, Interviewee 7). According to Interviewee 7, the ownership of the Snowbowl uses their potential closure as a threat to the community and its economy. However, the USFS DEIS studies conclude that Snowbowl does not drive Flagstaff’s winter economy.

Regardless of conflicting sentiments, ecosystem health concerns also emerged from qualitative interviewing as a key code to define the integral values that shape the greater impacts of the Snowbowl expansion plan.

### Ecosystem Health Concerns

A consistent theme, which surfaced throughout the course of qualitative interviewing, concerns potential environmental impacts associated with the Snowbowl expansion plan. Topics around ecosystem health concerns include, but are not limited to, ski area development, artificial snowmaking, climate change, reclaimed wastewater, and sustainability.

The integrity of the San Francisco Peaks ecosystem is central to the controversy of the Arizona Snowbowl expansion plan. Pro-expansionists believe potential economic gains from ski resort profits overrides ecosystem health concerns, which they consider questionable. However, unbiased scientists and anti-expansionists argue there are compelling questions related to reclaimed wastewater use for artificial snowmaking and its impact on ecosystem health.

### The Ski Industry's Environmental Values and Artificial Snowmaking

In 2007, the ski industry identified itself as environmentally conscious and using “green” practices. Although ski areas use vast amounts of natural resources to function, ecosystem health concerns are within the lexicon of the industry. Moreover, representatives from four ski areas and two affiliated environmental organizations were interviewed for this study to ensure input dealing with ski industry operations beyond the Arizona Snowbowl was solicited.

Aspen is widely regarded as the leader in environmentally sensitive ski industry practices. Interviewee 23 fervently believes all ski resorts can follow Aspen's model, even if they have fewer financial resources and support. Aspen's stance on artificial snowmaking is, “it's the price of doing business, a necessary evil. You can't operate in the modern ski world at the level we do without it. It's very environmentally damaging, very energy and water intensive. But then, everything we do is energy intensive, so I'm not sure I'd call snowmaking any worse than simply operating our lifts” (Interview Group 4, Interviewee 23). While discussing climate change and its potential effect on the

ski industry, Interviewee 23 says, “Who cares? By the time climate change shuts down skiing, so much else will have gone wrong in the world as a result of climate change that lack of snow will be the least of our problems” (Interview Group 4, Interviewee 23).

A representative from Mad River Glen ski area also aids this research sample by expounding on the environmental ideology of the ski industry. Mad River Glenn has one of the smaller ecological footprints in the industry. They also have snowmaking, with only two guns, which is minimal compared to other resorts. According to Mad River Glen’s employee, the reason they have snowmaking is for the safety of their guests. In early and late season, a reliable snow base is needed to load a chairlift safely.

Interviewee 28 from Alpine Meadows Ski Resort explains their ski area is interested in maintaining a small ecological footprint and operating responsibly by purchasing carbon credits. However, Interviewee 28 also shared “carbon offsets are a step towards something in progress, but they are not ‘end all’ or ‘end to a means’; they are a great way to fund the placement of renewable energy onto the power grid” (Interview Group 4, Interviewee 28). Interviewee 28 also stresses the importance of looking long-term saying, “it’s much easier to prevent a catastrophe then to go ahead and clean one up” (Interview Group 4, Interviewee 28).

Interviewee 28 also explains many visitors ask why Alpine Meadows has not added new infrastructure to “keep up,” but this is not on Alpine’s agenda. The term “keep up” describes trends in the ski industry that cater to affluence, real estate development, and controversial ski area expansion plans. Like Mad River Glen, Interviewee 28 explained Alpine Meadows needs artificial snowmaking to maintain safety and to set a

base early in the year so it lasts all season long. An artificial snow base “becomes a really strong base underneath natural snow so in spring snowmaking is still under there, which takes forever to melt...so snowmaking we made in November is still there in the spring” (Interview Group 4, Interviewee 28).

Interviewee 26 from Silverton Mountain Resort says their ski resort area choose its site because it was “heavily polluted from past mining, and the land has been scarred and really couldn’t be used for much else except skiable terrain” (Interview Group 4, Interviewee 26). This ski area is unique in its brown-site development and Interviewee 26 shared:

other ski areas call themselves ‘green’ because they purchase wind power and do various recycling programs, or compost, or things like that but what Silverton has done to separate ourselves from a lot of other ski areas is to have [a] small footprint. There is nothing new at our ski area, we’ve kept so many things out of the landfills... the only thing that is new is the electronics of the lift and that’s it...so all these other ski areas try to make up for the fact that they do so much because they have such a big footprint and they use so much and consume so much and we are trying to reduce that on the other end of it (Interview Group 4, Interviewee 26).

The SACC interviewee spoke at length about the ski industry and its environmental beliefs. Interviewee 27 shares SACC is not seen as a partner in the ski industry, but more of a threat because they grade ski areas with an environmental report card, as a non-biased third party source. Some ski areas fail these reports and Interviewee 27 explains some of them are corporate, very wealthy, powerful and do not like any perceived negative press. In, “a program like the Sustainable Slopes everyone can look good....but they don’t want a real critique” (Interview Group 4, Interviewee 27). However, Interviewee 27 points out the Sustainable Slopes folks deserve credit for their

climate change campaign called “Keep Winter Cool.” The growing trend within the ski industry is to use “green” power and, specifically, wind farms to offset ski industry carbon emissions. Interviewee 27’s main, “concern with Sustainable Slopes is if it’s a first step then it’s not that bad, but if [the] industry took that as the pinnacle, that this is best we can do, this is it, the blueprint, and now its been seven years and the program has not changed much at all...well, that was our fear, because it was pretty weak, and they haven’t developed it more” (Interview Group 4, Interviewee 27).

Interviewee 33 from the Lake Tahoe area USFS also highlights the ecological orientation of the ski industry. Interviewee 33 explains ski resort owners understand they must take care of the land and forest upon which their business operates. Moreover,

ski areas seven to eight years ago started taking a good look at themselves as being ‘green’ like Aspen, and some areas can afford to hire an environmental coordinator, and Aspen has done so much to changing fuels and light fixtures, to working with the USFS to create its own power plan and get involved in green power generators and buying green power, and now its ski industry-wide that’s really starting to catch on and many are going to green power and biodiesel like Alpine Meadows and many efforts are being made by ski areas to be much more environmentally conscious than twenty years ago, and we share this vision as the USFS with the ski industry. For example, when a ski area wants to expand their snowmaking, our first question is which system will be used and how efficient will it be? Because the technology in snowmaking has changed dramatically over the years to where the right equipment can be very efficient for what you are putting out... it costs more, but [is] better in the tail end (Interview Group 5, Interviewee 33).

Although the SACC and some ski resort owners comment on the industry at-large for not going far enough to be “green,” Interviewee 24 from the Snowbowl summed up the ecosystem health concerns of the industry. They stated, “the ski industry as a whole is a green industry, it’s using wind power a lot now, like Aspen with their recycling hydro-

electric to harvest runoff to use for power, and the Arizona Snowbowl is a part of Sustainable Slopes, and we'll do whatever we can to save the environment" (Interview Group 4, Interviewee 24). Interviewee 24 also explained the Snowbowl must begin to incorporate artificial snowmaking into their business practices in order to survive financially.

#### Support for Artificial Snowmaking with Reclaimed Wastewater

Interviewee 20 noted the determining variable in the Snowbowl expansion plan is the use of 100% reclaimed wastewater for artificial snowmaking, which no ski area has ever implemented. Interviewee 24 explains the Snowbowl's specific point of view stating, "the water is reclaimed so it is good, it's the best in the nation from the Flagstaff facility" (Interview Group 4, Interviewee 24). Interviewee 24 also spoke about the Native American view sharing that:

with reclaimed water people don't drink it, but it's used a lot all over the city [of Flagstaff], and the tribes use reclaimed water at the Sunrise Ski Area and at the casino...at the reservation no one cares there [about using reclaimed wastewater], and Flagstaff has environmental concerns, but the tribes are brainwashing people and its akin to the whack job environmentalists in Ashland Oregon and their ski resort expansion, and the Vail arsonists in the '90s (Interview Group 4, Interviewee 24).

Interviewee 24 explains Snowbowl owners understand their view of reclaimed wastewater is in conflict with the Native Americans view of it. However, "the snowmaking will ensure our snow pack, and 89% of resorts have snowmaking" so the plan is to "build a 14.8 mile pipe from Flagstaff to [the Snowbowl ski area] to make the snow, and using potable water would not be good because it would drain the community

water source” (Interview Group 4, Interviewee 24). Citing past activities, which have already compromised ecosystem health, Interviewee 24 shares that old mining impacts in the San Francisco Peaks have left toxic leeching, with no retention facility for runoff. Interviewee 24 says there will be no snowmaking above the timberline in the Peaks region because an endangered plant—the groundsel.

The Sustainable Slopes Charter supports the Snowbowl expansion plan. When interviewing a representative from the main environmental organization who advises those in the ski industry, Interviewee 29 clarifies the Charter’s definition of sustainability is in, “meeting the needs of this generation without jeopardizing the ability of future generations to meet theirs” through a “voluntary grassroots approach” when applying environmental policy (Interview Group 4, Interviewee 29). The belief is the Charter is fulfilling its mission to promote sustainability within the ski industry. This claim is supported by citing that numerous ski areas are now offsetting their carbon footprints by purchasing green power, and the “Keep Winter Cool” campaign, which was adopted as a part of the Sustainable Slopes Charter, serves as a guideline for the ski industry’s climate change policy.

With regard to artificial snowmaking, the Sustainable Slopes participant explains it to be a beneficial ski industry practice, as:

the water we place on the slopes help with ecosystem functions, particularly during drought years. Eighty percent of the water used for snowmaking returns to the watershed and is water that would otherwise not be there. The water we use typically comes from private impoundments—not from local streams—and is piped to the site for snowmaking use (Interview Group 4, Interviewee 29).

When asked about the stance of the Charter on reclaimed wastewater used for artificial snowmaking, Interviewee 29 shares that as long as it meets federal regulations, “it is a great proposition in a time of scarce resources” (Interview Group 4, Interviewee 29).

Interviewee 31 from the local Coconino USFS speaks about the main natural resource policy used in the Snowbowl case. Interviewee 31 said, “with NEPA, federal agencies involve the public, and insure a minimization of impact to the environment” (Interview Group 5, Interviewee 31). Furthermore, Interviewee 31 explained, “the number one thing with NEPA is to make sure that the public is involved in things that effect their environment” (Interview Group 5, Interviewee 31). As a federal agency, NEPA directives govern the USFS, and the importance of this policy as the main course of action permitted the Snowbowl expansion plan’s approval before it was brought to litigation.

Interviewee 32 built on this idea explaining bureaucracy stifles the progress of USFS projects, and specifically NEPA projects. One sentiment shared is “there are so many constraints that it’s hard for [the USFS] to get projects through, so a lot of projects drop out because there are more environmental considerations, and there are a lot of rules, and people have been filing lawsuits and litigation and that costs money and this takes up a lot of time” (Interview Group 5, Interviewee 32).

Interviewee 31 also says reclaimed wastewater and its associated environmental impact is one of two main reasons this case is in court. More specifically, Interviewee 31 explains that “with Snowbowl the decision was made [by the USFS supervisor] and some

were very mad with the decisions related to water, which has stuff like pharmaceuticals, and cleaning stuff, and the plants can't deal with it," and "there are still questions about what is exactly in the water. It's already being released into the watershed and used on parks and finding its way into the environment" but more costly studies must be done given the inconclusive evidence about reclaimed wastewater and its potential impact on the environment (Interview Group 5, Interviewee 31).

Interviewee 18 explains the San Francisco Peaks consists of approximately 53,000 acres, with the Snowbowl operating on 777 acres. The Flagstaff ski club does not think it is detrimental to make artificial snow on the mountain because "ninety-five percent of ski areas around the country and world do" (Interview Group 3, Interviewee 18). Interviewee 18's daughter plays soccer on grass irrigated with reclaimed water; Interviewee 18 plays golf on it, and "[Interviewee 18] would drink this water" (Interview Group 3, Interviewee 18). Interviewee 18 stresses using reclaimed water for artificial snowmaking presents no harmful environmental impacts to the surrounding areas, and is in fact, considered a potential benefit to surrounding wildlife communities and fire suppression efforts.

Interviewee 13 expands on these thoughts by adding:

the accusation that there are tremendous environmental impacts from using reclaimed water is unjustified and has not been proven scientifically. In fact it is the opposite, and in fact reclaimed water, particularly grade A reclaimed water, is being used in this community in Flagstaff by the city and golf courses on a frequent basis and there doesn't seem to be an outcry of that (Interview Group 3, Interviewee 13).

In addition, according to Interviewee 13, the USFS “proved through a very long and detailed Environmental Impact Study that the environmental impacts of using reclaimed water for snow, which is really less than one-third of one percent of the entire area in terms of acres on the Peaks, the impact is negligible and statistically not there” (Interview Group 3, Interviewee 13). Interviewee 13 shares “it’s ironic that the Save the Peaks crowd that protests in front of city hall, they walk across the grass that’s there from lesser quality water than we want to use on the mountain” (Interview Group 3, Interviewee 13).

Scientific and Ecological Concerns about  
Artificial Snowmaking made from  
Reclaimed Wastewater

Interviewee 14 has concerns about reclaimed water used for artificial snow citing uncalculated risk associated with its production, and “it is too soon to say that the reclaimed water would not be harmful if ingested” (Interview Group 3, Interviewee 14). Supporting this view, Interviewee 22, an NAU professor, spoke about the troubled outlook for ecosystem health, with concerns “about the long-term impacts of wastewater to the ecology of the [Peaks]” (Interview Group 3, Interviewee 22). Interviewee 22 is a local skier who patronizes the Snowbowl and wonders why snowriders are so reluctant to hike in the backcountry. This perspective suggests snowriders could be more environmentally conscious by not relying solely on chairlift access for skiing. Interviewee 23 stresses, “this has been a really heated issue in the community and has

most certainly created conflict,” although those who desire to ski or snowboard could choose not to patronize the Snowbowl (Interview Group 3, Interviewee 22).

Interviewee 16 a NAU Geologist explains additional environmental concerns associated with water use and snow sublimation. In addition, through the NEPA process this participant met with the USFS EIS team involved with the Snowbowl case and asked them to take climate change into consideration, which they did not in their FEIS (Final Environmental Impact Statement). Interviewee 17 also spoke with the USFS EIS team and senses the USFS acted hastily when reviewing environmental impacts. Interviewee 16 explains many scientists feel snowline levels will be much more difficult to predict in the future and not knowing how the artificial snow will maintain or the amount of natural snow that will fall warrants further investigation into snowpack sublimation.

The Save the Peaks Coalition is comprised of activists who hold strong cultural beliefs associated with ecosystem health concerns in the Snowbowl expansion plan, especially the reclaimed wastewater proposal to fuel artificial snowmaking operations. According to Interviewee 2, an activist with the Sierra Club and Save the Peaks, there will be numerous impacts to natural resources. Interviewee 2 explains plans for the eradication of old-growth tree habitat will affect flora and fauna species.

In alignment with environmental justice principles established by the Sierra Club, there is a resulting apprehension about the Snowbowl expansion plan. This plan introduces reclaimed wastewater into an ecosystem without a full understanding of the long-term effects. Ethical questions have been raised because it tampers with ecosystem integrity, stability, and stresses a biotic community before scientific knowledge can

support its implementation. In addition, these principles state environmental policy must be designed with a vision of long-term protection and sustainability. It also seeks to end the release, exposure, and production of these polluting substances. Interviewee 2 supports the precautionary principle, which the Sierra Club defines as:

when an activity potentially threatens human health or the environment, the proponent of the activity, rather than the public, should bear the burden of proof as to the harmlessness of the activity. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing measures to prevent environmental degradation (Interview Group 1, Interviewee 2).

Interviewees 1, 3, 4, 5 and 6 addressed ecosystem health concerns related to the Snowbowl expansion plan, generally stating a shared view of the proposal as unnecessary, disrespectful, and oppressive to “Mother Earth.” The voices of these activists summarize the concerns for ecosystem health that have been treated in a superficial manner in this case. Interviewee 4 adds the Snowbowl expansion plan represents “the ignorance of the Earth’s voice by the status quo” and it “is the sense of the colonizer coming in and destroying the Earth, for the convenience of the current society, and [the expansion plans implementation means] that resources like the Peaks are expendable and pollution is inevitable” (Interview Group 1, Interviewee 4).

Interviewee 7 explains the values at play are anything “but environmental values because the Peaks are a very sensitive ecosystem” and are not being acknowledged by the proponents of the ski area expansion plan. (Interview Group 1, Interviewee 7).

Interviewee 7 describes the abundant biodiversity of plant species found in the Peaks, including those found nowhere else in the world, such as the San Francisco Peaks

Groundsel, which will be threatened if the expansion plan is implemented. A range of issues connected to reclaimed wastewater were explored, including environmental and human health concerns from the bioaccumulation of contaminants, such as endocrine disruptors found in the reclaimed wastewater. Interviewee 7 sees, “that even the Peaks’ issue is an issue of resource extraction. The resource not being oil, uranium, or gold, or timber—it’s recreation. Because we are in this position at a social level, as far as what values are persistent, and we are in a place where our environment is a commodity and our lives are a commodity, too” (Interview Group 1, Interviewee 7).

Interviewee 21, an environmental science professor from NAU, spoke about a classroom exercise concerning the Snowbowl expansion plan presented to a group of students. Interviewee 21 is a local skier and thinks “skiers don’t think of their impacts, they just want to ski,” and that “the ski industry is in the dark ages when it comes to environmental issues” (Interview Group 3, Interviewee 21).

