

The public can join the meeting to provide public comment. Please notify Jessica Vigorito at [Jessica.Vigorito@flagstaffaz.gov](mailto:Jessica.Vigorito@flagstaffaz.gov) if you need any assistance joining the meeting.

ATTENTION  
IN-PERSON AUDIENCES AT COMMISSION MEETINGS HAVE BEEN SUSPENDED UNTIL FURTHER NOTICE

[Click here to participate in the online meeting](#)

## **NOTICE AND AGENDA**

**COMMISSION ON DIVERSITY AWARENESS**  
**Tuesday**  
**January 18, 2022**

**VIRTUAL TEAMS MEETING**  
**1:30 P.M.**

1. **Call to Order**

2. **Roll Call**

*NOTE: One or more Commission Members may be in attendance telephonically or by other technological means.*

DeAnn Wegwert, Chair  
Robert "Dan" Duke  
Claire Hardi  
Mandy Martinez Gebler

Marcela Pino  
Jean Toner, Vice Chair  
Christine Tucci

3. **Public Comment**

*The Commission cannot act upon items presented during the Public Participation portion of the Agenda. Individual Commission members may ask questions of the public but are prohibited by the Open Meeting Law from discussion or considering the item among themselves until the item is officially placed on the Agenda. Each public comment or presentation will be limited to five (5) minutes.*

4. **Approval of Minutes**

A. **Consideration and Approval of Minutes:** Commission on Diversity Awareness Meeting of December 21, 2021.

Approve the minutes of the Commission on Diversity Awareness Meeting of December 21, 2021.

5. **Date of Next Meeting-** February 15, 2022 at 1:30 P.M.

Staff Liaison out of town February 7th through the 13th

6. **Action Items**

A. **Black History Month Proclamation**

- Review and approve the draft Black History Month Proclamation.
- Discuss who will be attending the February 1st Council meeting on behalf of CODA.

- B. **Meeting Procedure Discussion**
  - Discuss and vote on reading the Land Acknowledgement and CODA Mission Statement during Regular Meetings.
  
- 7. **Reports/Discussion Items**
  - A. **Proclamations**
    - i. **Proclamations Work Group Update**
      - Discuss any upcoming Proclamations for the Work Group to focus on.
    - ii. **Proclamations Updates from Staff Liaison**
      - Mental Health Awareness Month May - Confirmed on Council's agenda May 3rd.
  
  - B. **Future/Pending Recommendations to Council**
    - i. **Recommendations for Consideration**
      - Anti Camping Ordinance - Update from the Workgroup
    - ii. **Renaming of the Peaks Workgroup Update**
      - Listen to the update from the Workgroup on the draft Recommendation to Council for support of the Native American High School group to rename the Peaks.
      - Discuss timing of approved recommendation to Council
  
  - C. **Current Commission Priorities**
    - i. **Equitable Restroom Recommendation**
      - Listen to the update from Chair Wegwert on the January 11th presentation to the Flagstaff City Council for a city ordinance regarding equitable restroom availability.
  
  - D. **Staff Liaison Update** regarding the City's reentry plan and impacts to Commission meetings.
  
- 8. **Agenda for Future Meeting(s)**
  - A. **Municipal Equity Index** - February meeting
    - Discuss the presentation from Chris Rhodes and determine any action items or follow up.
  
  - B. **CODA Regular Meeting Date/Time**: Discuss potential Regular meeting date/time change to accommodate Council meetings - February meeting.
  
- 9. **Adjournment**

CERTIFICATE OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Flagstaff City Hall on \_\_\_\_\_,  
at \_\_\_\_\_ a.m./p.m. This notice has been posted on the City's website and can be downloaded at [www.flagstaff.az.gov](http://www.flagstaff.az.gov).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Jessica Vigorito, Human Resources Analyst



**Commission on Diversity Awareness**

**4. A.**

**From:** Jessica Foos, Human Resources Analyst

**DATE:** 01/18/2022

**SUBJECT: Consideration and Approval of Minutes:** Commission on Diversity Awareness Meeting of December 21, 2021.

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**STAFF RECOMMENDED ACTION:**

Approve the minutes of the Commission on Diversity Awareness Meeting of December 21, 2021.

**Executive Summary:**

Minutes of the Commission meetings of the Commission on Diversity Awareness are a requirement of Arizona Revised Statutes and, additionally, provide a method of informing the public of discussions and actions being taken by the Commission.

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**Attachments**

December 2021 Regular meeting minutes DRAFT

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**DRAFT MINUTES**

**COMMISSION ON DIVERSITY AWARENESS**  
Tuesday  
December 21, 2021

**VIRTUAL TEAMS MEETING**  
**1:30 P.M.**

**1. Call to Order**

Chair Wegwert called the meeting to order at 1:31 PM.

**2. Roll Call**

<b><u>PRESENT</u></b>	<b><u>ABSENT</u></b>
DeAnn Wegwert, Chair	Christine Tucci
Robert "Dan" Duke	Marcela Pino
Claire Hardi	
Mandy Martinez Gebler	
Jean Toner, Vice Chair	

Others in Attendance:

- Jessica Vigorito - Staff Liaison

**3. Public Comment**

Marian Moore descendant of Louie Agassiz – spoke during the Land Acknowledgment update.

**4. Approval of Minutes**

A. **Consideration and Approval of Minutes:** Commission on Diversity Awareness Meeting of November 22, 2021.

- Commissioner Wegwert motioned for the November 22, 2021 minutes to be approved.
- Commissioner Gebler seconded the motion.
- Motion approved unanimously.

**5. Date of Next Meeting - January 18, 2022**

No conflicts stated in the meeting.

## **6. Action Items**

### **A. Black History Month Proclamation**

- The workgroup partnered with Kara House with the Advisory County Commission and is in line with the National objectives.
- Recommended changes – replace “first as pioneers” with “first as citizens”.
- Public Participant Darrell Marks asked where the verbiage comes from, Commissioner Toner gave the history of the last two years on the Black History Month proclamations and stated they collaborated with the County for this Proclamation.
- Commissioner Hardi asked if the County was in support of the Proclamation verbiage and asked if they could view the Indigenous Proclamation but would want the County Commission to weigh in if changes were made.
- Commissioner Toner asked whether Southside Community association, Deb Harris could also be used a resource for this Proclamation.
- Chair Wegwert asked if we could bring it back on the January agenda.
- Public Participant Darrell Marks offered to share the draft that the Indigenous Commission originally proposed to the City and offered to assist the Proclamations work group.
- Commissioner Gebler has a former colleague at NAU for Inclusion and can ask for input as well.
- All agreed to review a new draft in the January 18<sup>th</sup> meeting.

## **7. Reports/Discussion Items**

### **A. Land Acknowledgment Workgroup Update**

- The Native American High School Group provided an update on their efforts to rename the Agassiz Peak and asked for the Commission to write a letter of support to send to Department of the Interior. The request will include a Geographic Name report to remove the name Agassiz housed with the Forest Service.
- Son of Darrell Marks stated they need the letter from the Commission.
- Commissioner Gebler stated she would like to see a letter of support and offered assistance to write the letter. Commissioner Hardi asked if they could write a letter from Commission. Staff liaison clarified that letter of support to Council is within the Enacting Authority, not writing a letter to the Federal government on behalf of City. Public Participant Marian Moore gave the history of the Agassiz family and stated support of the effort.
- Commissioner Duke left the meeting at 2:17pm.
- Chair Wegwert asked about a deadline for the letter. Public Participant Darrell Marks stated no specific due date but stated before the snow melts and the Mountain wakes back up.
- Staff liaison asked if this request was scheduled to present before Council. Chair Wegwert asked if the group has discussed the request with the Indigenous Commission.
- Chair Wegwert asked if there is a letter for Council, could the Commission review it at the January meeting? Commissioner Gebler encouraged to work with the Indigenous Commission but supports having a letter from CODA separately. Commissioner Gebler would like to ensure the Indigenous Commission is aware the Commission on Diversity Awareness is sending a letter. Commissioner Toner requested Staff Liaison to reach out to the Indigenous Commission and ask if they would like to participate in

the January 18<sup>th</sup> meeting. Public Participant Darrell Marks stated they have not presented to City Council or the Indigenous Commission yet. Commissioner Wegwert asked for members to work on the draft letter for the January 18<sup>th</sup> meeting. Commissioner Wegwert motioned to have a Commission member draft a letter to support the name change of the Peaks for consideration at the January 18<sup>th</sup> meeting. Commissioner Toner seconded the motion, Commissioner Gebler third, Motion approved unanimously. Commissioner Wegwert asked who else would like to work with Commissioner Gebler, Commissioner Toner offered to work on this draft as well. Commissioner Gebler asked if the letter should be viewed by Public Participant Darrell Marks. Public Participant Darrell Marks offered help with the letter.

