

Arizona Snowbowl Wins a Round in Court

Plans to use reclaimed wastewater to create artificial snow on U.S. Forest Service land considered sacred by Native Americans does not violate the tribes' religious freedoms, ruled the U.S. 9th Circuit Court of Appeals in August.

The ruling in favor of the Arizona Snowbowl, a ski resort near Flagstaff, is the latest in an ongoing battle that tribal leaders vow to take to the Supreme

Court, reported the *Arizona Republic*. In 2006 a federal judge in Prescott ruled the water-use plan was acceptable, but on appeal, a three-judge panel of the appeals court found in favor of the tribes. Snowbowl's request for a full-panel review resulted in the recent 8-3 decision.

The majority found that artificial snow only affected the tribes' "subjective spiritual experience" and thus did not violate the Religious Freedoms Restoration Act (RFRA). They added that "giving one religious sect a veto over the use of public park land would deprive

others of the right to use what is, by definition, land that belongs to everyone." The dissent called this justification a "tragic irony," as the public land was forcibly taken from the Indians.

"If Indians' landbased exercise of religion is not protected by RFRA in this case," Judge Fletcher wrote, "I cannot imagine a case in which it will be. I am truly sorry that the majority has effectively read American Indians out of RFRA."

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HydroFacts

Extent of riparian vegetation along the lower Colorado River from Lake Mead to the Colorado Delta:	about 100,000 acres
Percent that is dense saltcedar:	50
Percent that is saltcedar mixed with native plants:	50
Percent of Colorado River water between the Grand Canyon and U.S./Mexico border used by saltcedar:	1
Percent of river water used by all riparian vegetation:	2
Percent of river water between the Mexico border and the delta used by all riparian vegetation:	2
Early estimates of annual saltcedar water use, in feet:	10 to 13
Estimates of annual saltcedar water use from 1990s studies, in feet:	2.5 to 6.3
New calibrated studies of annual saltcedar water use, in feet:	3

Sources: Ed Glenn, University of Arizona; and J.C. Stromberg and others, forthcoming in *Changing perceptions of change: The role of scientists in Tamarix and river management, Restoration Ecology*.

EPA Must Control Construction Runoff

The U.S. Environmental Protection Agency must set standards for limiting construction runoff as part of the Clean Water Act (CWA), ruled the U.S. 9th Circuit Court of Appeals in September.

EPA began work in 1999 to regulate stormwater discharge and associated pollution from construction activities, and in 2000 identified construction activities as a point-source category that necessitated guidelines under the CWA. However, in 2004 EPA withdrew construction activities as a category and did not promulgate standards.

The Natural Resources Defense Council (NRDC) sued EPA in district court, claiming that the CWA required guidelines to be established within three years of the identification of a point-source category, and thus did not allow for their withdrawal. The district court ordered EPA to establish standards by the end of 2009, and the recent ruling affirms this decision.

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