The classroom exercise facilitated by Interviewee 21 focused on students role-playing various perspectives involved in the Snowbowl expansion plan. Over the course of the semester, a USFS representative visited their classroom to discuss the expansion plan. Interviewee 21 found the USFS representative’s presentation to be one-sided, which fostered hard feelings with Native American students in the classroom because it made them feel “wrong” for being spiritually connected to the Peaks. Interviewee 21 also invited someone from the Save the Peaks Coalition to present. Ultimately, Interviewee 21 explained that “scientifically, it was amazing how little the USFS representative knew” while speaking about the sublimation of pollutants to a knowledgeable group of students

(Interview Group 3, Interviewee 21). At the end of the classroom exercise, Interviewee 21 said students cited “unknown scientific evidence and potential risks to the ecosystem” as the deciding factor in not supporting the expansion plan (Interview Group 3, Interviewee 21). These findings lead Interviewee 21 to believe that endocrine disruptors and other unknown emerging contaminants “would have to go against the Snowbowl[‘s case]” in the end (Interview Group 3, Interviewee 21).

Five experts in the reclaimed wastewater field, ranging from field technicians to scientific experts, were interviewed to gain an in-depth understanding of this topic. During dialogue with Interviewee 16, it was shared that the effects of reclaimed wastewater will be fully understood by scientists in the near future, but until then it remains a topic lathered in uncertainty. Interviewee 8 works for the Flagstaff wastewater treatment facility, which will supply the reclaimed wastewater if the expansion plan is implemented.

Interviewee 8 says the difference between reclaimed wastewater and drinking water are the contaminants permitted by government regulations. For example, “drinking water quality standards are different from Class A+ reclaimed water standards,” although some standards from the EPA for drinking water also apply to reclaimed wastewater (Interview Group, 2, Interviewee 8). However, without a uniform standard for testing emerging contaminants, there is still uncertainty about the number of how many contaminants. Interviewee 8 also shares that “with the variety of sources used for drinking water in the USA it is quite obvious that some drinking water sources do, in fact, contain endocrine disruptors.” This is one example of the lack of adequate testing

procedures and why contaminants would be found in the reclaimed wastewater used for snowmaking on the Peaks (Interview Group, 2, Interviewee 8).

Interviewee 8 explains the human health impacts of ingesting reclaimed wastewater as, “with Class A+ reclaimed water there should not be any acute health impacts from ingestion. Class A+ standards require a very high level of disinfection to be met and by far the most frequent, acute health impact would come from inadequate disinfection” (Interview Group, 2, Interviewee 8). As for ecosystem health concerns, Interviewee 8 believes:

that is as wide open as you can get. Ultimately, you can find a study to support or not support just about everything we do on this earth. Both of the treatment plants that I manage discharge some water to what was once a dry wash. Did we impact the environment? Absolutely. Was it a positive impact or was it negative, or maybe neutral? Probably all of the above. There are always unintended consequences to every action that man takes on this earth. That is very much a fact of life. All across the USA there are treatment plants, and the vast majority of them discharge treated water of varying quality to the environment (Interview Group, 2, Interviewee 8).

A wastewater expert, with over ten years of experience as a technician, mechanic, and lead operator of a reclaimed wastewater treatment facility, reaffirms reclaimed wastewater is generally used for irrigation projects in order to offset the use and demand of drinking water. Interviewee 8’s perspective regarding reclaimed wastewater and its potential effects to the environment were, “most wastewater effluent is of [a] high enough quality that it does not negatively impact aquatic organisms” as “we placed aquatic organisms in our effluent to determine if it caused adverse effects. It did not. All organisms survived” (Interview Group 2, Interviewee 9).

Interviewee 10 is a biologist and professor at NAU, and has done extensive study of wastewater and its potential for fostering endocrine disruption (reproductive abnormalities) in aquatic life forms. This biologist's research has focused on man-made substances in the environment affecting biological functions. Interviewee 10 explains the majority of wastewater research consists of studies done on specific species, such as frogs. Frogs are good indicators of water quality health and shows the potential harmful effects of wastewater well. Data is then extrapolated from this research to hypothesize other potential ecological effects, but to date no study has been done on the large-scale effects of wastewater on an ecosystem. A common question in Interviewee 10's field of research is whether wastewater might influence a particular species, and then broadening the scope to look at how these impacts might affect species population as a whole.

Interviewee 10 explains that endocrine disruptors are chemicals that get into the environment and disrupt the reproductive health of animals. For example, birth control medicines get in the wastewater stream causing some of the biological issues that affect fish downstream. Interviewee 10 states impacts to human health from endocrine disruptors are unknown. Large-scale research studies are now being done involving pesticides and endocrine disruptors and it has been suggested they contribute to low sperm counts in male industrial workers. In addition, it has been documented that some aquatic species located downstream from wastewater treatment facilities have displayed feminization of the gonads. Interviewee 10's summation is that "inconclusive science, and very low doses do affect endocrine function in some species, and it is all around the environment now, so—'spread it more' or 'test more'—first? What we know is full

exposure to animals show feminization and hormone disruption, and we've seen it around the world—all else is unknown” (Interview Group 2, Interviewee 10).

Interviewee 8 recommends an evaluation of the cost to clean up environmental pollutants now versus doing nothing. Interviewee 10 believes the monetary expenditures could be immense with a high cost to human health, as well as a strong impact on animal and plant life, because studies have already shown negative results in frogs. There, “could be quality of life issues, but exposure won't make folks drop dead...cancer in old age? Maybe. Metabolic issues? Maybe. Fertility issues? Maybe. Again, we don't know, but it may take time and be very complicated” (Interview Group 2, Interviewee 10).

Interviewee 10's closing thoughts were that economic issues should relate to global warming, and the costs of environmental degradation must be discussed with regard to the Snowbowl case, given how reclaimed wastewater will alter this ecosystem indefinitely.

Interviewee 11 is a chemist at NAU and explains that impacts to local plants and animals from wastewater are unknown. Interviewee 11 believes a chemical baseline should be begun and measured to compare environmental impacts of wastewater, which “are already there, but they need to be assessed” (Interview Group 2, Interviewee 11). In addition, a unique species of willow tree found in Hart Prairie, which is located in a runoff zone near the Peaks, has seen alteration from reclaimed wastewater. Interviewee 11 does not know what the environmental impacts could be on an ecosystem as a whole, but explains ski resorts usually have a water source for making artificial snow. However, the Snowbowl currently does not have an existing water source and would be building a

retention pond facility made up of reclaimed wastewater. Interviewee 11 also shares that “a large versus small snowpack changes things, because the dilution of chemicals in reclaimed water will be different when snow melts; it’s an adaptation versus control environment within the mindset of the ski area” (Interview Group 2, Interviewee 11).

Interviewee 12 is a biochemistry professor at NAU and gives a scenario of what could happen to reclaimed water used for artificial snowmaking at high elevations. Ultraviolet (UV) rays at high elevations have a dramatic effect on compounds that target enzymes found in Flagstaff’s reclaimed water, and this compound can be turned into a highly toxic dioxin. Interviewee 12 believes the consumptive patterns seen in the Snowbowl case demonstrate the greater impacts to the world’s ecology on a macro scale.

Interviewee 12 explains the USFS are not qualified as experts on potential endocrine disruptors in wastewater. For example, the:

rangers say concentration[s] of any of these things are negligent, but they don’t really know, and we’ve seen parts per billion and trillion affect species and that’s the level where hormones and molecules in human bodies operate, so there is a big chance...and people say there’s only a drop in an Olympic-size swimming pool. How could that possibly hurt anyone? There are compounds that could be added to a pool that size and if you drank a liter of it you’d die...I mean we don’t have answers, so how can one just go forward already? (Interview Group 2, Interviewee 12).

Interviewee 12’s recommendation is for more analytical data about the effects of putting chemicals on the mountain, as the impacts to exposed populations are unknown. Moreover, “to ask for a whole population to be exposed to this and only a little fraction of the population gets the benefit, that’s not balanced...a risk-benefit analysis should be

done, and really, the benefits are small...and what about climate change?" (Interview Group 2, Interviewee 12).

Interviewee 12 also discussed the research findings of NAU geologist Interviewee 16, which suggests opposing views on the amount of water that will go into the environment. This geologist's claim is up to forty percent of the snow blown on the mountainside with reclaimed water may sublimate and never become snow that contributes to overall snow levels. In winter, when the snow melts at the Snowbowl, the chemicals contained in the reclaimed wastewater snow will be left behind. These artificial snow chemicals are not easily dissipated and have already affected ecosystems and no existing operations are composed of 100% reclaimed wastewater.

Moreover, wildlife will be attracted to any ponds which develop during the melting season, and although the Snowbowl claims the concentration will be small, Interviewee 12 stresses that, "it's reasonable to think, and it should be considered that these are viable impacts" to wildlife (Interview Group 2, Interviewee 12). Interviewee 12 left the interviewer with the thought—that "we are killing the natural systems that support us," the "more technologized we get; we lose the grasps of natural processes. The more we manipulate, and not facilitate immersion in natural settings...how to get messages across to those reluctant to listen to things contrary to what they've known previously" is the crux of this case and many others like it (Interview group 2, Interviewee 12).

Beyond the gap in knowledge related to reclaimed wastewater and its possible introduction to the San Francisco Peaks ecosystem, the proposal for treated effluent use

on the Peaks greatly affects the spiritual traditions of more than thirteen Native American tribes. Tolerance of religious diversity is one of the core arguments surrounding the Snowbowl case alongside a long history of US Court precedents that interpret how Native American sacred sites are afforded protection. Economics and ecosystem health concerns help shape the identity politics of Snowbowl stakeholders and views of religion and spiritual tolerance build upon these codes to inform the pro- and anti-expansion plan standpoints.

### Religious and Spiritual Tolerance

The Coconino USFS, Snowbowl owners, and their supporters argue Native American religious and spiritual traditions will not be affected by ski resort expansion. However, deeply held convictions within the Native American community oppose the Snowbowl expansion plan because its implementation will greatly affect their religious and spiritual traditions. The conflicting standpoint of religious and spiritual tolerance is a code that illuminates clear sides of pro- and anti-expansion. It also highlights why religion and spirituality are essential for understanding what is at stake with this expansion plan. Although the use of reclaimed wastewater drastically informs this code, the tolerance between diverse people and diverse religious beliefs was mentioned in many conversations through the qualitative interviewing process. Many participants in this study discussed the topic of religion as a theme that spoke directly to the reason for the dispute in this case. Religious and spiritual tolerance emerged as a code when

interviewees explained their perspective regarding religious traditions, cultural resource management, and desire for sacred site preservation in the San Francisco Peaks.

### Pro-expansion and Religious Tolerance

Over thirteen Native Nations cite the San Francisco Peaks as their spiritual center and the most sacred place on earth. However, many non-Native Americans associated with the Snowbowl case argue this connection to place should be shared more evenly beyond its role as a holy site for American Indians. Interviewee 24 from the Snowbowl ski area explains the Native Americans religious claims to the Peaks are hypocritical because “they get a free ride up the mountain to do ceremonies and have blessed the ski resort when there is no snow” (Interview Group 4, Interviewee 24). Interviewee 13 from the Flagstaff Chamber of Commerce made reference to the District Court proceedings during the first round of Snowbowl’s NEPA litigation explaining the, “judge said clearly [that] not only did Indians fail to prove that this action would hamper their ability to practice their religion in their argument, the judge sided with Snowbowl to the extent that the Snowbowl existence actually improves Native Americans ability to practice their religion as it offers them access to the Peaks that they would not otherwise have access to” (Interview Group 3, Interviewee 13).

Interviewee 24 spoke at length concerning allegations from the Native American community that ski resort expansion is intolerant of Native American religion. Interviewee 24 states the Native American protesters are hypocrites because air pollution from coal-fired power plants already affects the ecological integrity of the Peaks, and

notes the money spent on protesting Snowbowl should go to the reservation “where it is needed most,” while:

In the winter, no water is used in Flagstaff, so why protest when the water is being used. Is it the water, or do they want to close the Snowbowl down? Why did they pray for snow with us? The Navajo Nation, for them it is against their religion for Snowbowl to be here and why, it seems that casinos are against their religion, but now they’re allowing them.” “[The Navajo President] has facilitated fifty grand for protests against the Snowbowl when, on the reservation, not all the people even have electricity, and are missing so much, so why spend money on protesting and not to help the problems on the reservation” (Interview Group 4, Interviewee 24)?

The Snowbowl participant continues to explain pro-expansionists do not think expansion is affecting religious traditions of any First Nations because other sacred sites have been used for diverse services in the past, thereby sanctioning them as viable.

Interviewee 18 from the Flagstaff ski club also questions why Native Americans are adamantly opposed to the Snowbowl expansion plan for religious reasons. This participant argued the Peaks are also sacred to non-Natives. Interviewee 18 supports the Snowbowl expansion plan because:

[I]n fact it is my church. I was married there. I was there when my mother died and every time I go back there and ski, I feel like I am in her presence. My God is there, I respect it with all my heart, and the issues that the Native Americans hold and the sacred position that they feel the Peaks represent to them. They are the same to me and I feel that by giving water to my sacred place that I am benefiting the mountain. So in all avenues and all aspects, I am for snowmaking [and the expansion plan]” (Interview Group 3, Interviewee 18).

Interviewee 18 affirms a standpoint as to why this expansion plan should not be defeated because of religiously based arguments from Native Americans:

This is near and dear to my heart. I will probably end up moving if we don’t get [the expansion plan]. I own a business here in Flagstaff that caters to skiers and snowboarders and I teach skiing at the Snowbowl. I’ve been working there since 1979 when I was going to college here, it’s the reason I came to Flagstaff to ski

and work at the Snowbowl. Skiing has become my life and I will have to move if I don't have a ski area in Flagstaff and I don't get the support for my passion in the town that I live, so it's really heartfelt.... many people in this community are at wits' ends [be]cause we aren't the type of people to go around putting our beliefs and thoughts in other people's face[s], but we've now been pushed up against the wall, much like the Natives feel, and I respect where they are coming from too...it's not like we are awful people; we just love to ski and there is a lot of space up there on that mountain and it means a lot to a lot of people and we should all be able to share that mountain (Interview Group 3, Interviewee 18).

Interviewee 18 explains those who patronize the Snowbowl for recreational purposes should be allowed to spend time there, just as the Native Americans. However, Interviewee 18 also feels threatened by those opposed to the expansion plan on religious grounds because other Native American sacred areas could face conflict in the future if the Snowbowl is not allowed to expand its ski resort:

We are docile people that just like to ski and we don't want to have our little section of paradise disturbed and threatened like it has been, and if you like to ride bikes or climb mountains or hang in the national forest, then your special place is also at risk because this decision can turn a lot of things around. You need to read between the lines about what is going on and what this decision really represents because it represents lands that we hold near and dear to our heart, not just the Snowbowl, but all national parks are at risk really for public use. I mean what if all of a sudden the Native Americans said that there is some place in the Grand Tetons that's important to their tribe. Then that place is gonna get closed because that is eventually what is really gonna happen here at the Snowbowl if we cannot give it a better chance of survival (Interview Group 3, Interviewee 18).

#### Public Land, Sacred Sites and US Law

Conflicting ideas of sacred sites found on public land and what defines "use" shapes the arguments for and against the Snowbowl expansion plan. Interviewee 13 speaks about the US Court proceeding in the Ninth District and Appeals Court and argues there is a lack of religious tolerance when Native American beliefs usurp federal management of public lands; it gives First Nations an unfair advantage because:

the Ninth Circuit decision, in essence, put [Native American] sole beliefs in front of every other group's beliefs and set a really bad precedent in our opinion because when it comes to the use of public land it says that their beliefs preside over everyone else's so it jeopardizes the future of public lands in this decision because it sets a precedent that any one particular group can come in and make an argument for sole purpose and sole use and exclude other groups from public lands and that goes against the mission of USFS and the Department of Agriculture that's designed by Congress for management of our public lands (Interview Group 3, interviewee 13).

The second City Council member interviewed also conveys the importance of public land in this case, especially regarding US Court precedent regarding religious freedom. "When the Native Americans fought to prevent a ski area in the first place, the issue went all the way to the Supreme Court and the Court ruled that the religious issue did not preclude a ski area on the Peaks" (Interview Group 3, Interviewee 15). The *Wilson v. Block* case ruling establishes a precedent to support maintaining the San Francisco Peaks as a recreational area. Some argue the ski area was allowed to be built under US law, therefore this precedent should help the Snowbowl win any legal arguments.

Interviewee 7 explains the nature of the US Court system's failure to protect sacred sites by sharing that:

What we are seeing is there are sacred sites throughout this country that are managed as public land by the USFS, the BLM; where sacred sites are threatened and others have ownership...today it comes down to federal lands and the First Amendment. Native Americans don't have rights for that religious freedom. The First Amendment doesn't apply to Native people on federal lands. A range of cases set precedents and find that AIRFA really didn't address critical concerns that we are facing today, or in particular for sacred sites or public land management, the Peaks case went to Supreme Court in '83, tested AIRFA, and showed it failed—a piece of legislation with no real teeth. The Supreme Court reaffirmed the lower court that Natives can pray on the other side of mountain. The ski area wasn't restricting Native Americans from access to their church, so

Native people could pray on [the] other side, so no burden placed on our religious practice, which to us, access isn't the underlying issue. The question is about the physical and spiritual integrity of the site needed to be maintained in order for religious practice to be sustained, and there is no legislation that currently addresses that... and I can be on the other side of the world and pray to the San Francisco Peaks for my spirituality, and if the integrity of the mountain is destroyed or weakened, that inhibits my ability to pray effectively and just [to] the San Francisco Peaks, this is [the] center focus with Save the Peaks, but there are other sacred mountains that represent same things for separate tribes, and the Peaks is one of most holy sites. There is a context of genocide here, and it has to be understood that there is a cultural genocide here if your identity, way of life, people, are destroyed, taken away, and ability to take away [and] carry on your traditional cultural knowledge and practice is inhibited then you cease to exist as a cultural people, and that is what we are faced with the degradation, desecration, destruction of sites, such as the San Francisco Peaks (Interview Group 1, Interviewee 7).