- Staff Liaison updated the group that Commissioner Toner read the Land Acknowledgment at the October 26<sup>th</sup> City Council meeting.
- Commissioner Toner asked to add an item to the January agenda: vote on whether the meetings should begin with stating the Land Acknowledgment at CODA meetings.

## **B. Proclamations**

### **i. Proclamations Work Group Update**

- Commissioner Gebler stated the Proclamation is in May, not March. Staff Liaison should request a Council date change to May for Mental Health Awareness.

## **C. Recommendations to Council and Current Commission Priorities**

### **i. Thank You letter for Flagstaff High School Student Club**

Staff Liaison informed the group that the Thank You Letter was sent on November 30, 2021 from the Mayor's Office.

### **ii. Equitable Restroom Recommendation**

- This will be on Council agenda January 11th. Commissioner Wegwert will be in attendance and can present the information.
- Discuss who will present the information for Council's discussion. How long will the presentation be? Chair Wegwert will get back to the Staff Liaison. .
- Discuss next steps from the Municipal Equity Index presentation.
  - Commissioner Toner asked to add this to the February agenda.

### **iii. Recommendations for Consideration**

Anti Camping Ordinance - Update from the Workgroup

- Commissioner Hardi stated that there have been some Council discussion on this topic. Commissioner Toner asked about current Anti Camping Ordinance. Staff Liaison was unsure. Chair Wegwert asked to keep this on the agenda.

## **D. Meeting Date and Time Discussion**

- Staff Liaison stated that this meeting is close and overlaps with Council meetings and would the Commission consider moving the date and time to allow Council Liaison to attend.
- Commissioner Toner would like to discuss this at the February meeting. Commissioner Wegwert asked about Staff Liaison schedule. Commissioner Wegwert also reminded the group that having a quorum is important.

**8. Agenda for Future Meeting(s)**

Staff Liaison noted that the following needed to be added back to the Future Priorities section:

- Criminal Justice conversation with Flagstaff Police Department
- Conversation with Downtown Business Alliance including literature to distribute
- Civil Rights

**9. Adjournment**

Chair Wegwert adjourned the meeting at 2:56 PM.



**Commission on Diversity Awareness**

**6. A.**

**From:** Jessica Foos, Human Resources Analyst

**DATE:** 01/18/2022

**SUBJECT:** **Black History Month Proclamation**

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**STAFF RECOMMENDED ACTION:**

- Review and approve the draft Black History Month Proclamation.
- Discuss who will be attending the February 1st Council meeting on behalf of CODA.

**Executive Summary:**

Proclamations are made by the Mayor of Flagstaff. The Commission on Diversity Awareness is drafting proclamations to suggest to the Mayor to further promote diversity in the City of Flagstaff.

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**Attachments**

Black History Month Proclamation draft

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**CITY OF FLAGSTAFF – OFFICE OF THE MAYOR**

**PROCLAMATION**

**The City of Flagstaff celebrates the rich cultural traditions and proud ancestry of African Americans and peoples of the African Diaspora and recognizes the vital contributions African American peoples and peoples of the African Diaspora have made to strengthen and diversify our community; and**

African Americans and peoples of the African Diaspora have played, and continue to play, an integral role in shaping, developing, and creating a vibrant city, first as innovators working in the city’s sawmills and railroads, and later as educators and professors, civil rights activists, community organizers, and public servants including a Mayor; and

**The 2022 theme for Black History Month is "Black Health and Wellness," and recognizes both the contributions and legacy of African Americans and peoples of the African Diaspora to the fields of medicine, health, and wellness, including multiple ways of knowing that inform the work of birth workers, doulas, midwives, naturopaths, herbalists, etc. We recognize as well, the historic economic and health disparities faced by members of the African American community and peoples of the African Diaspora, that while longstanding, have recently been highlighted by the SARS-CoV-2 pandemic, and**

**The Flagstaff City Council dedicated to understanding the Black Lived Experience and its commitment to doing so through the adoption of the Lived Black Experience Strategic Plan in Dec. 2020 that provides clear direction and guidance to address conditions of African Americans and Peoples of the African Diaspora in the Flagstaff community; and**

**The Commission on Diversity Awareness, in partnership with Coconino County African Diaspora Advisory Council and the Southside Community Association recommends the designation of February 2022 as Black History Month, in unison with national and statewide observances;**

**NOW, THEREFORE, I, PAUL J. DEASY, MAYOR OF THE CITY OF FLAGSTAFF, do hereby proclaim the month of February 2022 as:**

**BLACK HISTORY MONTH**

**DATED** this 1st day of February 2022

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**MAYOR**

**ATTEST:**

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**CITY CLERK**



**Commission on Diversity Awareness**

**6. B.**

**From:** Jessica Foos, Human Resources Analyst

**DATE:** 01/18/2022

**SUBJECT:** Meeting Procedure Discussion

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**STAFF RECOMMENDED ACTION:**

Discuss and vote on reading the Land Acknowledgement and CODA Mission Statement during Regular Meetings.

**Executive Summary:**

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**Attachments**

Land Acknowledgement

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Land Acknowledgement  
To be read at the beginning of CODA meetings  
To be voted on

This Land Acknowledgement is the same as the one adopted by the Flagstaff City Council

The Flagstaff City Council humbly acknowledges the ancestral homelands of this area's Indigenous nations and original stewards. These lands, still inhabited by Native descendants, border mountains sacred to Indigenous peoples. We honor them, their legacies, their traditions, and their continued contributions. We celebrate their past, present, and future generations who will forever know this place as home.



**Commission on Diversity Awareness**

**7. A. i.**

**From:** Jessica Foos, Human Resources Analyst

**DATE:** 01/18/2022

**SUBJECT:** Proclamations Work Group Update

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**STAFF RECOMMENDED ACTION:**

- Discuss any upcoming Proclamations for the Work Group to focus on.

**Executive Summary:**

Proclamations are made by the Mayor of Flagstaff. The Commission on Diversity Awareness is drafting proclamations to suggest to the Mayor to further promote diversity in the City of Flagstaff.

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**Commission on Diversity Awareness**

**7. B. i.**

**From:** Jessica Foos, Human Resources Analyst

**DATE:** 01/18/2022

**SUBJECT:** **Recommendations for Consideration**

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**STAFF RECOMMENDED ACTION:**

Anti Camping Ordinance - Update from the Workgroup

**Executive Summary:**

Commission recommendations are important to the City Council and they are taken under consideration for possible action. The City Council has several options and may:

- Accept the recommendation and give further direction.
- Change the provisions of a recommendation before giving further direction.
- Send a matter back for further consideration.
- Not accept the recommendation.

**Previous Council Decision on This:**

This was listed as a FAIR item on Council's July 9th agenda.  
October 19, 2022 Discussed at City Council meeting

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**Commission on Diversity Awareness**

**7. B. ii.**

**From:** Jessica Foos, Human Resources Analyst  
**DATE:** 01/18/2022  
**SUBJECT:** **Renaming of the Peaks Workgroup Update**

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**STAFF RECOMMENDED ACTION:**

- Listen to the update from the Workgroup on the draft Recommendation to Council for support of the Native American High School group to rename the Peaks.
- Discuss timing of approved recommendation to Council

**Executive Summary:**

**Informal Working Groups**

Informal working groups may be created to research, gather information, and provide recommendations back to the commission on various matters. No official appointments are made to a working group by the commission. Working groups may consist of members of the public and/or less than a quorum of commission members. Unlike subcommittees, working groups are not required to have formal agendas or minutes.

All information and recommendations from the work group must be provided and presented to the commission in an open meeting for public discussion. Informal working groups do not have any powers, duties, or responsibilities of the parent commission. No actions, statements, or recommendations can be made or provided by the working group on behalf of the commission

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**Attachments**

Dr. Silver Report  
Presentation from students  
Land Acknowledgment Recommendation  
Flagstaff Water Resources information email

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# **CITY OF FLAGSTAFF “DENIES” HOPI RELIGIOUS BELIEFS in SNOWBOWL LEGAL FILINGS**

**City compares harm to Hopi religion by use of City’s reclaimed wastewater on sacred area as similar to recreational boat owners being “deprived of no more than their occasional Sunday piscatorial [fishing] pleasure.”**

Excerpted quotations from the City of Flagstaff’s legal filings in *The Hopi Tribe v. Flagstaff* (with **Emphasis Added**) follow.

From the **City of Flagstaff’s October 10, 2014, VERIFIED ANSWER AND THIRD-PARTY COMPLAINT** in *The Hopi Tribe, Plaintiff, vs. The City of Flagstaff, Defendant.*; NO. CV2011-00701; in the Superior Court of the State of Arizona in and for the County of Coconino:

“...Without any evidence to support its [the Hopi’s lawsuit Complaint’s] inflammatory claims, Plaintiff [the Hopi Tribe] asks this Court to grant it relief that has broad-reaching, and, frankly, disastrous, implications upon Arizona’s comprehensive statutory scheme of water use. There is no public nuisance here [by the City’s reclaimed wastewater contaminating of Hopi sacred sites on the San Francisco Peaks].”...

115. Defendant [the City of Flagstaff] lacks knowledge or information sufficient to form a belief regarding the truth of the allegations in paragraph 115 of the complaint [that “The Peaks have played a central and essential role in Hopi culture, traditions, and way of life for centuries. The Peaks, known as Nuvatukya’ovi to the Hopi, are the single most important sacred place the Hopi have. Every month Tribe members go to the Peaks for prayers, and during some months tribe members collect water, greens, and herbs for the ceremonies.”], and therefore [the City of Flagstaff] denies the same [that “The Peaks have played a central and essential role in Hopi culture, traditions, and way of life for centuries. The Peaks, known as Nuvatukya’ovi to the Hopi, are the single most important sacred place the Hopi have...”].

116. Defendant [the City of Flagstaff] lacks knowledge or information sufficient to form a belief regarding the truth of the allegations in paragraph 116 of the complaint [that “The Hopi have been making regular pilgrimages and trips to the Peaks since before recorded history as a central part of their culture and the Hopi way of life. The various Hopi ceremonies conducted during the year, particularly Powamuya in the winter and Niman in the summer, require visits and offerings to specific shrines on the Peaks.”], and therefore [the City of Flagstaff] denies the same” [that “The Hopi have been making regular pilgrimages and

trips to the Peaks since before recorded history as a central part of their culture and the Hopi way of life...”]...

122. Defendant [the City of Flagstaff] lacks knowledge or information sufficient to form a belief regarding the truth of the allegations in paragraph 122 of the complaint [that “There are Hopi sacred areas, including shrines, in the immediate vicinity of the Snowbowl Resort Area.”], and therefore [the City of Flagstaff] denies the same [that “There are Hopi sacred areas, including shrines, in the immediate vicinity of the Snowbowl Resort Area.”]...

125. Defendant [the City of Flagstaff] lacks knowledge or information sufficient to form a belief regarding the truth of the allegations in paragraph 125 of the complaint [“The Hopi collect water from springs on the Peaks and use the water for a variety of ceremonial activities. Several of the springs on the Peaks are associated with specific ceremonies and religious societies.”], and therefore [the City of Flagstaff] denies the same [that “The Hopi collect water from springs on the Peaks and use the water for a variety of ceremonial activities. Several of the springs on the Peaks are associated with specific ceremonies and religious societies”]...

135. Defendant [the City of Flagstaff] lacks knowledge or information sufficient to form a belief regarding the truth of the allegations in paragraph 135 of the complaint [“Artificial snow made with reclaimed wastewater will introduce numerous chemicals that are not degraded or removed in the wastewater treatment process to the San Francisco Peaks, in particular to the areas in the Snowbowl Resort Area and its vicinity that have been a part of Hopi use for ceremonial pilgrimages and hunting and gathering trips for centuries.”], and therefore denies the same [that “Artificial snow made with reclaimed wastewater will introduce numerous chemicals that are not degraded or removed in the wastewater treatment process to the San Francisco Peaks, in particular to the areas in the Snowbowl Resort Area and its vicinity that have been a part of Hopi use for ceremonial pilgrimages and hunting and gathering trips for centuries”], except [the City of Flagstaff] avers [asserts as fact]...upon information and belief, that the ceremonial significance of the San Francisco Peaks to the Hopi Tribe (among others [Navajo, Havasupai, Hualapai, Yavapai Apache, and White Mountain Apache]) was fully litigated in the eleven-day Religious Freedom Restoration Act Trial conducted in *Navajo Nation v. US Forest Serv.*, 408 F. Supp. 2d 866 (D. Ariz. 2006), *aff’d*, 535 F.3d 1058 (9th Cir. 2008).”<sup>1</sup>

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<sup>1</sup> *Navajo Nation v. US Forest Serv.* directly resulted from the City of Flagstaff’s decision to defer and refer to the Forest Service the decision to respect Tribal cultural and religious concerns regarding use of reclaimed wastewater on the Peaks. The City made this decision to defer and refer in spite of the fact that the Forest Service decision would inevitably be preordained to reject Tribal concerns. In *Navajo Nation v. US Forest Serv.*, the Navajo, Hopi, Havasupai, Hualapai, Yavapai Apache, and White Mountain Apache challenged in federal court the Forest Service decision to reject Tribal concerns regarding the use of reclaimed wastewater on the Peaks.

Excerpts from *Navajo Nation v. US Forest Serv.* that the City of Flagstaff “avers” or asserts as factual include:

...5. The Ninth Circuit has clearly articulated the proper legal standard to be applied in this case: an action “burdens the free exercise of religion if it puts substantial pressure on an adherent to

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modify his behavior and violate his beliefs, including \*904 when . . . it results in the choice of an individual of either abandoning his religious principle or facing criminal prosecution." *Guam*, 290 F.3d at 1222. . . .

7. **The government's land management decision will not be a "substantial burden" absent a showing that it coerces someone into violating his or her religious beliefs or penalizes his or her religious activity.** *Lyng*, 485 U.S. at 449-53, 108 S. Ct. 1319...*see Wilson*, 708 F.2d at 741 ("Many government actions may offend religious believers, and may cast doubt upon the veracity of religious beliefs, but unless such actions penalize faith, they do not burden religion."); *see also Havasupai Tribe*, 752 F.Supp. at 1484-1486 (finding Forest Service approval of plan for operations of uranium mine does not substantially burden exercise of religion because, although Havasupai Tribe's religious and cultural belief systems are "intimately bound up" in the site, "Plaintiffs are not penalized for their beliefs, nor are they prevented from practicing their religion."); *Means*, 858 F.2d at 406-07 (finding no substantial burden where "[t]he Forest Service has performed no act of compulsion to interfere with appellees' ceremonies or practices nor has it denied them access to [the Forest lands] for religious purposes").

8. Indeed, "Courts consistently have refused to disturb governmental land management decisions that have been challenged by Native Americans on free exercise grounds." *Means*, 858 F.2d at 407 (providing citations to numerous cases). . . .

10. **The evaluation of when the government's land management decisions cross the line from legitimate conduct to unconstitutional prohibitions on the free exercise of religion "cannot depend on measuring the effects of a governmental action on a religious objector's spiritual development."** *Lyng*, 485 U.S. at 451, 108 S. Ct. 1319. . . .

13. Here, Plaintiffs have failed to demonstrate that the Snowbowl decision coerces them into violating their religious beliefs or penalizes their religious activity. *Cf. Lyng*, 485 U.S. at 449, 108 S. Ct. 1319. In fact, the Forest Service has guaranteed that religious practitioners would still have access to the Snowbowl and the approximately 74,000 acres of the CNF that comprise the Peaks for religious purposes. . . .