Nonetheless, the perspectives of Interviewees 19 and 20 capture how the outcome of this case could still be decided in favor of Native Americans even in a US Court system that has passed numerous laws and policies that have not protected American Indian religious or spiritual traditions. Interviewee 19 speaks at length about previous religious freedom policies applied to Native Americans and how they have failed to protect sacred sites, whether on public land or not. Speaking about what many thought was the strongest measure at the time to ensure religious freedom for Native Americans Interviewee 19 stated:

AIRFA was just a policy statement. What *Lyng [v. Northwest Indian Cemetery Protective Association]* did is it took away any First Amendment rights Native Americans had to government land use decisions. We have no first amendment claim because *Lyng [v. Northwest Indian Cemetery Protective Association]* says so, so [we] must look for another way. AIRFA just said the First Amendment applies to Native religion, so it's loosely protected, but most Native religions are based on Mother Earth...and land and many sacred sites are not on reservation land, which means a problem, and if on private land, [Native Americans] can do nothing (Interview Group 3, Interviewee 19).

An Arizona lawyer, arguing on behalf of anti-expansionists, explains the policies concerning Native American religious and spiritual tolerance have largely failed, especially those concerning the protection of sacred sites. However, Interviewee 19 shares the hope for sacred site protection under a new policy. RFRA conforms to First Amendment language and initially was found to be insufficient in its protection of sacred sites, according to Interviewee 19. However, when the Religious Land Use and Institutionalized Person Act (RLUAIPA) was passed, it altered the definition of RFRA to give it the ‘teeth’ needed protect the religious traditions of Native Americans through legal means. RFRA was ruled unconstitutional, not at the federal level, but when applied to state law. Congress made amendments to RFRA by passing RLUAIPA. Today, RFRA amendments can be applied retroactively in states and, due to these changes, the US definition of religious freedom has also changed.

The information presented to the Ninth Circuit Court of Appeals tested new ground when applying the RFRA to the protection of sacred Native American sites. According to Interviewee 19 RFRA “wins the war, not the battle” for Native American religious protection; “to win on NEPA *is* the battle” (Interview Group 3, Interviewee 19). However, for this argument to be successful the “RFRA must show that this plan is a substantial burden on the exercise of religion. The lower court said no substantial burden even after an eleven day bench trial with medicine men and elders speaking, but didn’t listen to them” (Interview Group 3, Interviewee 19). In Appeals Court, the judges reversed this lower court decision by contending that the Snowbowl expansion plan would substantially burden the ability of First Nations to exercise their religious freedom.

Interviewee 20, also a lawyer, explains that the current Arizona Snowbowl case is similar to the precedent setting case *Wilson v. Block*. However, this time snowmaking with reclaimed wastewater is the main variable. More specifically, Interviewee 20 shares this case has an opportunity to overturn the previous ruling because “RFRA and RLUIPA and the 2000 amendments make this different from a First Amendment case with the *Lyng [v. Northwest Indian Cemetery Protective Association]* precedent on First Amendment rights” (Interview Group 3, Interviewee 20).

Even though precedent setting cases greatly restrict, hamper, and absolve the First Amendment rights of First Nations, Interviewee 20 believes sacred site protection could be gained by arguing under RFRA, which would “bring respect into this case” (Interview Group 3, Interviewee 20). This thought is coupled with a belief that this case has significance to foster new public policy, law and promotion of religious tolerance with regard to Native American sacred sites. Interviewee 20 poses the question: “What is sacred, and how far will the law go to protect it?” (Interview Group 3, Interviewee 20). Using RFRA, Interviewee 20 argues the history of religious intolerance being reinforced through the US Court system may be stopped if the San Francisco Peaks become a protected sacred site located on federally managed land.

#### Religious Intolerance and the San Francisco Peaks as a Sacred Site

Many interviewees explain the reason the Snowbowl expansion plan is so controversial is that many Native Americans think the proposal is intolerant of their spiritual beliefs and greatly hampers their ability to exercise their religion. For example,

one member of the Flagstaff City Council shares they “can't speak for the rest of the Council, but the problem with the expansion is that it is offensive to the tribes” (Interview Group 3, Interviewee 14).

Many interviewees who share the activist perspective explain what this expansion plan means to affected tribes. A participant from the Southwest chapter of the Sierra Club explains it is extremely oppressive to the way of life for those Native Americans who hold the Peaks sacred. Interviewee 2 explained many sacred sites are also areas non-Natives like to use for recreation and some of these actions can alter the tribes' ability to practice their religious traditions.

The way to move forward in this case, according to Interviewee 2, is to encourage partnerships, as the USFS and Washoe Indians have done at Cave Rock in Nevada. In this case the USFS and the Indigenous community worked together to protect a sacred site from the impacts of those participating in rock climbing. Interviewee 2 contends this model is the way to honor tribal perspectives, and build solid relationships between tribes and the powerful authority of the USFS. Interviewee 2 stresses this relationship is essential due to the amount of sacred sites found on USFS- and federally-managed land. If this relationship continues to falter and sacred site protection is not allowed, Interviewee 2 believes religious intolerance will persist, allowing some people recreational enjoyment, while others lose their church.

Five other Indigenous activists uniformly perceive the Snowbowl expansion plan as completely intolerant of respecting sacred sites and their religious and spiritual traditions. These five interviewees work with a variety of grassroots Native American

organizations including, but not limited to Echoes, Youth of the Peaks, Save the Peaks Coalition, Native Movement, and Black Mesa Water Coalition. All of these groups work to promote environmental health and sacred site protection. Interviewees 3 and 4 explain the situation with the San Francisco Peaks is analogous to the many struggles American Indians face throughout the country to protect their sacred sites. Native American sacred sites are not viewed as viable religious centers; lacking protection and not honored by non-Native Americans.

Interviewee 3 explains the Snowbowl case has been framed as “the USFS versus Indians versus skiers” (Interview Group 1, Interviewee, 3). Interviewee 3 explains that another view is that many people search for things in their life without recognizing that other people’s values and the earth’s values may conflict with their individual desires. Moreover, at times “searching leads to clashes, and sacred sites in America are all human-made, like the Statue of Liberty, versus the mountain as a Spirit-Creator” for Native Americans (Interview Group 1, Interviewee 3).

Interviewee 4, who resides on the Navajo Nation reservation, adds, “the truth is in our homeland by the Creator” and shares a strong belief that the colonization of Indigenous people is still very prevalent within the Native American population (Interview Group 1, Interviewee 4). In order for decolonization to occur, “the land must be managed sustainably,” and humanity must “move forward with the acceptance of diversity” in acknowledging Native people’s past experiences of brutality (Interview Group 1, Interviewee 4).

According to Interviewees 3, 4 and 5, the history of the Christianization of Native people and the colonization of Native lands have taken a toll on tribal people in the US. They explain that the narrative about Native American history is encouraged by intolerant and ignorant people in the US. They also fail to acknowledge that First Nations still struggle to maintain their traditional ways in the wake of a living history that continues to marginalize their existence. As sacred sites continue to be degraded, religion becomes more difficult to practice in traditional ways. As narrow definitions of religion are placed upon Native Americans, their survival as a people is continually in jeopardy. Interviewees 3, 4 and 5 believe the cultural survival of thousands of Native Americans is uncertain as long as sacred sites like the Peaks become strongholds for intolerance and injustice.

Interviewee 6 summarizes thoughts shared by many cultural activists interviewed for this study by stressing Indigenous activists assert that the Snowbowl project proponents lack a comprehensive understanding of the religious and cultural arguments presented. According to interviewee 6, the Snowbowl expansion plan undermines the religious traditions of more than thirteen different tribes. In addition, US Court decisions concerning sacred site protection make it extremely difficult for Native Americans to protect their religious freedom.

Interviewee 6 explains Native people “want to build an affinity with non-Natives, as here in this case it’s mainly whites [that ski]. To reach them and tell them our perspective is essential, but that is a huge challenge because many do not acknowledge our perspective, and the white supremaced system allows whites to not have to deal

because, simply, they don't not have to, but to folks that find their center in the Peaks; there is no choice" (Interview Group 1, Interviewee 6). Interviewee 6 believes the conflict will continue as long as non-Natives do not understand the importance of religious freedom for Native Americans. Native American activists feel their holy church will be saved and receive the acknowledgement it deserves only when Native religious practices have been recognized as valid.

Interviewee 6 dismisses an argument that Indigenous people want people to stop skiing because the religious implications of using reclaimed wastewater are their main concern with the expansion plan. Interviewee 6 explains "[The owner of Snowbowl] and [the Snowbowl Manager] says Natives don't want anyone there, but the real argument is against snowmaking with effluent on the sacred mountain and the impacts to natural and cultural resources ...skiing is okay, but snowmaking is not because it's a spit in face to the *Kachina* spirits, the natural snowmakers" (Interview Group 1, Interviewee 6). By manipulating a natural process with a substance made from effluent, this aspect of the Snowbowl expansion plan indicates why many interviewees cite the ski area proposal as being intolerant of Native American religious and spiritual integrity. According to Interviewee 7, this case is a clash of values. For example, "in issues like the development with the Snowbowl, they want to make snow out of contaminated, treated sewage effluent and other aspects of expansion on this mountain, that is the essence of way of life for thirteen Indigenous Nations" (Interview Group 1, Interviewee 6).

Interviewee 7 also shares one of the greatest challenges Native Americans face today is protecting sacred sites found on their lands currently being managed by agencies

like the USFS. Moreover, many Natives Americans do not want to reveal the location of certain sacred sites for fear they will be exploited or destroyed. Interviewee 7 gave a few examples of sacred sites being destroyed when their location was shared. Getting back to the perceived clash over values, Interviewee 7 cited Indigenous Nations around the world that are fundamentally connected to the earth by their spirituality, religion, and traditions. However, because resources come from the earth this creates conflicts of interests for Native Americans. Their religious and spiritual tolerance is often overlooked unjustly because those with access to power have the choice to do so, and accessing resources is more profitable than respecting cultural diversity.

Choices between supporting or opposing the Snowbowl expansion plan illuminate the recurring theme of justice. Ultimately, those that side with pro-expansion believe that economic incentives and consistent availability of recreation will not jeopardize religious or environmental integrity. Pro-expansionists feel their interpretation of Native American religion is tolerant and, therefore, just. However, those opposed to the expansion plan believe justice will only be realized if the Peaks are spared the impacts of the plan's implementation as this one option offers protection of the environment and Native American cultural traditions.

### Justice

Throughout the interview process, different opinions were expressed with regard to whether or not the Snowbowl expansion plan either disproportionately benefits or burdens the surrounding Native American community. When speaking with a range of

activists, snowriders, wastewater specialists, and Flagstaff local stakeholders, many cite this case as one of environmental injustice against American Indians. However, other participants believe this case is just in its principles. In either case, justice is the code that figured prominently in these discussions and findings.

### Pro-expansion as Justice

A gap surfaced around policies employed to protect Native American cultural resources when speaking with ski industry representatives. Aspen Ski Company does not have any policies concerning cultural resources or social health issues even though they are viewed as the industry leader in environmentalism. Interviewee 29 representing the guiding policy for environmental sustainability within the ski industry, the Sustainable Slopes Charter, shares that it is unknown whether cultural resources and sacred site protection were considered when creating the Charter. Interviewee 29 explains more research is needed to see if the Charter deals with those aspects, although this participant thinks it unlikely.

Interviewee 27 from the SACC explains that their organization did not specifically grade the Arizona Snowbowl ski area because of the numerous cultural issues involved. It was explained that their organization thought it would be unfair to grade the Snowbowl in a category that other ski resorts did not participate in. According to Interviewee 27, the SACC would prefer to keep an impartial third-party perspective, and to judge a resort based on reclaimed wastewater use, when other resorts are not engaging in that action universally, was unjust and unfair.

Interviewee 33 from the USFS explains cultural resource management falls within the requirements of NEPA, while the ski industry's position is that the issues of social and environmental justice are outside the scope of the industry. Dialogue with Interviewee 33 centered more on mainstream environmental concerns with the ski industry, like climate change, as issues of injustice to marginalized populations are absent from industry protocol. The pro-expansion argument is summed up by the Flagstaff Chamber of Commerce, as they state they do not see this case as an injustice because they have "different perspectives on the impacts of Snowbowl than the opponents of Snowbowl" (Interview Group 2, Interviewee 13).

When speaking to USFS cultural resource management, Interviewee 31 explains, "the cultural values depend on the location, and all uses are weighted differently. With the San Francisco Peaks [its weight is] higher than others, like there is an Indian burial ground right behind this office so we would never expand the office" (Interview Group 5, Interviewee 31). Interviewee 11 stresses respect is afforded to Native American communities by the USFS because USFS policies have been written to ensure Natives are treated with dignity. However, Interviewee 31 also shares that policies have not justly served the Native Americans in this case and in many others. Interviewee 31 explains "there are two reasons this is in court: one, the environmental impacts with water; and two, cultural and religious concerns, or really the issues of a religious site desecrated by having this water on this land. The weight a TCP has within a multi-use agency is strong; and it's to not allow actions they'd normally allow because religious things brings [the]

Constitution, and it's hard for the USFS to figure out" such matters (Interview Group 5, Interviewee 31).

### Reclaimed Wastewater as an Injustice

Although the ski industry, as well as those who favor pro-expansion, do not acknowledge unjust practices, other community participants feel otherwise. For example, Interviewee 14 from the City Council shares Native American cultural concerns "are very compelling" and "the [Ninth Circuit] Court made a good decision; at least for now it prevents making snow with reclaimed water" (Interview Group 2, Interviewee 14). Interviewee 8 also offers a belief the Native American perspective is worthy of further consideration as they will endure most of the burdens if the plan is approved. Yet, this participant did not want to say more or give a recommendation for this case for fear of Interviewee 8's wastewater science being labeled biased or politicized.

Interviewee 9 believes this case is unjust due to the use of reclaimed wastewater.

Interviewee 9 offers:

It seems that cultural issues and economic issues are other factors involved with this debate. Depending on the area, application of wastewater-derived snow may be considered culturally insensitive (Snowbowl). Proponents of wastewater snow at the Snowbowl argue that it is essential to the local economy to keep the resort open and full of snow. Again, I do not have enough information to comment on the impacts that the [Snowbowl] has on the local economy, but I do know that Native Americans in the area are very much against the application of snow from wastewater on this site. This looks to be another example of more powerful people taking advantage of the less powerful for short-term economic gain (Interview Group 2, Interviewee 9).

Interviewee 11 explains the great tension in the Flagstaff community over this land-use conflict, and how it centers on the use of reclaimed wastewater. Interviewee 11

shares that some argue this proposal is weakened by the fact that another ski resort, Sunrise, which is owned and operated by Native Americans, uses reclaimed water for snowmaking. However, it was explained that the difference is the reclaimed wastewater usage is not 100% and the landscape in question is not considered sacred. Interviewee 11 thinks this case must be scrutinized for racist leanings. Interviewee 11 shared an example of local Native American high school students holding a demonstration that took place a few weeks before our interview in Flagstaff. During the demonstration local police arrived on the scene and Interviewee 11 wanted to know “would they have [showed up], if this was a Christian demonstration? There are a range of educations and cultures here, brown folks could be the manager of the store you are in, or the owners, not like when I was in Idaho” (Interview Group 2, Interviewee 11). This example provides insight into the biased treatment the local Native American community faces in opposing the Snowbowl expansion plan. Interviewee 11 also questions why the USFS has allowed these injustices to be promoted, rather than being addressed with impartiality.

#### Anti-expansion as Justice

Interviewee 31 explains the USFS has failed to ensure justice within Native American communities, and admits to a bias prevalent within cultural policy by observing that “anything Abraham Lincoln did is historic, but not Sitting Bull!” (Interview Group 4, Interviewee 32). Interviewee 32 went on to describe USFS justice criteria as Eurocentric, being interpreted as a “quality of contribution to American history” (Interview Group 4, Interviewee 32). For Interviewee 32, Native American

history and architecture “doesn’t meet those criteria points” and that inhibits sacred site protection policies meant to ensure justice to Native Americans, including TCP designation. Interviewee 32 provides a historical example to illustrate how Native Americans are treated unfairly by US policies throughout history stating, “if a white man won, it was a war. If Natives won; it was a massacre” (Interview Group 5, Interviewee 32). Overall, Interviewee 32 believes the USFS is attempting to reach out to Native American communities, but there continues to be numerous injustices occurring, and, deplorably, a brutalized history is forgotten by many when engaging in issues such as the Snowbowl expansion plan.

Interviewee 32’s statements resonate with what Interviewee 1 describes about environmental justice and Native American communities. Interviewee 1 explains:

nothing will change until the wealthy feel the impacts, and that’s why environmental justice is so important because it’s working toward equalization, [be]cause if no one takes the dump site, and poor, minority folks refuse the impacts, maybe we can think pollution can stop being made then, and we must stop thinking it’s inevitable for people to get dumped on—especially people and communities of color. They think it’s inevitable they’ll get dumped on until they get enough money to live in clean community, but if the rich are impacted and feel it and can’t drink the water, they’ll feel it too. The affluent have influence and can move and buy clean water, but others can’t, so they must feel something (Interview Group 1, Interviewee 1).