15. Plaintiffs' assertions of perceived religious impact are near identical to those voiced by the Hopi Tribe and the Navajo Nation in *Wilson v. Block*. In that case, the plaintiffs [Navajo Nation] similarly asserted that "development of the Peaks would be a profane act, and an affront to the deities, and that, in consequence, the Peaks would lose their healing power and otherwise cease to benefit the tribes." 708 F.2d at 740. They [Navajo Nation] contended "that development would seriously impair their ability to pray and conduct ceremonies upon the Peaks." *Id.* Considering this information, the D.C. Circuit found the agency's decision did not substantially burden the tribes' exercise of religion. *Id.* at 745. The same decision is warranted here. The subjective views and beliefs presented at trial, although sincerely held, are not sufficient for the proposed project to constitute a substantial burden under RFRA [Religious Freedom Restoration Act] on the practice of religion by any Plaintiff or any members of any Plaintiff tribe or nation. . . .

18. The Snowbowl decision does not bar Plaintiffs' access, use, or ritual practice on any part of the Peaks. The decision does not coerce individuals into acting contrary to their religious beliefs nor does it penalize anyone for practicing his or her religion. . . .

28. ...*Lyng*, 485 U.S. at 453, 108 S. Ct. 1319 ("Whatever \*907 rights the Indians may have to the use of the area . . ., those rights do not divest the Government of its right to use what is, after all, *its* land.")...)

... \*908 III. Conclusion

**The Forest Service properly observed all of the procedural requirements during the various stages of approving the Snowbowl project, including preparation of an extensive EIS [Environmental Impact Statement]..."**

This case, *Navajo Nation v. US Forest Serv.*, now cited by the City of Flagstaff, directly resulted from the City of Flagstaff's March 19, 2002, refusal to evaluate, on its own, Tribal concerns regarding the effects of the City's clearance to use its reclaimed wastewater on the Peaks. Instead of respecting Tribal concerns, the City of Flagstaff chose to defer and refer to the Forest Service the evaluation and the ultimate decision. This decision essentially guaranteed that Tribal concerns would be rejected based on (1) the Forest Service's history of consistently denying protection of sacred sites, and (2) the Forest Service's history of success in defending its consistent denials of sacred site protection in court.

Snowbowl's "future depends on artificial snow making."<sup>2</sup> On February 21, 2002, the Snowbowl formally asked the City of Flagstaff for a commitment to sell the City's reclaimed wastewater for use on the Peaks.<sup>3</sup> By March 19, 2002, the City of Flagstaff swiftly agreed to sell its reclaimed wastewater to the Snowbowl contingent on the Forest Service's ultimate "decision" regarding its use.<sup>4</sup>

Predictably, the Forest Service would go through the motions to produce an outcome-preordained environmental study rejecting Tribal concerns. Ultimately and predictably, the Forest Service would then defend its "decision" in *Navajo Nation v. US Forest Serv.* **The outcome in *Navajo Nation v. US Forest Serv.* was completely predictable owing to the April 19, 1988, U.S. Supreme Court ruling, *Lyng v. Northwest Indian Cemetery Prot. Assn.*, 485 U.S. 439 (1988) ["*Lyng*"]. In *Lyng*, the U.S. Supreme Court ruled, that the Forest Service may destroy the sacred nature of its land as long as the government does not "coerce" one to violate their religious belief.**

Specifically, in *Lyng*, the U.S. Supreme Court rules,

**"...Incidental effects of government programs, which may interfere with the practice of certain religions, but which have no tendency to coerce individuals into acting contrary to their religious beliefs, do not require government to bring forward a compelling justification for its otherwise lawful actions...Even assuming that the Government's actions here will virtually destroy the Indians' ability to practice their religion, the Constitution simply does not provide a principle that could justify upholding respondents' [Native American's] legal claims."**

Since 1988, *Lyng* and its following legal rulings unfortunately have become the defining legal authority in obstructing protection of sacred sites on public lands. **Simply stated, *Lyng* summarily declares that (1) the Forest Service's right to use its land as it wishes overrides the claim of Native American religious practitioners, because the government is not**

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<sup>2</sup> "Court rejects ski resort's snow plan for wastewater," Bruce Geiselman, Waste News, March 19, 2007 ("The operators of the Arizona Snowbowl said...the resort's future depends on artificial snow making."); See also: Draft Environmental Impact Statement for Arizona Snowbowl Facilities Improvements, Coconino National Forest, Coconino County, Arizona, February 2004.; and Final Environmental Impact Statement for Arizona Snowbowl Facilities, Volume 1, Coconino National Forest, Coconino County, Arizona, February 2005.

<sup>3</sup> "Snowbowl files reclaimed water plan," Jeff Tucker, Arizona Daily Sun, February 19, 2002.

<sup>4</sup> City of Flagstaff City Council Minutes, March 19, 2002.

**literally outlawing Native American religion, and (2) the First Amendment protects belief, but not the ability to practice religion for Native Americans.**

*Lyng* and its following legal rulings have been the controlling legal authorities governing non-protection of Native American sacred sites since 1988. **In 2002, the City of Flagstaff would have certainly known of *Lyng* and of the pain and suffering *Lyng* has been causing in Indian Country.**

Nonetheless, on March 19, 2002, the Flagstaff City Council unanimously passed a motion to “enter into an agreement to sell reclaimed wastewater” to Arizona Snowbowl saying “that the purpose of the NEPA [National Environmental Policy Act Forest Service] process is to take all cultural, social, religious, and environmental issues into account as part of the body of information used to make a decision at the next level...”<sup>5</sup>

**The City of Flagstaff’s ignoring the 1988, U.S. Supreme Court *Lyng* decision is obviously a lie by omission. Forest Service’ NEPA evaluations and decisions, subsequent to the 1988, *Lyng* decision, do not protect Native American sacred sites and religious practices on federal lands. The cultural and religious concerns of the Navajo, Hopi, Hualapai, Havasupai, Yavapai Apache and White Mountain Apache would not influence, would not affect, nor would these concerns change the predetermined Forest Service NEPA approval of the use of reclaimed wastewater on the Peaks resulting from the City’s deferral and referral to the Forest Service.**

From the **City of Flagstaff’s June 21, 2017, City of Flagstaff’s Answering [Appellate] Brief in 2017 WL 3198131, Court of Appeals of Arizona, Division 1.; The Hopi Tribe, v. The City of Flagstaff, Defendant/Appellee., and Arizona Snowbowl Resort Limited Partnership, Third-Party Defendant/Appellee.:**

**“While the Hopi may enjoy the Peaks in different manner than hikers, photographers, bird watchers, hunters, or other uses, the use and enjoyment of the Peaks which they claim is no different than that of any other group or the public at large.”...**

**“The City of Flagstaff submits that this Court should affirm the trial court and, in doing so, should award it fees and costs for this appeal.”**

From the **Appellate Court’s February 8, 2018, OPINION in the City of Flagstaff’s Appeal from the Superior Court in Coconino County** in the Arizona Court of Appeals, Division One; *The Hopi Tribe, Plaintiff/Appellant, v. ARIZONA SNOWBOWL RESORT LIMITED PARTNERSHIP, et al. [City of Flagstaff], Defendants/Appellees.*; No. 1 CA-CV 16-0521, FILED 2-8-2018; Appeal from the Superior Court in Coconino County, No. S0300CV201100701:

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<sup>5</sup> These quotations come from the March 19, 2002, City Council minutes. City officials at the time included, Mayor Joseph Donaldson; Council Members Vice Mayor Karen Cooper, Allen Edgar, Bill Jeffery, Libby Silva, Penny Tovillion, and Al White, City Manager Dave Wilcox, and City Attorney Joe Bertoldo.

**“Because we find the Tribe sufficiently alleged the use of reclaimed wastewater causes its members a special injury, different in kind than that suffered by the general public, by interfering with places of special cultural and religious significance to the Tribe, we reverse the trial court’s dismissal...**

This emphasis on the emotional, cultural, and religious significance of the cemetery in *Beatty* supports the Tribe’s argument here that interference with a place of special importance can cause special injury to those personally affected, even when that place of special importance is upon public land.

¶13 Adopting this position, we find that within its complaint, the Tribe sufficiently alleges special injury. ... the Tribe alleges:

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

138. ... **Natural resources that the Hopi collect, as well as shrines, sacred areas, and springs on the Peaks will come into contact with the blown reclaimed wastewater . . . . This negatively impacts the Hopi’s use of the Snowbowl Resort Area, the Wilderness Area, and surrounding areas, and causes Hopi practitioners to stop using the areas they have traditionally used. ...**

201. **The Hopi Tribe suffers specific injury . . . because the prevailing winds will blow the artificial snow outside the boundaries of the application area thus negatively impacting Hopi’s use of these areas, including for ceremonial practices. ...**

202. **The Hopi Tribe will suffer specific injury . . . because the artificial snow will blow towards, and melting snow will runoff into, springs and water bodies the Hopi Tribe uses for ceremonial and utilitarian purposes. ...**

¶14 **We are not persuaded by the City’s reliance upon *Oppen v. Aetna Insurance Co.*, 485 F.2d 252 (9th Cir. 1973). There, the Ninth Circuit held that boat owners seeking to recover damages following an oil spill were not specially injured when “deprived of no more than their occasional Sunday piscatorial pleasure.” *Id.* at 253, 260 (internal quotations omitted). Unlike *Oppen*, where the boat owners’ loss of navigation rights was no different in kind from that suffered by the public generally, *see id.* at 260, here, the Tribe distinguishes its cultural and religious interest in the Peaks from the recreational interests of the public at large. ...**

#### **CONCLUSION**

¶19 **The trial court’s order dismissing the Tribe’s complaint is reversed...**”

The City of Flagstaff appealed the appellate court ruling to the Arizona Supreme Court. From the City of Flagstaff’s March 12, 2018, PETITION FOR REVIEW IN THE SUPREME COURT STATE OF ARIZONA; The Hopi Tribe, Plaintiff/Appellant, v. The City

of Flagstaff, Arizona, Defendant/Appellee, and Arizona Snowbowl Resort Limited Partnership, Third-Party Defendant/Appellee.; Arizona Supreme Court No. CV-18-0057-PR:

“The City of Flagstaff, Arizona hereby petitions that this Court review the decision rendered by the Court of Appeals, Division One, dated February 8, 2018 in the above-captioned matter. ...

**The “injury” alleged by the Complaint is the environmental damage of using reclaimed water for snowmaking. That injury is common to all of the public who frequent or utilize the area for many different purposes. ...”**

From the **City of Flagstaff’s May 29, 2018, SUPPLEMENTAL MEMORANDUM in the State of Arizona Supreme Court; The Hopi Tribe, Plaintiff/Appellant, v. The City of Flagstaff, Arizona, Defendant/Appellee.; and Arizona Snowbowl Resort Limited Partnership, Third-Party Defendant/Appellee; No. CV-18-0057-PR.:**

**“The Hopi Tribe lacks standing to bring a public nuisance claim because it has no “special injury” different than the environmental injury suffered by the public who use the Peaks.”...**

**“...The Hopi cite to no case which supports their position that environmental damage to religious objects is a “special injury...The injury that is alleged as public nuisance is environmental damage common to all who use the San Francisco Peaks” ...”**

The City of Flagstaff’s appeal to the Arizona Supreme Court to reverse the appellate court’s ruling in favor of the Hopi was successful. The Arizona Supreme Court ruled in favor of the City of Flagstaff against the Hopi. From HOPI TRIBE, *Plaintiff/Appellant*, v. ARIZONA SNOWBOWL RESORT LIMITED PARTNERSHIP, ET AL [City of Flagstaff], *Defendants/Appellees.*; No. CV-18-0057-PR, Filed November 29, 2018, in the Supreme Court of the State of Arizona; Appeal from the Superior Court in Coconino County, **AFFIRMED;** Opinion of the Court of Appeals, Division One, 244 Ariz. 259 (App. 2018), **VACATED AND REMANDED:**

“...opinion of the Court:

**¶1 Private parties may bring public nuisance claims in Arizona if the alleged nuisance caused the plaintiff special injury, meaning “damage [that is] different in kind or quality from that suffered by the public in common.” *Armory Park Neighborhood Ass’n v. Episcopal Cmty. Servs. in Ariz.*, 148 Ariz. 1, 5 (1985). Today we hold, as a matter of law, that environmental damage to public land with religious, cultural, or emotional significance to the plaintiff is not special injury for public nuisance purposes.” ...**

¶14 Primarily relying on *In re Exxon Valdez*, 104 F.3d 1196 (9th Cir. 1997), Snowbowl contends that the alleged injury here is to the Tribe’s “desire to enjoy ‘pristine natural surroundings,’” *see id.* at 1198, which “is a right shared by the public generally.” Snowbowl argues that injury is not transformed into “special harm” “[j]ust because [the Tribe’s] members . . . wish to access the Peaks for religious reasons” when “others’ motivations are environmental or recreational.” The Tribe counters that “the reclaimed wastewater has directly and significantly impeded [its] use and enjoyment of a place of special importance to the Tribe by thwarting [its] religious practices” on the Peaks. According to the Tribe, such “significant interference with its use of sacred places that have formed a central component of its cultural and religious life since before recorded history” constitutes “injury [that] is clearly different in kind [from] that suffered by the public.” The Tribe maintains that recognizing its injury as “special” “fits squarely within long-established Arizona and other applicable precedent,” including *Armory Park* and *Beatty*, and supports its public nuisance claim...

¶15 We [the Arizona Supreme Court justices] agree with Snowbowl. Contrary to the Tribe’s assertion that the place-of-special-importance form of special injury is consistent with Arizona law, **the only public nuisance cases in which we have recognized special injury involved property or pecuniary [monetary] interests not present here.** ...

¶19 *Lyng* illustrates this well. There, various parties, including “an Indian organization, individual Indians, nature organizations and individual members of those organizations, and the State of California,” brought a religious-freedom-based challenge to a proposed road upgrade and timber harvesting in California’s Chimney Rock area. 485 U.S. at 443. The plaintiffs claimed that those projects violated their rights under the First Amendment’s Free Exercise Clause and various federal statutes. *Id.*

¶20 The United States Supreme Court rejected the challenge, *id.* at 453 [*Lyng*], despite recognizing that “the logging and road-building projects at issue in th[e] case could have devastating effects on traditional Indian religious practices” that are “intimately and inextricably bound up with the unique features of the Chimney Rock area,” *id.* at 451.

¶21 As the Court in *Lyng* observed, “[w]hatever rights the Indians may have to the use of the area, . . . those rights do not divest the Government of its right to use what is, after all, *its* land.” ... Although this case does not involve First Amendment or federal statutory claims, it similarly illustrates how the place-of-special-importance category the Tribe urges (and the court of appeals embraced) would essentially empower a lone plaintiff to interfere with decisions by public officials (made here after extensive input from interested parties, including the Tribe) concerning the best use of public lands...

¶22 The reclaimed water contract at issue here went through a nearly decade long review process in which the Tribe participated and actively voiced its opposition. That process included a series of public hearings at which the City considered alternatives to reclaimed water. And after approving the contract

**with Snowbowl, the City considered, held public comment on, and ultimately denied a motion to reconsider its decision. ...”**

For the reasons stated above, we affirm the trial court’s judgment in favor of Snowbowl and the City on the Tribe’s public nuisance claim, vacate the court of appeals’ opinion, and remand the case to the court of appeals to determine whether the trial court’s fee award is supportable and appropriate...”

Quotations from media coverage of the Arizona Supreme Court ruling are instructive. From the November 29, 2018, Arizona Republic, in “Hopi lose arguments on Snowbowl snowmaking in state Supreme Court ruling,”:

“A sad comment on our law’

In their dissent, Chief Justice Bales and Justice Bolick argued that the majority’s ruling “largely ignores the distinctive harms alleged by the Hopi” and undermined the very purpose of the public nuisance law.

“The majority fails to appreciate that the wastewater will affect the Hopi’s use and enjoyment of ancestral lands that have played a central role in Hopi culture and religion since before the Coconino National Forest was of concern to the broader public,” the dissenters wrote...

“We may live in a material world,” they wrote, “but it is a sad comment on our law to suggest that other interests — such as religious traditions and practices manifest through millennia and recognized by federal law — cannot support a claim of special injury for purposes of the public nuisance doctrine.”<sup>6</sup>

From the November 30, 2018, Arizona Daily Sun and the Associated Press, in “High court rules against Hopi Tribe in snowmaking challenge,”:

**“The city of Flagstaff declined comment on the ruling. ...**

In a dissenting opinion, Chief Justice Scott Bales said the court has long recognized that special injury can extend beyond property and monetary rights. He said it’s ironic that if the Hopi sold pine boughs or pinon nuts gathered from the mountain, the majority would allow a special injury claim.