Interviewee 1 also explains that the plenary power of the US federal government allows them “to do anything it wants with Native Nations” (Interview Group 1, Interviewee 1). According to Interviewee 1, Native Americans are networking and constructing coalitions with non-Native peoples, building a path to respectful treatment for all based upon principles of justice.

Interviewee 2 details how the Sierra Club has set forth guiding principles in their environmental justice work, which can also be applied to these same issues within Native American communities. This participant also speaks about the USFS's role and policies in the Snowbowl case; specifically the MOA's involvement in this case's EIS process. Interviewee 2 explains how the "USFS has not allowed tribes a real say in the project proposal. They may have signed an MOA, but it is not a real tribal perspective, it's a one way street for national forests and its disproportionate impacts because they are Native" (Interview Group 1, Interviewee 2). The MOA's are essentially a "notification that the USFS can do what it wants to do" (Interview Group 1, Interviewee 2).

Interviewee 2, points out the Sierra Club's principles portray the expansion plan as an environmentally unjust land use decision. The following are excerpts from the Sierra Club's Environmental Justice Principles:

Corporate influence over governments must be constrained to stop the erosion of the peoples' right to govern themselves and governments' ability to establish justice and to promote the general welfare; Laws, policies, rules, regulations, and evaluation criteria should be applied in a nondiscriminatory manner; Laws, policies, regulations, or criteria that result in disproportionate impacts are discriminatory, whether or not such a result was intended, and should be corrected; Environmentally degrading land uses should be avoided, but when such uses occur, they should be equitably sited taking into account all environmental and community impacts including the cumulative and synergistic ecological and health effects of multiple facilities; Future generations have a fundamental right to enjoy the benefits of natural resources, including clean air, water, and land, to have an uncontaminated food chain, and to receive a heritage of wilderness and a functioning global ecosystem with all species naturally present; We oppose efforts to dispossess Indigenous peoples of their lands, their cultures, and their right to self-determination; We support Native Peoples' wielding of their sovereign powers to protect the environment and to establish environmental justice (Interview Group 1, Interviewee 2).

All of these principles are thought to be in direct conflict with the motives of supporters of the Snowbowl expansion plan. These principles are at play in the Snowbowl case according to Interviewee 2, while the efforts of opposing activists have not been taken into consideration. Interviewee 2 argues this is a clear case of environmental injustice, as those who are pro-expansion are willing to gamble ecosystem health and fail to respect the religion of impacted Native Americans.

Interviewees 3 through 7 continue the dialogue by shaping the issues of injustice. Interviewee 3 questions what is “the natural world is killed for? Why poison it, for what? It’s vindicating white supremacy, but others must live a reality and talk isn’t action,” when ecosystems and people are being decimated for the sake of a ski resort expansion (Interview Group 1, Interviewee 3). Interviewee 4 explains that mainstream American society facilitates a linear life. Distractions for entertainment become a fantasy along this path, and are usually at the expense of the earth, all its life forms, and natural processes. This is what Interviewee 4 believes is happening with the Snowbowl expansion plan as the thought of desecrating a culture’s religion, and a unique ecosystem, for increased recreation is deeply unjust. Interviewee 4 also explains:

Tribal folks [are] returning to try and be heard in [the] system, but they are not; it’s money and greed, and who to step on to get to the next level while the earth is poisoned daily. We have an ideology division, and Natives destroyed earth too, but to what point does it continue and be allowed and what power [exists] to get justice? Prayer? [That] can be real frustrating... people are still affected by the past and the Snowbowl is happening now, and the neocolonialism must be stopped (Interview Group 1, Interviewee 4).

Interviewee 5 concurs with these thoughts and observes how it is easier for the researcher to elicit perspectives from local skiers than for local Native Americans.

Interviewee 5 concludes the researcher must “recognize that you can talk to other local skiers while you’re in Flagstaff because you are white, and probably they are white, and they’ll speak to you, but feel threatened by me because I’m Native” (Interview Group 1, Interviewee 5). Interviewee 5 strongly believes the Snowbowl issue has played a role in fostering a racial and cultural divide within the community.

Interviewee 6, a member of Save the Peaks Coalition, reaffirms what constituents are sharing; the Arizona Snowbowl Ski Area expansion plan is unjust and oppressive to more than thirteen Native American tribes. Interviewee 6 stresses what is absent in the Snowbowl case is the lack of engagement with cultural issues put forth by the USFS. Interviewee 6 says exploring ways to improve relationships with non-Native Americans should be the focus rather than opposing one another in struggles based upon race, ethnicity, or culture. Interviewee 6 stresses the opinion that in order for justice to be served non-Indigenous people and Natives must come together to resolve conflicts like the Snowbowl case. Maintaining divisions based on race, culture, class, and environmental values only serves to strengthen the social stratifications within one’s community. Interviewee 6 believes respect between cultures is the key to an outcome that will foster justice to all involved.

Interviewee 7 expounds upon these ideas expressed by Interviewees 1 through 6, focusing the dialogue on the reasons the Snowbowl expansion plan is environmentally unjust. Interviewee 7 shares the view that wherever environmental crises or concerns are present, cultural concerns and crises also exist. Interviewee 7 explains that:

to me what this issue represents is the values of greed on the one hand, and the values of not only Indigenous spirituality and culture, which should be recognized not just as Indigenous rights, but human rights” because “religion shouldn’t be trampled in any way,” but “specifically here in the US the struggle for civil rights and basic human rights and recognition (Interview Group 1, Interviewee 7).

Interviewee 7 elaborates that the Snowbowl expansion plan:

is something to go along with the ongoing tragedies against Indigenous people, and our environments and our own communities. There is a very serious issue of racism and also of privilege [involved with the Snowbowl expansion plan]. Skiing is an esoteric sport. I snowboard sometimes but I can’t afford to do it all the time. It is limited access to a small segment of population that is not entirely serving a public need, but this current land management agency, the USFS, is saying that that’s why they are going through with this development; to serve a public need, but ultimately they profit off of it and it was revealed in the Ninth Circuit Court proceeding in San Francisco on September 14, [2006] that the USFS profits off of skiers that go up there. The USFS is a vested interest, they are not a neutral party, and it seems daunting for the USFS to have a change of heart (Interview Group 1, Interviewee 7).

Interviewee 7 hopes justice will be served in the Snowbowl case, but reiterates wealthy and privileged sectors of society have influence and power over the environment. This dynamic creates ongoing conflicts of interest between American Indians and those who exercise this power. Interviewee 7 also shares that when issues arise, such as the Snowbowl case; people do not take past injustices against Native Americans into consideration and see how these inequities still plague Indigenous communities today.

The Snowbowl, the USFS, and their supporters argue the proposed expansion plan does not create unequal benefits or burdens to Native Americans or the environment. However, to those Native Americans that finds the Peaks sacred and environmentalists who are worried about the lasting effects reclaimed wastewater introduction may bring to the San Francisco Peaks ecosystem; this is a clear-cut case of environmental injustice. If

the expansion plan is defeated, the Snowbowl will continue in its current state, and continue to survive as a business if natural snowfall accumulations ensure consistent operating hours. If the expansion plan goes through what the future holds remains to be seen because artificial snow may not provide the solutions that supporters are hoping for. In either case, losing one's religious traditions or jeopardizing ecosystem integrity is what is at stake for those against the expansion plan.

The equity and fairness of benefits and burdens from the Snowbowl expansion plan inform the role justice plays, yet issues of accountability speak to who holds the power and who bears the liability of this plan after its fate is decided in US Court.

### Accountability

A consistent theme, which emerged over the course of interviewing participants, is the code of accountability. Participants believe that the blame for the conflict surrounding the Snowbowl expansion plan lies with those who have the vested authority and power to regulate issues related to afflicted natural and cultural resources. The list of those who are arguably accountable for the current state of the Snowbowl case include, but are not limited to: the US Court system, NEPA, the USFS, the EPA, ADEQ, and other applicable federal policies which serve environmental justice concerns and sacred site issues. The ADEQ and EPA regulate the allowable level of contaminants in reclaimed wastewater that is exposed to the public and the environment. The USFS, guided by NEPA, argues the expansion plan can be legally implemented. This claim has been disputed and legal proceedings in the US Court system have become the default

decision maker. Since the Peaks are a sacred site and those wishing to protect its sanctity believe this case embodies environmental justice concerns, the policies, which serve these interests, should also be held accountable as such.

#### Reclaimed Wastewater, the ADEQ, and EPA

Part of the ski industry's shared identity is in the celebrated use of water resources to make artificial snow, which is an integral part of ski industry protocol. Although artificial snowmaking using reclaimed wastewater has never been used at 100% capacity by any ski resort, some ski areas are using reclaimed wastewater to augment the need for this service. Moreover, reclaimed wastewater is allowed under the Sustainable Slopes Charter as long as, "it passes muster with EPA and state officials (i.e. ADEQ) with respect to water quality" (Interview Group 4, Interviewee 29). Therefore, according to the ski industry practicing standards reclaimed wastewater use is "sustainable" and an acceptable means for artificial snowmaking as long as federal policy allows it.

According to Interviewee 8, reclaimed water is slated to be sold to the Arizona Snowbowl to make artificial snow because it has been approved by the ADEQ. Interviewee 8 agrees with the rationale for this decision by stating, "Arizona Snowbowl would be using the water during the winter when demand for reclaimed water is the lowest. In fact, up until just a couple of years ago, we had no demand for reclaimed water over the winter months; it makes more sense than using our limited supply of drinking water" (Interview Group 2, Interviewee 8). Interviewee 31 explains water quality is regulated by the ADEQ, and the Snowbowl has been given clearance to use grade A

water on a scale from A to E (grade A being the cleanest). However, Snowbowl wants to use A+ reclaimed water, which is even cleaner than the regulations permitted by the ADEQ in Arizona, and the EPA at the federal level.

Interviewee 15 explains that as long as the ADEQ requirements are met, the City Council supports the use of reclaimed wastewater in their community. When Interviewee 15 began on the Council, the Snowbowl was in the process of renewing their contract with the city of Flagstaff in order to purchase wastewater for snowmaking. They acquired approval in 2000 but due to a lengthy process, they needed to reapply in 2004.

Interviewee 15 shares:

When I voted for to renew the contract, I felt as though it was a different situation than the original contract. In my observation Snowbowl had, with the assurance that the City was going to sell them the wastewater, expended money to comply with the provisions of the contract, such as conducting an Environmental Impact Statement [NEPA], gaining approval from the Arizona Department of Environmental Quality and applying to the Forest Service for approval (Interview Group 3, Interviewee 15).

Interviewee 6 explains this contract between the city of Flagstaff and the Arizona Snowbowl to sell reclaimed wastewater was renewed without a vote or public consultation. However, Interviewee 15 explains the approval of reclaimed wastewater is regulated by the ADEQ and factors into the Council's acceptance of its application within the community.

Interviewee 31 stresses the reason reclaimed wastewater was approved by the USFS in the NEPA EIS process is also because:

the ADEQ and EPA set the standards, rules, and policy and the USFS uses those with their federal policy to make decisions. The supervisor of the USFS said the proposal was okay to use for snowmaking because the federal agency said the

water was okay. There is a demand for recreation, and cultural values conflict there, and the water is approved for users, so it's really the EPA that must say no; it's their decision (Interview Group 5, Interviewee 31).

Interviewee 31 offers the details of how wastewater decisions are made by saying that:

the judge in the Ninth Circuit [Court] is asking 'What's in the water?' And the USFS doesn't want to deal with the water, so they just get info[rmation] from ADEQ and EPA. In NEPA one must establish the scope of the project and with Snowbowl the water impacts go beyond [the] scope to make [a] decision on this item. The supervisor could not deny this decision based on water because the EPA and ADEQ standards allow it (Interview Group 5, Interviewee 31).

Interviewee 31 also explains, "the EPA should move forward to more, not less, restrictions on reclaimed water... and they are, and then the environmental impacts should be less. And a goal for the water to be clean is a great goal" (Interview Group 5, Interviewee 31).

Interviewee 10 has studied the effects of reclaimed wastewater on indicator species, such as frogs. Interviewee 10 explains the ADEQ must comply with the EPA, and with regard to all water, "if it meets drinking water standards, then it meets EPA standards and regulations" (Interview Group 2, Interviewee 10). Moreover, when describing water standards, Interviewee 10 adds that:

there are no regulations on the issue of emerging contaminants, such as pharmaceuticals, personal care products, industrial compounds, pesticides, agricultural compounds that get into the water and most of those aren't measured as part of the drinking water standards. The USGS can now measure and analyze these but they aren't part of regulatory standards (Interview Group 2, interviewee 10).

The EPA maintains a definition for endocrine disruptors, as well as having an endocrine testing committee. However, what Interviewee 10 describes as emerging

contaminants is not part of the regulatory testing strategy employed by the EPA.

Therefore, these substances are allowed simply because they are not tested for yet.

Interviewee 10 explains these issues associated with reclaimed wastewater are gaining recognition in educational research, showing up on the radar of federal and state policy makers, including the Department of Water Quality and Water Resources. However, more research is needed about the long-term impacts of reclaimed wastewater on humans, ecosystems, and non-human species when they are exposed to this substance.

Interviewee 12 explains the EIS conducted by the USFS has done minimum investigation of the role reclaimed wastewater plays. For example, the aftereffects of using reclaimed water for artificial snowmaking at high elevations has not been adequately examined. According to Interviewee 12, ultraviolet rays at high elevations have a dramatic effect on compounds that target enzymes found in Flagstaff's reclaimed water, and this topic has been ignored throughout the decision making process.

Interviewee 12 goes on to explain that this compound can turn into a dioxin when altered by UV rays. Dioxin is a highly toxic substance to all forms of life. Although the EPA sets standards for reclaimed water it has not tested this substance at high elevations with a strong energy force such as UV rays altering it. Interviewee 16 believes that before the project is approved the EPA should be held accountable to prove dioxins will not be produced and negatively affect life forms.

Interviewee 15 thinks otherwise and shares that a large area of land in Flagstaff is irrigated with reclaimed wastewater. In addition, the decision of whether or not it should be used on the Peaks based on arguments centered on ecosystem health, environmental

justice and religious tolerance clouds the overall practicality of its use in the community,

and adds:

if the Council were to say that the reclaimed water wasn't good enough to use on the Peaks, what would we say to the children and families that use our parks where we irrigate with reclaimed water? The City has a surplus of reclaimed water in the winter, since it is used primarily for irrigation in the summer. By supplying water to the Arizona Snowbowl, the City would then have access to that water for firefighting efforts on the Peaks [as well] (Interview Group 3, Interviewee 15).

### The USFS, NEPA, and the US Court System

Interviewee 15 felt uncomfortable making a decision that went against federal policy makers. This participant believes the issue should be decided in the courts; the lawful requirement for Snowbowl to gain project approval. The City Council said they would sell Snowbowl the water if they acquired all necessary approvals, and “the expansion is really the decision of the Forest Service,” according to Interviewee 15 (Interview Group 3, Interviewee 15). Interviewee 24, an employee of the Snowbowl, touches on the jurisdictional power held by the USFS explaining, “there are a few vocal people” who continually protest the expansion plan. They add, “the USFS has to play law enforcement with the protesters that come up here” and it creates stress as “the sheriffs give them space, but it is tough to operate a business with protesting [going on]” (Interview Group 4, Interviewee 24).

Interviewee 15 shifts the burden of proof from the City Council stating “the environmental impacts with this expansion plan are not regulated by the City of Flagstaff; they are regulated by the Forest Service. The Forest Service is the landlord of the Arizona Snowbowl and, as such, they are charged with evaluating the impact of the expansion and

deciding if it is in the best interests of the public in managing public land” (Interview Group 3, Interviewee 15). When asked about Native American perspectives being included in the City Council’s decision-making process Interviewee 15 shares, “absolutely, values expressed by the Native Americans and others play into decisions made by the Council. However, the Peaks are public lands and as such open to everyone and managed by the Forest Service” (Interview Group 3, Interviewee 15).

NEPA is the main policy guiding the USFS’s recommendation to implement the Snowbowl expansion plan. Interviewee 30 shares NEPA is the government policy regulating cultural resources affected by USFS ski industry project proposals. Interviewee 30 explains NEPA is “inclusive of everything, from public input, to surveys of the land; NEPA is [for the] disclosure of any [cultural or natural resource] issues that are out there” (Interview Group 5, Interviewee 30). In addition, there is a land management plan for every national forest and a forty-year special use permit to govern partnerships between the USFS and the ski industry. Interviewee 29 also concurs NEPA is the policy most frequently used for nearly all projects on public land with ski industry action.

When asked about the Snowbowl expansion plan Interviewee 12 explains there were several questions raised with the EIS regarding wastewater. Contaminants, such as triclycene are not tested for by the Food and Drug Administration (FDA) and it remains for companies to decide, “if it’s a credible input for reclaimed wastewater” (Interview Group 2, Interviewee 12). Interviewee 12 goes on to explain some comments submitted during the NEPA public input process were not included in the FEIS. “According to the

National Environmental Policy Act, my comments were submitted on the record, and they are supposed to address my comments, and they are supposed to let the public know what I said, but [the USFS] didn't" (Interview Group 2, Interviewee 12). Interviewee 12 has major concerns about the lack of accountability by federal policy makers regarding the Snowbowl expansion plan, and these thoughts resonated with Interviewee 16.