“The general public does not have millennia of religious practice in the area that will be covered in a fine film of reclaim sewage,” Bales wrote. “Nor does the general

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<sup>6</sup> “Hopi lose arguments on Snowbowl snowmaking in state Supreme Court ruling, Arizona Republic, November 29, 2018, <https://www.azcentral.com/story/news/local/arizona/2018/11/29/hopi-lose-arguments-snowbowlsnowmaking-state-supreme-court-ruling/1997219002/> .

public have rights of access and use, rooted in Hopi tradition and cultural practices, recognized by federal statutes."

"I'm disappointed and I'm frustrated," said Leigh Kuwanwisiwma, who retired as the Hopi's longtime cultural preservation director last year and was heavily involved in the case. "But I think indigenous people like Hopi people are always going to be at a legal disadvantage when they put something like that in a white man's court."<sup>7</sup>

For more information:

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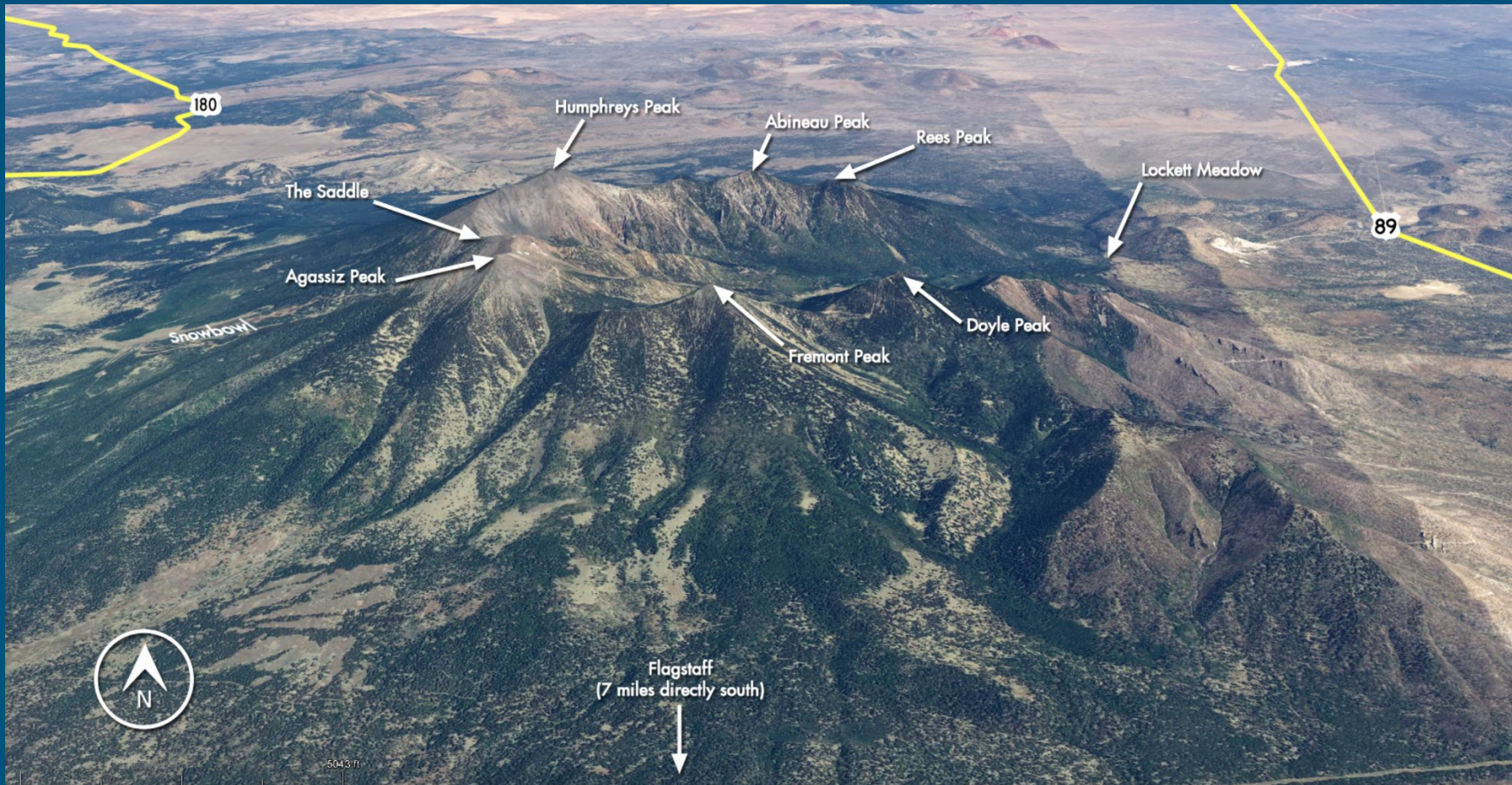
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<sup>7</sup> "High court rules against Hopi Tribe in snowmaking challenge," Felicia Fonseca, Associated Press, Arizona Daily Sun, November 30, 2018, [https://azdailysun.com/news/local/high-court-rules-against-hopi-tribe-in-snowmakingchallenge/article\\_1cad9758-a74e-539a-872a-5fb3b939aaaa.html#tracking-source=home-top-story-1](https://azdailysun.com/news/local/high-court-rules-against-hopi-tribe-in-snowmakingchallenge/article_1cad9758-a74e-539a-872a-5fb3b939aaaa.html#tracking-source=home-top-story-1).



# Renaming Agassiz Peak

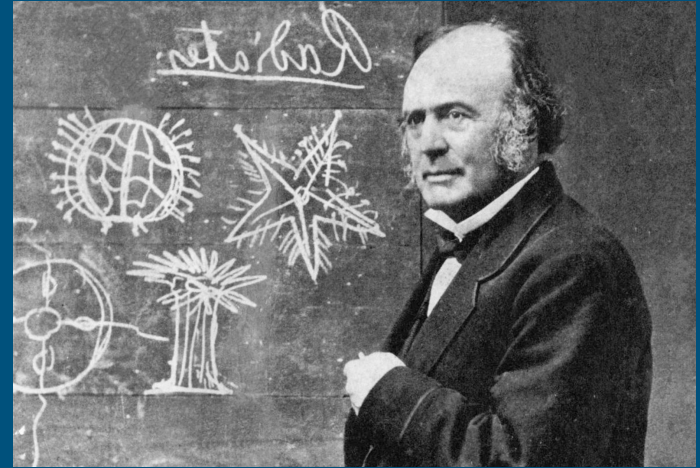
By: Indigenous Youth Leaders



# History of Jean Louis Rodolphe Agassiz

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- Jean Louis Rodolphe Agassiz was a Swiss- born American biologist/ geologist.
- Agassiz was also an opponent of miscegenation. At a lecture at the Charleston Literary Club in South Carolina in 1847, **Agassiz announced that blacks constituted a separate species**. In a letter to American abolitionist Samuel Gridley Howe in 1863, **Agassiz stated that sexual relations between blacks and whites were “immoral” and “destructive to the social equality.”**
- Agassiz peak, is named after a biologist who used his studies to legitimize racist beliefs of white superiority. So, keeping the name the same deeply affects the indigenous as the meanings behind each of their names are important to us. This also creates a culture of racism colonization that should be deemed unacceptable.



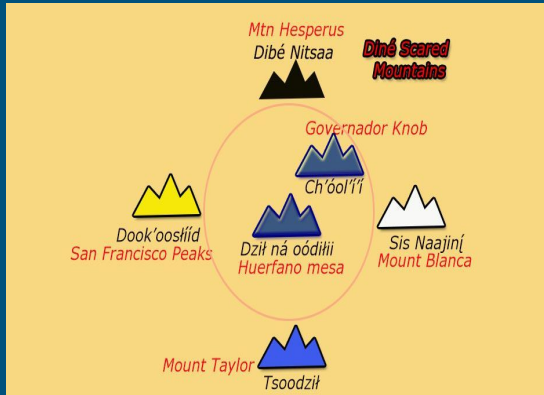
# Why is this is an important issue to indigenous people?