Interviewee 16 shares that water is important to this case as well as the cultural issues involved, however "unfortunately, it's been shown over and over again in the courts; this is not an issue to decide there. Had cultural issues been favored in the earlier cases that would have been a landmark decision in US Courts and it didn't happen" (Interview Group 3, Interviewee 16). It was also shared that working in conjunction with the tribes within the NEPA process is difficult because it slows the process, yet according to Interviewee 16, must be accessible to the tribes in order to be effective. The NEPA process has not been adequately served in the Snowbowl case according to Interviewee 16.

Working as a USFS snow ranger at the Peaks, Interviewee 31 is uncertain about the TCP status of the San Francisco Peaks saying "either it's registered or has the title" (Interview Group 5, Interviewee 31). If the Peaks were a TCP, this plan might have never come to fruition, but because the Peaks have never officially been granted that status, the Snowbowl expansion plan remains viable. This participant explains the USFS handbook gives guidance on cultural resource management, and that the Snowbowl expansion plan is within the special permit boundary guidelines meeting USFS law. It was also explained that NEPA, as it relates to the Snowbowl case, ensures that:

an interdisciplinary team analyzed the proposal, so when it was submitted numerous eyes were upon it. The USFS did a pre-screening process analysis, and the National Forest Management Act guides the USFS, and the goal is to be aware of issues well before NEPA is done so the public can understand [all applicable issues] (Interview Group 5, Interviewee 31).

Interviewee 31 also shares the USFS is “99.9% all happy [NEPA is] there” because it “[poses] questions as to the need and purpose of a project, and ensures projects get proposed that the public wants to see, like a ski area” (Interview Group 5, Interviewee 31). Regarding the Snowbowl, “the process with NEPA is a tribal liaison on the interdisciplinary team who helped to talk about the issues involved in the case, consulting with numerous agencies with expertise on the issues. It’s hard to consult everyone, so [we] talk to the public and representatives of the public to know the effects and mitigate impacts. In the end the supervisor makes a decision, and other smaller cases are decided by the district ranger” (Interview Group 5, Interviewee 31).

According to Interviewee 7, this project affects everyone living in the US because it is on public land managed by the USFS. Interviewee 7 shares that during the District Court proceedings the USFS lawyer stated that if this expansion plan was denied it could create a precedent for protecting sacred sites on millions of acres of public land. Interviewee 7 explains this perspective is a major concern because it seems that the USFS does not have an interest in the protection of sacred sites even though they are found on public lands throughout the US. Sacred site protection is an issue the USFS must attend to as land managers, and:

what it leaves the question open for is why don’t they want to? Can’t protection of our ecosystems be in line with the USFS mandate? I mean if it’s not, and they are clearly stating that by making statements like this in court, then what are their

interests. They want to keep it open for what? Some other type of development, to make a profit off our public lands? This concerns me, and it should concern everybody. The implications are far-reaching; beyond Native spirituality and one community's mountain ecosystem, and if there were recognitions of past atrocities then the feds would have to be accountable to it. The concept of superiority is very much at play and it persists in the halls of justice and public offices, and this issue is definitely a microcosm of larger issues (Interview Group 1, Interviewee 7).

### Failed Sacred Site Protection and Environmental Justice Policy

NEPA, USFS, and EPA regulations were called into question during interviews, which reveals that federal measures to protect sacred sites and ensure environmental justice have fallen short and not been felt by the affected communities. Despite numerous policies and laws being enacted, sacred site protection, American Indian religious freedom and environmental justice to disenfranchised communities has not resulted from these measures.

Interviewee 6 explains if one closely examines the history of US Court cases centered on sacred site protection one will find the courts have not favored Native American concerns in the past, and many American Indians are worried this may happen again with Snowbowl. Interviewee 11 builds upon this idea explaining, "the court still uses the Indian as a sub-human, so the law may not help in this case" (Interview Group 2, Interviewee 11). Interviewee 11 went on to say that in this case the "capitalistic system, combined with economics of tourism, are all impacts. The USFS had a choice and chose the owners [of Snowbowl] and not the Natives, and people still come here regardless of the Snowbowl; Flagstaff is mixed culturally, and had respect, but Snowbowl has divided

the community health” and taken away the dignity of Indigenous community members (Interview Group 2, Interviewee 11).

Interviewee 32 discusses USFS policy and other federal policies with relation to cultural resources, such as the NHPA sec. 106 and NEPA. Interviewee 32’s perspective is that not everything at project sites can be saved, but they must be inventoried and checked for protection status under National Register criteria. Even though USFS policy is Eurocentric, according to Interviewee 32, these policies are important and do help save some sites. Interviewee 32 explains that a majority of USFS projects utilize NEPA policy, and it does have merits, but that:

with public participation, you can give your comment, but to an extent, the mind of the USFS is already made up, but if there is a comment that’s really good, at least they have to answer it, but the problem is people from the outside are managing, so a community voice is not driving projects. Communities change but with the Forest Service it’s cut and dry that this is the way it is , and [they] don’t take into account a Native perspective as much as they should when the presence is there. The USFS must realize some people have passed down land for generations and there are roots in communities like this, and Natives have such a deep knowledge of land and should be worked with better...it’s thousands of years old and took generations for that knowledge to develop, and the American public are gonna need to recognize those that can understand place...and all of a sudden Europeans come, and in California it hasn’t been that long since settlers came about, and Natives still feel the impacts from this brutalized history, and there really is not [a] real strong way to protect those [sacred sites] (Interview Group 5, Interviewee 32).

#### Hope for the Future of Federal Policy and First Nations

Although many interviewees criticized federal policy for not protecting the environment and sacred sites, a few examples give hope that equitable land use decisions are possible between the USFS and Native Americans. Interviewee 7 shares that in a case similar to the Snowbowl-in Mt. Shasta, CA ski area expansion plans were not allowed to

move forward because the mountain is a sacred site to the local tribes. Interviewee 7

explains that:

because Shasta was a TCP the development had to be halted because the development was not in line with the values of the site, which is of interest to us because the idea of the TCP was born out of the struggles in the San Francisco Peaks during the '80s, and the Peaks are in the process of being designated a TCP, but designation hasn't been finished. For some reason the USFS just doesn't see it as important or just don't see a need to finish it, or maybe they are afraid that if they finalize it before this proposed development goes through they'll have an additional consideration, but all indications to me, through discussions with the USFS, is that ultimately that [the San Francisco Peaks] is a site determined to be eligible as a historic site as a TCP (Interview Group 1, Interviewee 7).

Both Interviewees 2 and 7 cited the successful Tribal-USFS cases in Mt. Shasta and in Cave Rock, NV as hopeful. Interviewee 7 explains that in the Cave Rock example, the USFS did direct consultation with the tribe, which has not happened with the Arizona Snowbowl expansion plan. The view shared is that the USFS had done "good work and they revised their forest management plan and excluded uses of Cave Rock for anything that was not in line with historic and cultural uses of that area" after consulting with Washoe Tribal members (Interview Group 1, Interviewee 7). In the Cave Rock case, rock climbers represented recreational interests opposed to restrictions of the area and sued the USFS. The Snowbowl case is the exact opposite of what is playing out between tribes and the USFS. In Cave Rock, the USFS and the Washoe are co-defendants in protecting this sacred site as well as in restricting access and recreation at the site; unlike the parties involved in the Arizona Snowbowl case.

Interviewee 32 has harsh criticism for the manner the USFS has dealt with Native American communities, but explains a variety of ways for Native American people and

non-Native Americans to come together. There is a need for collaborative efforts across cultures that will lead the way for a just future. In addition, a book designed to assist Native Americans' understanding of all laws, regulations, and policy that affects their lives was viewed as an example of this positive look forward. Interviewee 32 believes "information exchange is possible" across diverse cultures with diverse values, but there is still a great amount of work to be done (Interview Group 5, Interviewee 32).

Overall, whom participants thought should be held responsible for perpetuating this conflict differed during interviews. Some felt the USFS is to blame, along with the vague protections of NEPA. Others felt the EPA's wastewater regulations were the main culprit. The US Court system and unsuccessful federal sacred site and environmental justice policies have topped the list of reasons why this case fosters such divide in the Flagstaff community. Accountability was placed upon individuals and different agencies although no one was identified as singularly at fault. Instead, multiple viewpoints abound as to whether or not this case is economically viable, environmentally sound, religiously tolerant or just. In the end, the identity politics that shapes these codes into the standpoints of pro- and anti-expansion imply who is accountable. The following chapter examines the meanings of these findings.

## CHAPTER FIVE

### ANALYSIS

Concerning what is best for the Flagstaff environment and community, through research, six interconnected themes emerged. These themes include, but are not limited to: 1) sacred site protection, 2) cultural integrity and survival, 3) ecosystem health, 4) profitability and viability of a ski area, 5) reclaimed wastewater politics, and 6) federal laws and policies. These themes collectively define the overall discourse of the Snowbowl expansion plan.

This analysis answers the initial research question: *how can federal land-use decisions respect and honor cultural concerns expressed by marginalized populations, and take into account ecological sustainability, when land is managed in partnership with the ski industry?* Based on the results of this study the Snowbowl expansion plan is a case of environmental injustice.

#### Identity Politics

The identity politics that inform the Snowbowl controversy are pro- and anti-expansion plan. The ski industry promotes ski resort expansion because it increases the capacity of the industry as a viable business. From the pro-expansion standpoint, this growth will bring economic benefits to the city of Flagstaff as well as create a more profitable business for the owners of the Snowbowl. Moreover, the outcomes of sacred site litigation have historically favored the side of pro-expansion constituents and not

avored Native American interests. Federal law, coupled with the authority of USFS policies and land management, are also on the side of the Snowbowl expansion. The USFS employs EPA policy to address concerns about the use of artificial snow from reclaimed wastewater. Ramifications to human and ecosystem health from the use of reclaimed wastewater are not fully known and they play an essential role in defining the values and beliefs of those who identify as pro-expansion.

Those who identify as anti-expansion question the use of reclaimed wastewater, because of the undetermined long-term impacts to the environment and public health, but in addition, because it desecrates the religious sovereignty of more than thirteen First Nations. In the interviews conducted for this study, perspectives supporting anti-expansion reveal that those against the Snowbowl expansion plan believe religious intolerance and environmental injustice drive this expansion plan. The reality is those who oppose the Snowbowl have the most to lose.

### Pro-expansion

Those who favor pro-expansion stand to benefit in some way, particularly those who will profit financially. The USFS and Snowbowl owners will directly profit and the City Council and Chamber of Commerce believe the expansion plan will bring more tourism and ultimately more economic growth to the area. The Flagstaff ski club will benefit from more “reliable” skiing on the mountain, and the Sustainable Slopes promoters will have another ski area on its list as a member. Overall, increased recreation

and anticipated profits are the two most frequently mentioned benefits for adamantly pro-expansion perspectives.

The ski industry has grown exponentially in the last century, relying on numerous alpine environments for viability, and shaping the community makeup and relations wherever it is situated (Clifford, 2002). Specific to the US, the ski industry developed like other industries of the 20<sup>th</sup> century, largely ignoring the ecological stresses imposed when creating vast infrastructure across mountain landscapes (Clifford, 2002). In mainstream US society skiing is largely a form of recreation for the wealthy (Clifford, 2002; USFS 2006; SACC, 2006).

In the last decade, the ski industry has begun to establish its own definition of sustainability (NSAA, 2000; Rivera and de Leon, 2004; Rivera et al. 2006). This movement speaks to the industry shifting towards more environmentally sound operations (NSAA, 2000; Rivera and de Leon, 2004; Rivera et al. 2006; SACC, 2006). The industry is open to change and as interviews with representatives from the Aspen Mountain Company, Mad River Glenn, Silverton Mountain, Alpine Meadows, Arizona Snowbowl, and the USFS indicate environmental concerns are now on the industry's agenda. The interviews portrayed the ski industry as simply "green," although with no existing consensus on what constitutes "sustainable" (NSAA, 2000; SACC, 2006). Carbon credits, increased use of renewable energy, as well as additional environmental mitigations are incorporated into many ski area agendas for being "green." According to interviews and literature reviewed, most ski areas believe they are moving along an

ecologically sound path (Bowyer, 2007; Cliff Bar, 2007; Gannett, 2007; NSAA, 2006; Sustainable Seasons, 2007).

This research offers a glimpse into the perspective of privilege synonymous with this industry. Ski area owners are unaware of how they affect environmental health, stimulate economic growth, and contribute to perceptions of exclusivity within their local communities (Clifford, 2002). The fact that no ski area interviewees spoke about cultural, social, or community policy, as they did environmental policy, signifies an enormous gap exists between environmental justice and the ski industry. This mindset of the pro-expansion proponents informs what it means to support the Snowbowl expansion plan. Until the ski industry assumes accountability for perpetuating injustices with land managed in partnership with entities like the USFS, it will not be ecologically sustainable and, in addition, will not respectfully honor cultural concerns expressed by Native Americans.

The Flagstaff ski club participant describes that the Snowbowl is “paradise” and it is difficult to see it as being potentially stripped away. This perspective, coupled with the overall ski industry position on social policy, is rooted in values based upon privilege (hooks, 1995). This interviewee revealed privilege by sharing feelings of contemptuousness at the possibility of having to leave Flagstaff to find another town to ski in if the expansion plan is defeated. Some believe that the pro-expansion argument entails placing more value on a reliable skiing season than the religious values and cultural survival of Native American community members.

The pro-expansion perspective reveals a standpoint of privilege and power. The pro-expansion perspective is oppressive and racist because it ignores the perspective of Native Americans attached to the San Francisco Peaks. Pro-expansion identity politics undermine religious tolerance and are unjust towards the environment and Native Americans.

In order to justify the Snowbowl plan as sound land-use policy, pro-expansionists must be held accountable for the potential burdens of the plan (O’Riordan and Cameron, 1995). The pro-expansion standpoint gambles the integrity of cultures that will be denigrated and ecosystems that will be degraded because of its implementation.

#### Anti-Expansion

Mountains represent many things to many people. The thoughts shared by those who favor the Snowbowl expansion plan, marginalizes the view of the First Nations who have held the Peaks sacred for centuries. Snowbowl owners want to ensure consistent operating hours by implementing artificial snowmaking with reclaimed wastewater. However, ski resorts occasionally close down due to adverse weather conditions. The general practice for the ski industry is to abide by natural weather patterns. When the Snowbowl interviewee explains it “hard to rely on Mother Nature”, anyone familiar with the ski industry will understand. Nevertheless expecting community members to bear the burdens imposed by the Snowbowl expansion plan is completely unreasonable based on an analysis of interviews conducted for this study.

The Snowbowl case represents a lack of respect for the social and ecological diversity presented by the San Francisco Peaks. Pro-expansionists view the Peaks as an area with recreational benefits and profit potential. A clear distinction in this case is the San Francisco Peaks are the most sacred on earth for some tribes. Proponents vying for expansion of the Snowbowl are not considering this. The ski industry, Snowbowl, Coconino USFS, and others who identify as pro-expansionist must be held accountable for perpetuating injustices built on false promises of what ski area expansion will mean for the Flagstaff community.

Environmental, economic, and social justice activists interviewed in this study are anti-expansion because of disproportionate burdens to some and benefits to others associated with this plan. The Native Americans opposing this plan are fighting the same battle they have since colonization of the US. They are trying to preserve their religious and cultural traditions, which are viewed as outside acceptance by federal policy makers, the ski industry, and others, who favor pro-expansion.

A standpoint of anti-expansion means one supports cultural diversity and the survival of Native American people. The identity politics of anti-expansion respects the religious freedoms of all people, advocates for ecosystem health, and supports social justice. To support the defeat of the Snowbowl expansion plan is a proclamation in favor of preserving the integrity of the local ecosystem and the freedom of religious expression for First Nations. The defense of these values is more persuasive than expansion interests, which are backed by privileged identity politics and unsound economic arguments.

## Economics

Economics helps to inform how this federal land-use decision can be socially just while maintaining environmental sustainability. This expansion plan has been crafted to address a major problem faced by the Arizona Snowbowl: lack of natural snowfall and an inability to ensure financial profits. Given the demographics, real estate prices, lack of affordable housing, and general cost of living in ski towns, it is evident not everyone can afford to live here (Clifford, 2002). Profit-driven motivations are a foremost within the ski industry including Snowbowl, and securing a high rate of financial return is anticipated for pro-expansionists. The Snowbowl and the Chamber of Commerce vehemently argue that the Flagstaff winter economy is more vibrant when the ski area is in operation. Since Flagstaff is a tourist driven economy, the Chamber of Commerce has backed the expansion plan since its conception. The Snowbowl and Chamber of Commerce interviewees explain when the ski area is open it brings more visitors and increased revenues to hotels, bars, and other businesses in Flagstaff. However, interviews and literature reviewed for this case clearly state that the Snowbowl does not drive the winter economy and never has (USFS, 2004).

The difference between municipalities with or without ski tourism is that a community's sole reliance upon skiing causes catastrophic results if the ski area cannot generate the revenue upon which it depends. In Flagstaff, the Snowbowl has never been an economic driver. The city survives economically even if the ski resort does not operate. Retail sales were at their highest in years when the Snowbowl had only single-digit ski days (USFS, 2004). In addition, a distinction exists between revenues from the

Snowbowl itself and the income it generates for the larger community. Interviews with NAU professors revealed the income earned from hotel rooms, bars, restaurants, shops, and other amenities must be considered when reviewing economic benefits to the city of Flagstaff. Arizona is one of the driest and warmest states in the US with many year-round tourist attractions. For example, as several interviewees explained, the Grand Canyon is a steady avenue for tourists in Flagstaff. The seasonal offerings of the Snowbowl do not draw hundreds of people to move there for skiing, as do the areas of Lake Tahoe, CA or Summit County, CO.