---

- The peaks is considered sacred to 13 indigenous nations which sadly, some have been pushed out of Arizona. **13 Tribal Nations which include; Pueblo, Mohave, Havasupai, Yavapai, Hualapai, Navajo, Hopi, Apache, Zuni, Salt, Gila, Paiute, and Ute**
- The peaks still remain sacred and holy to many Indigenous nations therefore, the **current names of the peaks is viewed as inappropriate and misrepresenting.**

# Cultural significance to local Native tribes

The peaks are associated with 13 indigenous nations. The Peaks is associated with spiritual deities, ancestors, emergence, ceremonies, climate conduit, and is still integral to indigenous daily practices.



# Native names for Agassiz Peak

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- Dook'o'oosłíd (Navajo) (Abalone Shell Mountain) (The Mountain that reflects)
- Pavoyoykyasi (rain tablet) Nuva'tukya'ovi —(Hopi)
- Dził Tso—Dilzhe'e—(Apache) (Big Mountain)
- Tsii Bina—Aa'ku—(Acoma)
- Nuvaxatuh—Nuwuvi—(Southern Paiute)
- Hvehasahpatch or Huassapatch—Havasu 'Baaja—(Havasupai)
- Wik'hanbaja—Hwal`bay—(Hualapai)
- Wi:mun Kwa—(Yavapai)
- Sunha K'hbchu Yalanne—A:shiwi (Zuni)
- 'Amat 'Tikwe Nyava—Hamakhav—(Mojave)
- Sierra sin Agua—(Spanish) ( The mountain without water)

# Quotes from Native Elders

---

- “Dook’oosliid has been a part of our sacred circle of life since the beginning of life for the Diné people. We as Diné utilize sacred plants, water, & minerals from this sacred mountain. Our medicine men go to the mountains to gather ceremony bundles & give offerings to the Diyin Dine’e & give their offerings/ thanks for protectings us. The mountain have the power to cure our ailments. That’s why the mountain are sacred to us. We must not abuse the mountains”- **Navajo Elder**
- “[The peaks are one of the] sacred places where the earth brushes up against the unseen world,” said **Yavapai-Apache Chairman Vincent Randall**.
- “To us Hopis, the Peaks is a sacred home and resting place for our spiritual beings, kachina spirits. The kachina spirits serve as guides to the Hopi people.” - **Hopi Elder**

# Press Release

Local news. The truth matters.

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## Earth Notes: Flagstaff To Rename Street Linked To Racist History

By RYAN HEINSIUS · NOV 18, 2020

PROGRAM  
Earth Notes

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There's a movement in Flagstaff to change the name of a downtown street with a controversial moniker. City officials are considering several community proposals to rethink Agassiz St. It was named after Louis Agassiz, an influential 19th century biologist and Harvard professor. But his legacy is one of racism.



File photo: Swiss-American biologist, Jean Louis Rodolphe Agassiz, 1807-1873  
CREDIT: GETTY IMAGES

[Listen](#)  
2:30

Louis Agassiz loomed large in the world of natural sciences in the 1800's. He

# Press Release continued..


Daily Sun | Flagstaff High School students advocate for renaming the Peaks | SHARE THIS | 37 comments

ALERT | TOP STORY

## Flagstaff High School students advocate for renaming the Peaks

Katlin Olson | Apr 14, 2020 | Updated Sep 24, 2020 | 37

★ for 6 mos | EDITOR'S SPECIAL 3.0



Members of Flagstaff High School's Native American Club stand with Flagstaff City Councilmember Jamie Whelan, right, in this March photo. The students are seeking support from local jurisdictions in renaming the San Francisco Peaks to better represent their indigenous history.

Katlin Olson

f t e b l

Katlin Olson

**E**arly last month, rather than being distracted by their upcoming spring break, a group of Flagstaff High School students decided to add a higher issue to their list of spring semester to-dos: advocating for the renaming of the San Francisco Peaks.

In a press conference March 11, representatives from Flag High's Native American Club explained these mountains have long been sacred to 13 tribal nations, so names like Agassiz Peak, in particular, are out-of-line.

Although Louis Agassiz was recognized for his

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# Personal Statements from Students

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We will be hearing from the following students:

Mashayla Tso, Makaius Marks, Danell Lipscomb, etc.

# Closing Statement

---

Agassiz's science was used to try to legitimize racist beliefs of white racial superiority. Therefore, naming a peak after him is not appropriate and antagonizes the beliefs and acknowledgments of the indigenous nations and other communities of color. **This creates a culture of Racism and colonization that we deem as unacceptable.**

- **Keeping the name, Agassiz Peak, deeply affects Indigenous people as the cultural names of the peaks describe the spiritual healing and power that the mountain withholds.. This also creates a culture of racism and colonization that should be deemed unacceptable.**



# Works Cited

---

Fenlason, G., Fenlason, P. by G., & Fenlason, P. by G. (2016, March 25). *Flagstaff's sacred mountain: the economic, political and spiritual power of the San Francisco*

*Peaks*. The Lumberjack.

[https://www.jackcentral.org/culture/flagstaff-s-sacred-mountain-the-economic-political-and-spiritual-power/article\\_e8c827f8-f06f-11e5-a4c0-83d92de048e1.html](https://www.jackcentral.org/culture/flagstaff-s-sacred-mountain-the-economic-political-and-spiritual-power/article_e8c827f8-f06f-11e5-a4c0-83d92de048e1.html).

Heinsius, R. (2020, November 18). *Earth Notes: Flagstaff To Rename Street Linked To Racist History*. KNAU Arizona

Public Radio. <https://www.kнау.org/post/earth-notes-flagstaff-rename-street-linked-racist-history>.

Olson, K. (2020, September 24). *Flagstaff High School students advocate for renaming the Peaks*. Arizona Daily Sun.

[https://azdailysun.com/news/local/flagstaff-high-school-students-advocate-for-renaming-the-peaks/article\\_6772e469-d09b-5794-bbea-9971d5780e1a.html](https://azdailysun.com/news/local/flagstaff-high-school-students-advocate-for-renaming-the-peaks/article_6772e469-d09b-5794-bbea-9971d5780e1a.html).

United States Department of Agriculture- Forest Service. (n.d.). *History of the San Francisco Peaks and how they*

*got their names*. Coconino National Forest - About the Area.

<https://www.fs.usda.gov/detail/coconino/about-forest/about-area/?cid=stelprdb5340115>

Land Acknowledgement Recommendation for Flagstaff City Council

By the Commission on Diversity Awareness

September 21, 2021

Out of respect for the ancestral lands occupied by multiple Indigenous tribes and with respect for current residents of the Flagstaff community who are tribal members and/or descendants of Indigenous peoples, the Commission on Diversity Awareness strongly supports the proposal presented to City Council to incorporate a land acknowledgement on the City website. We also recommend that the land acknowledgement be read at the opening of City Council meetings.

## Jessica Vigorito

---

**From:** Jessica Vigorito  
**Sent:** Monday, October 4, 2021 2:58 PM  
**To:** DD; Jean Toner; J and D Wegwert; Marcela Pino; Mandy Gebler; CTucci127@gmail.com; hardi.claire@gmail.com  
**Subject:** Flagstaff Water Resources information  
**Attachments:** IPD2021\_Final.pdf

Hello All,

I am passing along some Flagstaff Water Resources and Reclamation information that I have been able to find since the last conversation on this topic. Attached you will find a flyer for Indigenous Peoples Day which includes a section on Water that I thought might be helpful to the Workgroup discussion. I also copied links below to case studies and information available on the City website. Erin Young, Water Resources Manager, did offer to attend a Commission meeting to present or answer questions.

<https://www.flagstaff.az.gov/2328/Reclaimed-Water-Is-It-Safe>  
<https://www.flagstaff.az.gov/21/Reclaimed-Water>  
<https://www.flagstaff.az.gov/4522/Case-Studies>

To ensure compliance with the Open Meeting Law, recipients of this message should not forward it to other board members and board members should not reply all to this message.

Jessica Vigorito, MPA  
City of Flagstaff  
Human Resources Analyst

Office Phone: (928)213-2099  
Website: [www.flagstaff.az.gov/humanresources](http://www.flagstaff.az.gov/humanresources)



Please consider our environment before printing this e-mail





**Commission on Diversity Awareness**

**7. C. i.**

**From:** Jessica Foos, Human Resources Analyst

**DATE:** 01/18/2022

**SUBJECT:** **Equitable Restroom Recommendation**

---

**STAFF RECOMMENDED ACTION:**

Listen to the update from Chair Wegwert on the January 11th presentation to the Flagstaff City Council for a city ordinance regarding equitable restroom availability.