The percentage of BBB taxes the Snowbowl generates for Flagstaff is insignificant compared to the projected profits Snowbowl owners will receive if the expansion plan is implemented. If the Snowbowl were truly an essential component of the Flagstaff economy, it would have been in serious trouble those years in which Snowbowl was barely open. However, Flagstaff survived and interviewees noted the city actually receives more visitors when there is less snow in the winter as it affords easier access to the surrounding geography without snow-covered roads.

Many people in Arizona would spend time at the Snowbowl, regardless of the capability to ski on the mountain, because snow is not an abundant resource throughout the state. Pro-expansion plan advocates have not adequately examined diversifying means for economic gain in this case due to the importance given to creating profits by utilizing artificial snowmaking with reclaimed wastewater. Skiing is only one component of how profits are created by recreational opportunities around the area.

One central argument lost in the economic aspect of the Snowbowl expansion plan are the contributions made by local Native Americans. According to interviewees, both pro- and anti-expansionists, their activity outweighs what the Snowbowl could ever contribute to Flagstaff. Those involved in the Flagstaff economy could promote tourism in a manner in alignment with tribal perspectives. The economic arguments of pro-expansionists are flawed and the disruptive impacts associated with this plan are substantial.

As a City Council representative shared, BBB revenues have steadily increased the past few years and do not correlate to other Snowbowl activity. Snowbowl may stimulate the economy in short bursts, but over the long term, Flagstaff has no substantiated economic tie-in to Snowbowl, as they do not pay city taxes. While one Snowbowl co-owner has been the most vocal proponent, other owners are primarily non-local investors from as far away as New York and Florida.

The interview with an NAU economics professor provided insight into this issue when asked if the desires of Snowbowl owners outweigh those of the Native Americans and the environment. This interview also pointed to numbers that indicate the monetary gain will be minimal compared to the cost of snowmaking. For this reason, the interviewee believes Snowbowl owners must disclose their financial statements, rate of return, loss on investment, and profits to the public. Full disclosure would make economic arguments more transparent and level the playing field.

The interview conducted with a representative of Alpine Meadows ski resort stated that preventing catastrophes is the best method for ski area protocol, and this

theory certainly applies to the Snowbowl case. Snowmaking may not last long enough due to climate change or due to Arizona climatic patterns. Financial gains offer no protection from these concerns or respect the religious beliefs expressed by Native Americans. The economic argument for expansion is also ecologically unsustainable and implies the success of a ski resort, with an unproven impact on the Flagstaff economy, is valued more highly than the integrity of Native American religious beliefs and the health of the ecosystem.

In summation, the economic arguments for pro-expansion do not aid the craft of sustainable land use policy, which inherently is socially just. Rather, the economic rhetoric located in the Snowbowl case must be viewed as ingredients that lead towards the exact opposite; unsustainable and unjust land use policy.

#### Ecosystem Health Concerns

In the case of the Snowbowl expansion plan, the burdens to the ecosystem far outweigh the perceived benefits. For example, projects which consume resources to benefit only a few individuals, yet do not promote any health for the majority, must be examined for parity. An understanding of ecosystem health and potential environmental impacts are crucial in analysis of the Snowbowl expansion plan. Many who are against this expansion plan believe it will greatly degrade the health of the local ecosystem if implemented. In addition, the ski industry is not going far enough to institute environmentally sound practices into its business operations. That, coupled with the

unknown effects of reclaimed wastewater on the Flagstaff environment, should be reason to halt this expansion.

### Ski Resort Expansion, Sustainability, and Greenwash

Ecosystem integrity is lost through alterations to the environment that leave it less healthy. In order for ecosystem health to be sustainable for the long term, human activities that perpetuate irreparable and irreversible damage to ecosystems must be critically examined.

Ski area development is, by its very definition, an impact on the environment. Large-scale alterations to mountain landscapes; with the construction of lifts, lodges, parking lots, and other staples of ski resort development greatly impact ecosystem health. Although ski resorts could be viewed as creating a universal environmental impact, they also have become integral to numerous communities and economies throughout the world for economic survival, social exchange and identity (Clifford, 2002). The ski industry's ecological footprint shows that if a historical baseline were set in 2008 for ski resort infrastructure, there would be numerous choices for people to find lifts, lodges, and accommodations worldwide to satisfy the demand to ski (Clifford, 2002; SACC, 2006). Nonetheless, the ski industry continues to promote development through ski resort expansion as it embodies the spirit of free market capitalism. If the ski industry maintains its present ecological footprint, then it could move toward creating less of an environmental impact.

Central to the Snowbowl expansion plan are numerous proposed infrastructure improvements that would degrade the local ecosystem. Such plans include clear-cutting 74 acres of old growth forest for new ski trails as well as 47 acres of tree thinning. Not only would this eliminate a mature ecosystem, it would devastate habitat for resident species. In addition, it would completely alter how the rest of the ecosystem functions in the surrounding area. Tree-thinning and clear-cutting practices create added losses in carbon sequestration, which is how trees assist in absorbing carbon. The environmental impacts of carbon, along with other greenhouse gases introduced through industrialization, are now commonly referred to as global warming or climate change (IPCC, 2007). Interviews suggest the ski industry identifies itself as having a “green” orientation. However, if a business promotes itself as “green” or “sustainable,” yet promotes unhealthy ecological methods towards ecosystems and the people who depend upon them, it is not sustainable—it is a greenwash (Karlner, 2001).

The expansion proposal includes many activities that will affect forest ecosystems. Approximately 90 acres of soil, rocks, and tree stumps will be manipulated (USFS, 2004). This will allow several improvements to the Snowbowl, including: a new half-pipe (a terrain feature used for jumping in the air while snowriding), ski instructor area, ski lodge expansion, new guest and staff facility buildings and a proposed 21,840 square feet of other newly built infrastructure. In addition, a USFS proposal for a 2,500 square foot Native American cultural center to be located at the base of Snowbowl. The cultural center is argued to be mitigation for cultural impacts that would result from an implemented Snowbowl expansion plan. However, the funding for the cultural center

hinges on the approval of the Native American community, who firmly oppose it as an exchange for cultural and environmental integrity.

These various micro-projects cumulatively add up to a large expansion plan that will dramatically alter the function and health of this ecosystem. These disturbances permanently damage the health of this ecosystem because these plans add to impervious surfaces, the need for more energy and water, and dependence on fossil fuel. An endangered species of the Peaks region, the San Francisco Peaks Groundsel, is also at risk from increased greenhouse gas emissions, habitat displacement, and augmented human traffic. These practices do not constitute protection of natural resources, promotion of ecosystem health, or being sustainable.

A typical ski area expansion includes tree removal, habitat alteration for ski trails, and developments, which are commonplace in the industry. “Sustainability” has become a word gaining recognition in popular consciousness over the past few decades. The ski industry’s guiding environmental policy, the Sustainable Slopes Charter, identifies green-building and carbon offsets as growing trends in many development projects to alleviate possible environmental impacts. Amongst US consumers, “eco-friendly” alternatives to traditional products are becoming more commonplace. Resistance to change is, to a degree, related to environmental concerns that paradigm shifts may alter profit margins, affect investment returns, or conflict with social privilege.

This thesis argues that true sustainability is the ability of an ecosystem, and all of its species and processes, to thrive in a state of health so that future generations will inherit a similar quality of life. Social justice is a key component to this study’s definition

of sustainability because inequality amongst diverse community members will always lead to further environmental degradation. The ski industry's definition of sustainability varies greatly from the one supported in this study. The difference is the ski industry's ability to sustain itself as a profitable business versus the industry being sustainable by promoting the prolonged health of its communities and ecosystems. The ski industry will never be sustainable, according to this study's definition, until the perspective of healthy communities and local ecosystems are assured greater importance than increased revenues for business operations.

### Climate Change

A sustainable society, which promotes justice for all, includes acknowledging climate change. Although the earth's natural process is always in fluctuation, it is clear humans are expelling great quantities of greenhouse gases that facilitate undesired changes to the planet (IPCC, 2007). The ski industry relies upon the natural process of snowfall; however, they are also a contributor to climate change. As ski resort owners and operators wait for snow to fall, their business operations contribute to climate change through the vast amounts of energy generation involved in running a ski resort. These contradicting actions are an integral part of ski industry protocol that must change for the ski industry to reach sustainability.

Currently, ski resorts are using renewable energy and carbon credits to offset their climate impacts. These temporary solutions are steps towards creating lasting measures to curb environmental impacts. However, they are not the only solution and should not be

celebrated as such. The ski industry could propose and enact long-term solutions rather than short-term methods that appear “green,” but do not offer lasting solutions to environmental problems. For example, biodiesel fuel can run diesel-based machinery, solar panels can store solar energy, and wind turbines can collect energy to operate lifts when stationed in appropriate areas. Local workers, business people, and farmers can work together to eliminate unnecessary industry luxuries, to create a local entity that promotes sustainable business. This entity could also serve as an educational center for ecological sensibility predicated on community and ecosystem health if the ski industry was open to shifting its industrial protocol dramatically.

By supporting culturally sound and ecologically sustainable federal land-use decisions, the ski industry can resist its current path. The upgrades to infrastructure at Snowbowl are not advisable for a small ski area situated in a very dry, hot, and unique ecosystem. The Snowbowl is located in a very warm climate, as two skiers noted in an interview, and since the ski area is hot in the spring these snowriders question whether or not the snow would last long enough to be viable. Furthermore, the Snowbowl has not thoroughly discussed how climate change might modify the applicability of artificial snowmaking for its ski area. The fact that Snowbowl is located in the middle of a desert and in one of the driest places in North America, demonstrates a lack of understanding with the issues around artificial snow in this particular environment.

Even though snowmaking is not sustainable, most ski resorts around the world use it to support business operations. The use of reclaimed wastewater for artificial snow has taken place in a few ski resorts around the world. In Austria, Australia, and a few ski

resorts in the US reclaimed wastewater has been introduced into artificial snowmaking protocol. However, Arizona has a more diverse climate than other alpine skiing regions, so whether or not artificial snowmaking will work at the Snowbowl remains unknown. Snowmax is an additive used to lower the freezing point of water in snowmaking, which allows ski resorts to make snow at warmer temperatures (LeCompte, 2005). Snowmax could assist the Snowbowl by manipulating natural snowfall and it has been described as not being harmful to humans, although its long-term environmental impacts are still widely unknown (LeCompte, 2005).

These unknown impacts coincide with unknowns associated with reclaimed wastewater, yet both are found in numerous environments. Without knowing how reclaimed wastewater may affect local soils, waterways, flora and fauna, use of artificial snow is a risk, especially if Snowmax or reclaimed wastewater is used. Ski resort expansion and artificial snowmaking with reclaimed wastewater are both non-sustainable activities and must be critiqued as such until proof has found otherwise.

#### Reclaimed Wastewater and the Precautionary Principle

The precautionary principle should help steer the Snowbowl expansion plan because it can help guide sustainable land-use policy. If it were applied to this case, reclaimed wastewater use would not be allowed implementation until there was proof it would not harm humans or the environment (O’Riordan and Cameron, 1995).

The Snowbowl expansion plan calls for a potential of 1.5 million gallons of reclaimed wastewater to be used during a day of snowmaking on up to 205 acres. Rough

estimates are 180 million gallons of reclaimed wastewater would be used over a season of skiing. A 10 million gallon wastewater storage pond, around 3.5 acres in size with two ten-thousand gallon underground storage tanks, is proposed to be filled by a 14.8 mile buried pipeline that starts in the city of Flagstaff. A 4,000 square foot snowmaking control unit with about 50 snowmaking guns will dispense the artificial snow onto the ski area. Snowmaking guns will be situated on towers on the upper mountain, while snow “fans” (tools for disbursing artificial snow) will serve the lower mountain, including seven acres of a proposed snow-tubing area (a popular form of winter recreation in recent years using air tubes rather than skis). These snow-dispensing machines are audible up to 1.5 miles away and could operate continuously, if conditions permit. Initially, many air, water, and power lines will need to be buried and connected to ensure infrastructure implementation. None of these improvements, revolving around reclaimed wastewater use for artificial snowmaking, has ever been installed in this manner by a ski resort.

The concern over reclaimed wastewater is one of the highly debated facets of this case. The USFS said they supported a pro-expansion alternative to the EIS document because Flagstaff wastewater meets the regulations established by federal policy makers, such as the EPA. Therefore, the EPA, as well as the ADEQ at the state level, is the main regulatory bodies that govern drinking water and reclaimed wastewater standards by specifying the allowable contamination amounts. Reclaimed wastewater is prevalent in the current environment and is commonly used to irrigate golf courses, municipal spaces, and private lawns. It is also discharged into other environments across the country, even

though science has not reached definitive conclusions about long-term impacts to human and ecosystem health.

As long as the EPA maintains its current regulatory framework, current reclaimed wastewater standards will remain legitimate and not ensure that a federal land-use decision is sustainable. The Snowbowl has stated, on numerous occasions that if it does not use reclaimed wastewater for artificial snowmaking the ski area will be forced out of business. The Snowbowl interviewee stressed, “we just want to make snow and ski. We need dependable revenue to upgrade lifts, need to fix the building, and need more capacity to meet the demand to hit the hill. Snowmaking means more money and infrastructure and no lines for guests” (Interview Group 4, Interviewee 24). However, the EPA is not required to test for substances like caffeine, ibuprofen, or endocrine disruptors in reclaimed wastewater. The US Geological Survey (USGS) found these inputs and others, like estrogen and antibiotics, in the reclaimed wastewater slated for use on the Peaks, but there are no test requirements for any of these inputs.

The primary governing authority for reclaimed wastewater standards is the EPA, and they set the tone for acceptability regarding use of treated effluent in the environment. Without the EPA’s support, the Snowbowl and the USFS would most certainly stand to lose money and, in the end, this case. On the other hand, the main argument presented, not only by anti-expansion activists, but also by several chemists and biologists who have conducted thorough research, is that there are too many unknown effects of reclaimed wastewater to support its use.

As reported in interviews, some frogs, located downstream from wastewater treatment facilities, have been feminized. Indicator species have been altered physiologically, through effects to thyroid hormones, which foreshadows future impacts for human and ecosystem health if this substance is allowed unadulterated introduction into the environment. As interviews with scientists confirmed, and global research from Japan, England, and Germany show, contaminants discharged from wastewater treatment facilities have an effect on life forms downstream. Feminized frogs as well as populations of species with skewed sex ratios are the result of contaminants found in reclaimed wastewater.

A full ecosystem study of reclaimed wastewater and its long-term effects is necessary. Abiding by the precautionary principle, the just and responsible action to take is to continue testing this substance to ensure potential negative impacts can be dealt with appropriately. The scientists interviewed for this study expressed uncertainty of what they may find, but agree more testing is needed. As one interviewee explains, potential ecosystem impacts, even to the level of feminizing total populations of frog species, and the long-term health concerns with humans ingesting artificial snow made from reclaimed wastewater have not been adequately examined. Policy makers would possibly place the American public and its ecosystems in jeopardy by not investigating long-term effects of reclaimed wastewater more rigorously.

The use of artificial snow has been argued as a necessity in order for the ski industry to maintain its business operations, but until impacts of reclaimed wastewater are conclusive, no one can deny the potential impacts to species, ecosystems, and humans

who either come into contact with or ingest this water. NEPA guidelines were not upheld previously, in the opinion of the Ninth Circuit Court, because the USFS failed to account for the potential of children and visitors ingesting snow at Snowbowl (Ninth Circuit Court of Appeals, 2007).

Some who advocate in favor of reclaimed wastewater make the argument that this is a judicious use of a scarce resource, but until all concerns about reclaimed wastewater use are known, it should not be placed ahead of community and ecosystem health. Although all species need to consume resources for survival, actions that create unpredictable consequences and irreversible damage to human and ecosystem health must be analyzed in a critical manner. The precautionary principle addresses such issues by proposing actions must be accountable for proving potential impacts will not occur in the absence of scientific consensus. The project proponents, the Coconino USFS and the owners of the Arizona Snowbowl, have not proved potential impacts of reclaimed wastewater use will not occur. Therefore, the precautionary principle, which aids the craft of sustainable land-use policy, would not allow the implementation of this expansion plan.

If this expansion plan is implemented, it will set a precedent for the ski industry to use 100% reclaimed wastewater for snowmaking without knowing the long-term, irreversible impacts to biodiversity and humans. Actions such as this are, by any definition, unsustainable. Therefore, a federal land-use decision for pro-expansion does not take into account ecological sustainability or respect the cultural concerns expressed by Native Americans.

The ski industry is attached to the outcome of wastewater policy, as its application is not yet commonplace in the industry. The second largest ski area in Arizona, Sunrise, which is Native American-owned and -operated, is one of the ski areas in the US who has used reclaimed wastewater for snowmaking. Many pro-expansionists have viewed this as hypocrisy. However, without defining the difference between the sacred San Francisco Peaks, and the area Sunrise uses for recreation, perspective is greatly skewed. The Sunrise ski area is not a religious center for more than thirteen First Nations.

### Religious and Spiritual Tolerance

Native Americans hold many creation stories and have traditional ways of life that are diverse among their many distinct tribes (Deloria, Jr., 1994a). Generally, tribes assert everything on earth is connected, related, and should be respected. (Deloria, Jr., 1994a). Native Americans have had to incessantly deal with infringements upon their religious freedom by arguing their religious standpoints in US Court. As applied to Indigenous people, Congress's narrow interpretation of the First Amendment must be examined critically unless religious freedom is not really meant for all.