**Executive Summary:**

Commission recommendations are important to the City Council and they are taken under consideration for possible action. The City Council has several options and may:

- Accept the recommendation and give further direction.
- Change the provisions of a recommendation before giving further direction.
- Send a matter back for further consideration.
- Not accept the recommendation.

**Previous Council Decision on This:**

FAIR item for September 7th Council meeting

Chair Wegwert presented the CODA recommendation to City Council on January 11, 2022.

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**Attachments**

Equitable Restroom Recommendation

---

## Recommendation to the Flagstaff City Council for a city ordinance regarding equitable restroom availability

The Commission on Diversity Awareness for the City of Flagstaff recommends the creation and passage of a city ordinance requiring that all single occupancy public restrooms be available for use for everyone regardless of gender. It is our recommendation that the ordinance include the following elements:

1. Restrooms affected by this ordinance would be those intended for use by one person at a time, or for family or assisted use, and located in buildings owned by the City of Flagstaff.
2. Signage on such restrooms would include words such as “gender neutral,” “all gender,” or simply the word “restroom” without reference to the gender of the occupant.
3. Responsibility for ensuring that signage is updated to meet these requirements would be determined by the City Council.
4. The ordinance would affect all existing and future single occupancy restrooms.
5. The ordinance would include an effective date determined by the City Council.

Furthermore, the Commission on Diversity Awareness requests that the Flagstaff City Council recommend the practice of using nongendered signage for single-occupancy restrooms used by the public but not owned by the city (such as restrooms in educational facilities, healthcare facilities, and businesses that are open to the public).

Reasons for consideration of this ordinance include:

1. Promoting the safety of gender non-conforming persons
2. Creating a welcoming environment for gender non-conforming persons
3. Increasing restroom availability for all



**Commission on Diversity Awareness**

**8. A.**

**From:** Jessica Foos, Human Resources Analyst  
**DATE:** 01/18/2022  
**SUBJECT:** **Municipal Equity Index** - February meeting

---

**STAFF RECOMMENDED ACTION:**

Discuss the presentation from Chris Rhodes and determine any action items or follow up.

**Executive Summary:**

The Human Rights Campaign uses the Municipal Equality Index (MEI) to examine how inclusive municipal laws, policies, and services are of LGBTQ people who live and work in Flagstaff. Cities are rated based on non-discrimination laws, the municipality as an employer, municipal services, law enforcement, and the city leadership's public position on equality. Flagstaff is one of 506 cities that have been rated on 49 different criteria. [View city's scorecards](#)

**Previous Council Decision on This:**

January 11, 2022 Council meeting - Chris Rhode presented the Municipal Equity Index to City Council.

---

**Attachments**

November 2021 MEI presentation to CODA

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# Municipal Equality Index

Recommendations to improve services  
to services to LGBTQ+ community





# Summary



## What is the Municipal Equality Index?

- Evaluation of inclusivity of municipal laws, policies & services
  - Sexual Orientation
  - Gender Identity
- Published by the Human Rights Campaign
- 506 municipalities
  - 11 in Arizona



# Summary



## Contents of Scorecard

- 100 points is max score
  - Additional 22 “Flex Points”
- 5 Categories
  - Non-discrimination Laws
  - Municipality as Employer
  - Municipal Services
  - Law Enforcement
  - Leadership on LGBTQ Equality



# Flagstaff 2020 Scorecard

## Overall Score

- 88/100
- Same score since 2018

CATEGORY	SCORE	FLEX PTS
Non-discrimination Laws	20/30	+0
Municipality as Employer	22/28	+1
Municipal Services	10/12	+4
Law Enforcement	22/22	N/A
Leadership on LGBTQ Equality	7/8	+2
TOTALS	81/100	+7

# Where we lose points

- Housing NDO
- Transgender-inclusive healthcare benefits
- Enforcement of NDO
- Leadership's pro-equality policy efforts
- All-gender facilities
- Conversion Therapy
- Youth bullying prevention policy
- Services to unhoused LGBTQ people
- Services to LGBTQ older adults
- Services to the transgender community
- Testing limits of restrictive state law(s)





# Flagstaff 2020 Scorecard

## Housing Non-Discrimination Laws

- Points Received: 0/10
- City NDO covers “Public Accommodations” but not “Housing”
- Only Phoenix, Tucson, Tempe received full points in AZ
- Possible preemption from adding housing to NDO ([A.R.S. § 9-500.09](#))
  - Allows municipalities over 350k to adopt fair housing ordinance
- City stance: LGBTQ is included as federally protected class (sex)

### Recommendation:

Research legality of including housing in NDO and if legal pass amendment to city’s NDO to include Housing



# Flagstaff 2020 Scorecard

## City provides Transgender-Inclusive Healthcare Benefits

- Points Received: 0/6
- Benefits set in coordination with healthcare provider
- Working with BCBS to include coverage options inclusive to transgender employees

### Recommendation:

Continue working with provider to include transgender-inclusive coverage to City employees



# Flagstaff 2020 Scorecard

## Non-Discrimination Ordinance is enforced by CODA

- Points Received: 0/2
- NDO is enforced by City Manager's Office
- Existence of CODA satisfies separate area of scorecard
  - Commissions are primarily advisory and educational

### Recommendation 1:

Revise mission of the CODA to include enforcing the NDO

### Recommendation 2:

Actively seek points from HRC for current procedures



# Flagstaff 2020 Scorecard

## Leadership's Pro-Equality Legislative or Policy Efforts

- Points Received: 2/3
- Based on policy efforts and public stances of elected officials
- Subjective criteria

### Recommendation:

None



# Flagstaff 2020 Scorecard

## Single-Occupancy All-Gender Facilities

- Points Received: 0/2
- CODA work to make city-owned facilities gender-neutral
- 2 Points for ordinance requiring all gender facilities citywide
- Gender-neutral restrooms added to 2019 update of IBC

### Recommendation 1:

Adopt updated version of IBC

### Recommendation 2:

Ordinance requiring gender-neutral facilities in all buildings in city



# Flagstaff 2020 Scorecard

## City Protects Youth from Conversion Therapy

- Points Received: 0/2
- Conversion therapy not banned at State level
  - No pre-emption on localities passing ban
  - Pima County is only jurisdiction to ban Conversion Therapy

### Recommendation:

Ordinance banning conversion therapy for individuals under the age of 18.



# Flagstaff 2020 Scorecard

## Youth Bullying Prevention Policy for City Services

- Points Received: 0/2
- 1 point each for sexual orientation and gender identity
- Anti-bullying provisions currently done by each program
  - Language likely to vary

### Recommendation 1:

Collect and evaluate anti-bullying rules of individual programs

### Recommendation 2:

Ordinance prohibiting bullying in its youth programs on the basis of sexual orientation and gender identity



# Flagstaff 2020 Scorecard

## City Provides Services to LGBTQ People Experiencing Homelessness

- Points Received: 0/2
- Services provided through Northland Family Help Center
  - 24-hour crisis line, Domestic Violence and Sexual Assault shelter
  - Respectful of self-identified gender and sexual orientation
  - Assigns transgender youth to rooms within self-identified gender.
  - Provides transportation for LGBTQ youth to attend the one-on-one

### Recommendation:

Document services provided by Northland Family Help Center



# Flagstaff 2020 Scorecard

## City Provides Services to LGBTQ Older Adults

- Points Received: 0/2
- Must be programs that target LGBTQ community directly
- No city programs identified that specifically target adult LGBTQ community

### Recommendation 1:

Evaluate non-city programs to ensure community needs being met

### Recommendation 2:

Begin offering city programs for the adult LGBTQQA community



# Flagstaff 2020 Scorecard

## City Provides Services to the Transgender Community

- Points Received: 0/2
- Programs must target transgender community directly
- No city programs identified that specifically target transgender community

### Recommendation 1:

Evaluate non-city programs to ensure community needs being met

### Recommendation 2:

Begin offering city programs for the transgender community



# Flagstaff 2020 Scorecard

## City Tests Limits of Restrictive State Law

- Points Received: 0/3
- Designed as incentive for municipalities to push back on state laws that hinder LGBTQ inclusivity

### Recommendation:

N/A