The social injustice addressed in this study focuses on a neglect of religious and spiritual tolerance. The separations between church, state, and religious freedom are rights protected under the US constitution. However, for Native American people this research clearly reveals the hardships they have withstood in attempts to access religious freedom. Native Americans have been made to assimilate, change, or abandon their

traditional culture. One must understand hegemony exists, because ‘freedom of religion for all’ is inauthentic, so long as it is not a reality for First Nations (Deloria, Jr., 1994b).

Sacred site protection is an issue Native Americans have been struggling to attain since first contact with Europeans. While Native American cultures and spiritual beliefs are diverse, a common link is the belief in the sacredness and stewardship of the earth and its many environments. The US Court system has created precedents that have stripped Native Americans of their ability to ensure the integrity and protection of their sacred places. In order for justice to be served by all who reside in the US, the religious traditions of Native Americans must be acknowledged, defended, and protected.

Pro-expansionists offer counter-arguments addressing how this mountain is sacred for non-Natives as well. One poignant exchange surfaced during an interview with a Flagstaff ski club representative, who revealed how this mountain is of spiritual significance to some non-Natives. This participant shared that the Peaks are in fact a church, and although this participant “honors” Indigenous beliefs, the expansion plan will greatly benefit Snowbowl’s business, skiing conditions, and the environment as a whole. Therefore, it should not be thwarted. This view is a very different attachment to the Peaks conceptualized through privilege.

If this case involved a site sacred to Catholics, Jews, or Muslims this expansion plan would have never been proposed. Although federal policies, such as AIRFA, Executive Orders 12898 and 13007, NEPA and NHPA sec. 106, have been structured to protect sacred sites and ensure environmental justice plays a pivotal role in federal decision making, sacred sites continue to be at risk for elimination. RFRA, another

federal policy, has the potential to create a precedent that would safeguard Native religious rights and foster social justice.

History has shown the federal courts are not supportive of Native American traditions when addressing issues concerning the landscape and spiritual health of their people (Lyng et al., 1988; Sequoyah et al, 1980). The decision to proceed with reclaimed wastewater use for artificial snowmaking is one such decision. Short-term economic success and expanded recreational resources are possible, but the long-term consequences and repercussions will erase multigenerational connections and the nucleus of faith, spirituality, and culture for thousands of people.

A critical objective of this expansion plan is to ensure each Native American tribe has its beliefs considered in a fair manner in the US Court system. By forcing disagreements, like the land-use conflict over the Snowbowl, into the courts as the only means to an end, sacred site cases allow, in effect, the court to rule on the legitimacy of the beliefs of Native Americans. Native Americans have endured empty promises of tribal sovereignty, co-opted through plenary power, alongside the knowledge that laws through the present political system to ensure justice must protect their religious freedom. This is a highly problematic argument, as are the flawed reasoning's of pro-expansionists that suggests religious concerns are not compelling enough to abandon this expansion plan.

By taking away subsistent ways of life and earth-based religious practices, Native Americans have struggled to strengthen their communities. When reclaiming identities, plagued by words like “uncivilized” and “unprogressive,” there is also an ethical

obligation to honor and respect the *Kachinas* as they are the center of Hopi cosmology, the corner of Navajo traditional ways, and the cardinal point for Apache, Havasu, Pre-Pi and Walla-Pi Tribes. The US Court system argues codification with text is stronger than the oral creation stories, yet what is apparent is race, class, religious orientation, and cultural ideology all showcase the injustices Native American people have endured for hundreds of years.

The Arizona Snowbowl expansion plan is a case of environmental injustice. The San Francisco Peaks is a sacred site and must be acknowledged as central to the way of living for numerous Native Americans residing in this region, because the separation of religion, for a tribal member, is akin to fostering cultural genocide (Helms, 2004). A federal land-use decision that allows the implementation of the Snowbowl expansion plan neither respects nor honors cultural concerns expressed by Native Americans, it does not take into account ecological sustainability, and it places the viability of a ski resort over religious freedom for thousands of people.

### Justice

Religious intolerance in this case informs environmental injustice towards Native American people. The Snowbowl expansion plan highlights racial characteristics that are fueled through societal privilege left unchecked by the ski industry and USFS. The motivations of capitalistic profit driven pro-expansionists are unjust in their attempts to dominate a marginalized population and their environment.

Justice is seen through a multifaceted lens to inform the risks necessary for some to benefit, while others face the burdens. Social privileges allow some people, like the wealthy, to move to new communities with a ski area and still be able to find recreational resources.

Justice surfaced as a code in many interviews encompassing political, religious, economic, social, and environmental justice. Most notably, social concerns brought forth by Native Americans signaled the numerous injustices their communities face because of the proposed expansion plan. In this case, not all community members are being treated equally to guarantee freedom of expression and a high quality of living through self-determination.

The religious freedom of Native Americans has been marginalized and dominated within the US Court system since its inception. This oppression, domination, and marginalization was shared throughout this study in interviews, as well as in literature reviewed. Viewpoints expressed by those in the Native American community, point to the fact that the USFS's appeal of the Ninth Circuit Court decision is indicative of the social injustice surrounding the Snowbowl project.

Another sacred mountain, Yucca Mountain in Nevada is the proposed federal repository site for the country's nuclear waste. These happenings relate to experiences where the Native American community has been forced to withstand unfair treatment since first contact. These unequal impacts continue today in the form of projects like Yucca Mountain and the Arizona Snowbowl expansion plan.

Built upon the environmental racism their communities have been forced to endure, privilege surfaced as way to unpack justice in this study. The ski industry, along with federal policy makers, denounces Native American religious viewpoints. Those who desire more predictable conditions for skiing, over the concerns shared by the Native American community, are flaunting their personal privilege. The fact that one can ski as a recreational activity and argue that potential gains to a city's economy are more important than the concerns of minority community members speaks to the deeply rooted issue of justice in this case.

The environmental justice movement has found its way into the hands of federal policy makers. However, this has arguably delegitimized the intent of what this movement stands for as long as its core principles are never realized in the lives it was created to serve. For justice to be upheld in this case, fair treatment must be served beyond the intent of law and policy to control it; it must function to alleviate the burdens associated with the plan.

Within the ski industry many individuals, families, and friends are passionate about snowriding, stating that it is their way of life central to their overall existence. Others ski simply for the enjoyment and they can afford to make time for it in their lives. Being a snowrider means one has choice. A just choice for this case would balance and respect the perspective shared by disenfranchised community members in Flagstaff by opposing the implementation of the Snowbowl expansion plan.

The perspective supporting pro-expansion for the Snowbowl has more benefits to gain than burdens to share. The wastewater treatment facility will generate profits by

selling its water to the Snowbowl in the winter, which prior to this plan has never generated revenue or economic use. It became clear in interviews that the USFS needs to diversify its income sources beyond their traditional methods and they stand to profit if the Snowbowl succeeds. Federal policy set by the EPA for reclaimed wastewater standards, the USFS interpretation of NEPA used to manage this expansion plan's impacts, as well as previous sacred site and environmental justice policy failures have provided standing for pro-expansionists to continue to defend their cause.

Snowriders must understand that skiing will not be stripped from them regardless of how this case is decided. Whether the amount of lift service capability is the same, less, or greater at Snowbowl, snowriders will be able access snow in some way. Snowriders have many choices within this expansion plan. They can continue to access the ski resort as it once stood prior to the conception of the expansion plan. Skiers can access backcountry skiing and earn their turns by using human power rather than relying on mechanized equipment. A federal land-use decision to enact the Snowbowl expansion plan is disrespectful of the cultural concerns expressed by the Native American communities, contradicting any desire to foster sustainability within the ski industry, and is a case of environmental racism and injustice.

### Accountability

Federal policies, regulations, and laws are the means by which this case is being decided. The USFS used the NEPA process to decide which project alternative was best suited for this expansion plan. Recognition that the USFS has the federal authority to

decide the outcome of plans highlights their accountability for perpetuating injustice. The EPA is also to blame for allowing numerous emerging contaminants to go untested in reclaimed wastewater slated for use in the Snowbowl proposal. In addition, environmental justice and sacred site protection policies are not protecting the Peaks. US Court precedents are also stacked against upholding justice for the environment and Native American people. The Snowbowl and ski industry are equally responsible for perpetuating injustice because either could have decided this plan is racist, environmentally destructive, economically risky, elitist and culturally oppressive from the beginning.

If the EPA's definition of environmental justice were applied, justice would be served at the Snowbowl, defined as:

[Environmental Justice is] the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA has this goal for all communities and persons across this Nation. It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work (EPA, 2006).

Instead, the EPA and pro-expansionists play a large role in perpetuating injustice. The Flagstaff City Council and the interviewees from the Flagstaff wastewater treatment facility support the expansion plan. The City Council voted to allow wastewater to be sold from the treatment facility to the Snowbowl, and the response of the interviewee from the treatment facility was analogous to a ski industry representative promoting the merits of artificial snowmaking. The fact that the Flagstaff Chamber of Commerce united

with the Flagstaff ski club to form the “Reclaim the Peaks” group, indicates the interests of those perpetuating the injustice of the Snowbowl expansion plan.

### The USFS and NEPA

Interviewees, as well as literature reviewed, affirm the strong business relationship between the USFS and the ski industry. The Sustainable Slopes Charter in many ways mirrors NEPA in that they both are prescriptive policies speaking to natural resource management. These policies have the means to actually modify, nullify, and implement ski area expansion plans. However, they have not been utilized in a manner to ensure natural resources and sacred sites are protected. As the main decision makers and power brokers in this case, the USFS has decided to support a plan with unknown long-term environmental and human health impacts that also substantially burdens Native American communities.

According to the interviews conducted with USFS officials in three separate districts, national forest management plans, as well as NEPA, are the two policies the USFS and the ski industry use most frequently with regard to land-use decisions. The national forest management plan governs the use of the forests, while NEPA critically examines environmental, as well as cultural impacts that might result from project proposals. The analysis of how the Coconino USFS has handled their responsibility as a public land steward can be described as being in loose compliance with NEPA. The USFS’s action may be viewed as an affront to the Native American community given the discretion the agency has to listen, incorporate, and honor their perspective.

The USFS has decided to approve the expansion plan, in keeping with beliefs about maximizing the use of public areas. By expanding the recreational capacity of the ski area, and creating a longer ski season through artificial snowmaking, the USFS believes that the benefits outweigh burdens in this project. Skiers will benefit from added amenities, and safety will be improved because of larger skiing areas available to novice skiers. The USFS believes the ski resort, aided by artificial snowmaking, will be able to open earlier and remain open later in the season, thereby increasing revenue by maintaining a consistent ski season. The environmental impacts associated with reclaimed wastewater have been interpreted by the USFS as not having a significant negative impact on the environment, citing EPA and ADEQ regulations. The local Flagstaff economy may also get a boost from increased job opportunities and tourism.

Although the ski industry initiated plans to expand the Snowbowl ski area, without supportive federal policies the implementation of the project would falter. The USFS, acting as land managers for the Coconino National Forest, utilized the NEPA process to submit a Record of Decision (ROD) document allowing the Snowbowl expansion plan.

This research argues, while intersecting with literature reviewed, that NEPA should be viewed as a working document in need of serious updating. Although the policy itself is prescriptive and non-mandated in action, it remains the main tool used in cases like the Arizona Snowbowl expansion plan, and has legal influence on the environment within the US. Questions prevail about the value of this policy in governing natural and cultural resources if those resources are repeatedly abused under its

application. Furthermore, the issue of addressing cumulative impacts, in cases such as the Snowbowl, is noticeably absent from the NEPA process. The ability for public input to shape current agency opinions regarding projects is, according to the public, virtually nonexistent. Many EISs are open for public comment but, as interviewees noted, the USFS usually maintains its original project direction. In this case, the perspective of Native Americans and some interviewees was that collaborative outreach by the USFS was inadequate and, according to interviews, this project was going to be implemented regardless of what resulted from the NEPA process. A time has arrived for federal policy makers to allow a community-directed and preferred alternative to be incorporated within this process in order to honor its language of justice for all.

Commonly, as is this case with the Snowbowl, mitigation is the argued answer to dissipating environmental and social impacts allowed under NEPA. However, there has yet to be a critical review of what agency protocol prevails when instances of non-mitigation exist. The answer the USFS has presented to mitigate the cultural resource impacts is the construction of a Native American cultural center at the base of the Snowbowl. This is a clear example of policy written from the narrow perspective of those who foster injustice in a culturally diverse relationship. The colonizer has historically been able to institutionalize power, which scripts racism and cultural desecration through current policy much in the same way the Marshall Trilogy became the basis for Native American law (Cohen, 1971).

In summary, the USFS and pro-expansion plan perspectives argue project implementation will bolster the local winter economy, increase job opportunities, ensure

economic viability, and extend the operating season of the Arizona Snowbowl ski area. The hope is that Snowbowl will bring more tourists to Flagstaff who will visit the ski area because of increased recreational amenities. Collaboration has been sought between Native Americans and environmentalists who oppose the plan, and the USFS has decided that impacts to cultural and natural resources will persist. They have the power to sanction this plan under federal policy, and their decision to go ahead with the Snowbowl expansion plan makes them accountable for where the case currently stands in US Court.

#### The US Court System and Religious Freedom for All

Native American sacred sites have not been protected either within the courts or through federal policies (Lyng et al., 1988; Sequoyah et al., 1980). The Department of Justice appeal to the ruling of the Ninth Circuit Court of Appeals works against religious freedom for Native Americans. This case has many obstacles to overcome for racism and injustice to be defeated and facilitate sustainable land-use policy.

Congress and the US Court system are powerful entities who have dictated US-tribal relationships. The US assumes plenary power over Native people, which instills them with a false sense of sovereignty, by granting them autonomy up to a point of comfort for the US government. Policies have created a government putting forth empty promises; with federal land managers taking away subsistence ways of life for Native people by enforcing rules that have made it illegal for Native Americans to practice their religion. According to interviews, this is occurring in the San Francisco Peaks as

multiple-use management by the USFS is crafted through their perspective and not by Native Americans.

Other USFS-Tribal conflicts have restricted the ability for Indigenous people to hunt, fish, gather basket material, and engage in other activities central to their traditions. These values have conflicted with USFS policy, as literature and interviewees highlight, and because land informs the sense of place and existence for Native Americans, federal land managers do not accept these beliefs as valid. When the integrity of a sacred site is taken away in favor of recreational amenities, justice is not served.

Through hegemony, US federal policy has dominated Native American perspectives. US interests guide policy and laws that do not incorporate a tribal perspective. As hegemony has spread to the mainstream collective consciousness, Native American diversity has not been a part of that larger acceptance. Assimilation, as a policy, attempted to “kill the Indian, save the man,” but traditional Native culture is still alive despite continuous threats with each potential sacred site desecration. The history of litigation between the US and Native Americans has left sacred sites vulnerable to the continued threat of exploitation.

Native Americans have not achieved religious freedom and sacred site protection, and those values are marginalized by other religious values that dominate the US landscape. This lack of acceptance and oppression illuminated the contradiction in having a nation’s constitution declare religious freedom for all, while simultaneously denouncing certain religions that fall outside of acceptable parameters. There cannot be a just and

democratic society if not all individuals have the equal access to “life, liberty and the pursuit of happiness.”

If laws and federal Indian policy are ever to be crafted for the betterment of Native people, they must be crafted from a Native perspective. Furthermore, the ability to protect, access, and celebrate sacred sites must be attainable and implementable. If the current structure of the law is not able to achieve these ends, sacred sites will continue to disappear. If litigation cannot bring forth a precedent or policy to combat the ills of the past, a new concept of law must be theorized.

### EPA

The Sustainable Slopes interviewee shared as long as reclaimed wastewater meets EPA standards they find its use acceptable in the ski industry. The Coconino USFS representative also said that as long as reclaimed wastewater meets EPA standards they would support its use. The EPA must be held accountable for its lack of enforcement of environmental justice, and for allowing reclaimed wastewater use before all its inputs are known to be benign. It must also speak to its mission of protecting the environment and fostering regulatory strategies to promote community health and prevent pollution. The EPA must set forth more stringent regulations for testing contaminated effluent and clarification of what qualifies as an emerging contaminant. If the EPA, with its federal authority, allows certain inputs in reclaimed wastewater to go untested, given the unknown risks, then they are not affording any protections at all. In this case, the EPA only protects the interests of the Snowbowl and perpetuates injustice.

### Sacred Site Protection

NEPA, the EPA, and USFS fail to ensure protection of natural resources and environmental justice, which is one of their main goals. Executive orders have been passed, environmental justice statements and policy additions have been created, yet a case like the Snowbowl illuminates the ineffectiveness of such legislation. Native American sacred sites and their environments are continuously involved in land-use conflicts. They also represent the difficulty and ongoing struggle for sacred site protection on public lands.

The USFS has publicly acknowledged that this expansion plan will create irreversible adverse effects to Native Nations (USFS, 2004). The proposal for a cultural center is a clear-cut example of the lack of understanding between vested tribes and this federal agency.

Unless Executive Order Nos. 12898, 13007, NEPA, USDA, and CEQ-EPA federal environmental justice regulations serve the communities and resources they were meant to protect, one must ask whether they were designed to be such tools in the first place. There is no option for environmental justice to be obtainable in such cases as the Snowbowl if the federal policies, which are supposed to ensure fairness, actually perpetuate injustice. The USFS has failed to engage in this case justly and has separated the cultural and heritage impact analysis from its environmental justice assessments, yet the two are most certainly inseparable.

The USFS has stated there will be irreversible impacts to Native Americans because of this plan, and this argument has ensured religious traditions must be defended

in a court. The Ninth Circuit Court initially listened to these perspectives, defying past precedents, and acknowledging the hypocrisy of the USFS when their NEPA analysis stated, "based on the belief systems of many of the tribes we must consider at least a portion of these impacts as a potentially irreversible impact to these tribes' religions" (USFS, 2004). However, at present, this ruling has been appealed and could be overturned in the same court.

This case is one example of the need for a drastically new direction in policies affecting Native American communities. Under the current framework of cultural resource protection, the San Francisco Peaks are loosely recognized as a TCP, which is a title meant to maintain cultural heritage and vest the protection of sites eligible for the National Register of Historic Places. The USFS began the designation process several years ago, which they are lawfully vested to do and grant, but have not finished the process.

NHPA Section 106 is another policy designed to provide the protection that has been missing for sacred sites worthy of TCP status that are historically significant. However, why this power has not been bestowed upon the local Native communities, and drawing from the relevant literature and research conducted in this study, it seems that private agendas have been placed ahead of values not in alignment with USFS visions. Institutional bias towards development and expansion must be discussed more openly and critically evaluated. A TCP is a title that has been discussed by the USFS and tribes for several years, and is argued through literature and by policy makers as an essential tool in

sacred site protection. However, this designation has never been lawfully bestowed to the San Francisco Peaks.

Mitigation under NEPA, protection offered by NHPA Section 106, and TCP status are not working policies if they do not aid Native American tribes in the Snowbowl expansion plan. Justice must be served in the court system for the Peaks to be protected, and policy must change in the wake of the issues brought to light by the Snowbowl expansion plan. As interviewees noted, many believe the USFS had already made up their mind in this case. The Coconino Forest Service knew beforehand, based on past dealings with the Peaks, Native Americans would oppose this expansion plan. Law and policy have aided capitalistic intent through ski industry expansion to create the pro-expansion perspective. The USFS recognizes the adverse impacts to the environment and to Native Americans, despite stating its support of the Peaks to be designated a TCP, and believes the degree of collaboration with tribes was adequate.

Policy and the law state that federal agencies can still proceed with plans like the Snowbowl, regardless of any associated impacts. This fact raises the question of whether or not policy and law, in this and other related cases, will ever ensure the fairness they promote. NEPA has not minimized or alleviated potential impacts to the environment in this case, nor has any other measure been able to ensure sacred site protection. While RFRA has a chance to set a monumental court precedent, litigation is still on the horizon.

Federal policy, in the form of environmental justice, sacred site protection, and sustainable natural resource decisions, fails if the Snowbowl expansion plan is implemented. These measures, especially US Court precedents, have neglected and

compromised the environment and the populations they are supposed to serve. Religious intolerance and injustice is being foisted upon Native Americans in this case. The Snowbowl, ski industry, USFS, EPA, and federal policy makers are all accountable for placing disproportionate burdens on the ecosystem and marginalized populations attached to this case. Therefore, for the Arizona Snowbowl case to become a federal land-use decision that honors cultural concerns expressed by marginalized populations, and take into account ecological sustainability, it must be defeated. This is the fairest end for this case study, so that all affected people, species and environments realize equal benefits and burdens.

## CHAPTER SIX

### CONCLUSIONS

Traveling across the country, at 18 years old, I landed in Flagstaff, Arizona. I was amazed that a unique alpine environment existed in the desert with snow and surprised a ski area survives in the hot, dry climate. The San Francisco Peaks looked magnificent protruding from the desert floor. Being a skier, since the age of two, environments like this always ignited my soul as very special places. Even in the summer, the image of skiing the steep chutes of a northerly aspect proved enough for me to decide to return someday to ski this area. Nine years later, these mountains are a focus in my life. However, today not for the skiing on the Peaks as I had once planned. Rather, I discovered how the identity of this ski resort embodies the malpractice the ski industry can impose. Therefore, I will never patronize this ski resort as my identity as a snowrider has evolved to question my own choices. Through my examination of the Snowbowl expansion plan, I have come to question my own sense of privilege.

An environment directly informs community, and mountains have helped shaped human culture for millennia. Many mountain communities rely upon their local ski areas and must be understood within a context of (1) how the ski industry breathes health into society and (2) are accountable for how they facilitate the ability for communities to be sustainable for future generations. This research has critically examined the proposed expansion plan of the Arizona Snowbowl ski area, and conclusions are offered with the hope of aiding in the resolution of the land-use conflict. Literature reviewed and

qualitative interviews provide analysis of the ski industry and identify a gap in the ski industry's engagement with environmental justice. Through the critique of ski area protocol and associated federal policy, recommendations have been formed by examining the repercussions this case has for local stakeholders immediately impacted by its outcome. Ultimately, this study opens a dialogue for related land-use conflicts and provides a model for how similar cases can draw upon this example for future land-use policy predicated on sustainability through social and environmental justice.

The course of investigation joins an ongoing conversation that serves to add to existing bodies of knowledge with the goal to attain political, economic, social, and environmental justice. In addition, this study complements the work of environmental justice theorists attempting to overcome racism in environmental decision-making (Bullard, 1994b). Through the inquiry of research, this study makes the claim that the Snowbowl case incorporates numerous examples of injustices that dominate the ability for respectful treatment of natural resources and the local, minority communities. Therefore, sustainable land-use policy can only be attained if environmental goals are married to efforts that eradicate social injustices (Manus, 1996).

Limitations of this study include not utilizing mixed-method sampling and the time and financial constraints of the principal investigator. In addition, although a total of forty-three participants were interviewed, an undetermined number of voices could have further aided in this query by providing a stronger sample.

The practical problem of this study is the "unintended" consequences of federal policy that do not accomplish what it was intended to and the impacts that result from

failed policy perpetuation. Many federal policies have been crafted to protect Native American sacred sites, natural resources, and to ensure environmental justice. However, protection has not been afforded through AIRFA, Executive Order Nos. 12898, 13007, NEPA, or other applicable federal policies. By using the Snowbowl as a model for environmental justice within the ski industry, those most affected by the burdens associated with ski area expansion will experience justice through a decision that is sustainable for their local community and opposes expansion.

This study is shaped by the interpretation of localized perspectives involved in the Snowbowl expansion plan, and its context is meant to help explain the dominant power structure that is neocolonial and legitimized through the framework of the US political economy. This work has pointed to the need for a paradigm shift in US culture, as social change is the necessary component for morals and ethics to bring dignity and respect to land-use decisions. Alternative movements that are grounded in activism and organized through the mobilization of grassroots protests have vital messages to convey. They must be celebrated in a way that the greater message of what is being expressed is not lost within the dominate power structure contained by government. This is why networking and collaboration among stakeholders is essential to produce something usable for the affected communities of the Snowbowl expansion plan, and then within the larger framework of land-use decisions that foster sustainable community and environmental health.

If federal policy makers and the ski industry do not honor or respect the perspective of marginalized community members in the Snowbowl case, the impending

land-use decision will never attain sustainability. No federal land-use decision will ever be sustainable if ski industry proliferation is ranked above the protection of sacred sites or the environment. Therefore, without sacred site protection and ecosystem health mandates, federal land-use decisions will never foster impartiality or achieve sustainability with land managed in partnership with the ski industry.

A major goal of this research is to support the voices of those individuals who are disenfranchised in the Snowbowl case. As Harding explains through standpoint theory, the perspective of marginalized people provides a more objective account of the world (Harding, 2006). Support of Save the Peaks Coalition, the grassroots organization who has demanded accountability, is important to furthering this study even though federal policy makers and the ski industry have continually disenfranchised their voice.

The accountability this research illuminates also reveals the injustices that exist within federal policy decisions regarding sacred site protection, environmental justice, and sustainable land-use policy. Economically, this expansion will not affect skier days at the Snowbowl, nor will it add revenues to the county or local Flagstaff economy. Socially, this expansion plan represents an attack on Native American traditions, religion and spirituality, and way of life. Without social justice no core of sustainability exists, which informs the lack of environmental justice employed by the ski industry, USFS, and federal policy in this case.

Not only do social and economic factors shape this case, but also long-term ecosystem and human health implications are a major area of concern. The precautionary principle is crucial in the Snowbowl case because it explains the gamble to public health

and the environment from using reclaimed wastewater for artificial snowmaking (Raffensberger and Tickner, 1999). The reclaimed wastewater slated to be used for artificial snowmaking on the Peaks will completely alter the natural ecosystem function of the area, while instilling unknown risks to human health. Although the USFS has argued no adverse impacts are believed to exist, more studies must be conducted to arrive at definitive conclusions. The potential effects and risks of this reclaimed wastewater use starts with the accountability of the EPA to absolve testing for emerging contaminants found in Flagstaff's reclaimed wastewater. To protect ecosystem and human health the precautionary principle must be applied to the final decision regarding the Snowbowl expansion plan. It will also aid federal land-use decisions that seek sustainable outcomes, especially in situations where land is managed in partnership with the ski industry.

Ecosystem and human health are not the only aspects of the Snowbowl case facing negative impacts. Native American religious practices will ultimately be destroyed if this plan is accepted because reclaimed wastewater desecrates their sacred site—the San Francisco Peaks (Deloria, 1994b). With the numerous Indigenous struggles domestically and abroad, and what is happening in the Peaks region, examples of socio-cultural issues, coupled with natural resource issues, provide a greater context for the struggles many people face each day to live a high quality of life. Protecting diverse cultures and environments speaks to anti-capitalistic possibilities for economic justice. The movement for environmental justice builds solidarity with cases like the Snowbowl offering its theory as a tool of empowerment for those most affected by this outcome (Bryant and Mohai, 1992).

There will never be true justice for Native Americans without self-determination. The colonizer has continued crafting policies that are labeled progressive, but they do not improve Native communities. The US Court system does not justly serve Native American interests, nor have federal regulations and policies that continue to undermine the protection of sacred sites (AIRFA, Lyng et al., Deloria, 1994b). This study argues that until Native Americans have control over their own destiny issues of injustice will continue. Therefore, true sovereignty, unattached to US plenary power, must facilitate a dialogue that brings respect, dignity, and provides a way to rebuild from the oppressive past. This will move land-use decisions like the Snowbowl case to provide a just future that does not cater to capitalistic malice, but instead recognizes the worth of autonomy through a postcolonial lens.

One unique implication of this work is that it remains attached to a reformist mentality regarding federal Indian policy. Since this case will be decided in the US Court system in the near future, how far reform will go to achieve justice based on the failures of the current system are questions posed from this study.

Several areas need further research. The inability for this research to engage in theories of self-determined policy by Native communities themselves is a topic that must be examined. The work done by the Save the Peaks Coalition and the main law firm supporting its perspectives deserves the highest praise, for without them these potential impacts would not be a potential, but a true reality.

If the original Ninth Circuit Court ruling stands, RFRA will be a monumental victory for the protection of Native American religions and sacred sites. It may also pave

the way for true environmental justice for Native people. However, as struggles continue, cruel history still looms over the Indigenous people. This case is crucial for setting a precedent to respect and honor cultural concerns expressed by a marginalized population and not allow the culture of the ski industry to prevail at the expense of cultural genocide.

The act of reform is one of the scenarios to emerge through the critical examination of the Snowbowl expansion plan because RFRA can bring forth true justice to the US Court system. A second scenario is to build upon the collaborative between Tribes and the USFS, through cases such as Mount Shasta and Cave Rock, and move Indigenous concerns to the forefront of issues that will affect their communities. The Native American voice must be acknowledged and respected if titles, such as TCP are to implement the change necessary to instill justice in the ongoing and future relationships between federal policy makers and First Nations. For Executive Orders and related policies, like NEPA, to go beyond words, they must instill environmental justice as a mandate so sacred sites will not continue to be desecrated.

The Native American Apology Resolution is a recent attempt, introduced by US Senator Sam Brownback, to apologize to all Native Americans for the failed federal policies the US government (Brownback, 2007). This resolution was recently approved in the Senate Committee and, as of the printing of this paper, is awaiting approval from the floor. This study acknowledges the attempts to reform a flawed system and supports to passing of RFRA. However, a just policy must resist succumbing to continued failures of the past and build on the groundswell of current activism. This can be celebrated as a step in decolonization. This path is viewed as a step towards answering how federal land-

use decisions can respect and honor the cultural concerns of marginalized populations and take into account ecological sustainability.

The final scenario presented in this research addresses the unsustainable trajectory of the ski industry which Hal Clifford forewarned snowriders about (Clifford, 2002). Implementation of the Snowbowl expansion plan would be a setback for the course of justice-driven federal policy, and continue a trend of disproportionate impacts to minority communities, specifically the First Nations involved in resisting the burdens placed upon them by the expansion of the Snowbowl. In the interest of furthering the profit margins of wealthy capitalists, unknown environmental and human health impacts would be perpetuated, and federal policy makers would remain unaccountable for the oppression of Native Americans if this plan were enacted. The potential for greater profits and expanded recreational opportunities for the affluent are evident, but above all, should this scenario become a reality, it represents the continued marginalization and domination of Native Americans.

This research honors ways to ensure Indigenous voices are heard, involved, incorporated, and respected into the decisions that dictate their communities' quality of life. Since first contact the colonizer, without any consideration for the Native American perspective, has handed down these decisions. To continue this research, the Snowbowl case must be viewed as an opportunity for reconciliation that unflinchingly acknowledges atrocities of the past and looks towards a healthy and sustainable future. The continued consumption and pollution of resources, and oppression of those without access to political power, will always undermine the quest for healthy communities and

environments. More work is needed in Black Mesa, Medicine Lake, and throughout the globe to highlight the perspectives of those who face the burdens imposed by those projects from which they stand to gain no benefit, while their sacred sites are desecrated.

In conclusion, the expansion of the Arizona Snowbowl ski area fosters irreparable damage to the environment and marginalizes Native American concerns for the sake of an uncertain business opportunity. Supporting this expansion plan supports racism, ecological destruction, and elitism. The only way federal land-use decisions can respect and honor cultural concerns expressed by Native Americans is by offering lasting protection for sacred sites. Furthermore, for sustainability to lead federal policy decisions that protect environments, the precautionary principle must lead decisions, such as those around spreading reclaimed wastewater into areas where humans, other organisms, and ecosystems may never regenerate after they are impacted. The ski industry must not be allowed to continue greenwashing and must be held accountable for perpetuating injustice in the Snowbowl case. They must also end the mind-set that continued resort expansion and growth is sustainable.

The recommendation of this research is formulaic in that the profit-driven motivations of a ski resort and the beaming privilege of uninformed snowriders equates to social injustice. Add to this the fact Snowbowl is in the middle of the desert and does not consider the influences of climate change or the viability of what artificial snowmaking will entail in their locale, and one can reasonably argue this project becomes highly illogical. However, this plan becomes most problematic when this erroneous scenario is proposed in the face of ecosystem health and the cultural survival of

thousands of Indigenous people. Regardless of the final court decision, this research stands firmly on its conclusion that this expansion plan must not go forward.

Environmental justice, applied as an umbrella of theory and based in social and ecosystem health, can act as the springboard necessary to create a sustainable land-use policy built upon the celebration of biodiversity and cultural diversity. As the implications of the Snowbowl expansion plan and this research go beyond Flagstaff, other sacred sites on public lands are left unprotected. Where recreation has created tensions with cultural resources, accountability must come from those placing the burden upon others. The burden is not felt by snowriders, who can move to another ski resort town, or by a rock climber who can climb twenty miles down the road away from Cave Rock, Nevada; but by those who fail to see how their actions allow choices, while others have none.

This work builds upon the environmental justice movement and begs for it to broaden its scope to issues like the Snowbowl, and to evolve to a place where its theory is applied. That is, environmental justice is only as real as if those who are affected the most by its principles can feel and live the fairness they deserve. For land-use policy to be sustainable, all community members must be afforded impartiality to live a high quality of life. When social justice becomes achievable, so does a healthy economy. None of this is possible without a healthy environment, but if these ingredients are nurtured and able to take root, a sustainable path for future generations will be achieved.

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## APPENDIX A

### *Acronyms*

1. ADEQ-Arizona Department of Environmental Quality
2. AIM-American Indian Movement
3. AIRFA-American Indian Religious Freedom Act
4. ARPA-Archeological Resources Protection Act
5. BBB-Bed, Board, and Booze (relating to income tax generated by municipalities)
6. BLM-Bureau of Land Management
7. CEQ-Council on Environmental Quality
8. DEIS-Draft Environmental Impact Statement
9. DOE-Department of Energy
10. EIS-Environmental Impact Statement
11. EPA-Environmental Protection Agency
12. FDA-Food and Drug Administration
13. FEIS-Final Environmental Impact Statement
14. IEN-Indigenous Environmental Network
15. IPCC-Intergovernmental Panel on Climate Change
16. MOA- Memorandum of Agreement
17. NAGPRA-Native American Graves Protection and Repatriation Act
18. NAU-Northern Arizona University
19. NEPA-National Environmental Policy Act
20. NHPA sec.106-National Historic Preservation Act Section 106
21. NSAA-National Ski Area Association
22. RFRA-Religious Freedom Restoration Act
23. RLUIPA-Religious Land Use and Institutionalized Person Act
24. ROD-Record of Decision
25. SACC-Ski Area Citizens Coalition
26. TCP-Traditional Cultural Property
27. US-United States
28. USFS-United States Forest Service
29. USGS-United States Geological Survey