



Indian Affairs

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Ninth Circuit Reverses Lower Court Decision in San Francisco Peaks Case

Court holds that use of treated sewage effluent places substantial burden on the right of Native Americans to practice their religions

On March 13, 2007, the Ninth Circuit Court of Appeals in the case of *Navajo Nation v. United States Forest Service* ruled that the proposed use of treated sewage effluent for snowmaking at the San Francisco Peaks violates the Religious Freedom Restoration Act (RFRA). It also found that the Environment Impact Statement prepared by the Forest Service was inadequate to comply with the requirements of the National Environmental Policy Act. For these reasons, it issued an injunction prohibiting the snowmaking project from going forward.

The Peaks are sacred to 13 southwest Indian tribes and hundreds of thousands of Native Americans and play a central role in the religious practices of many of those tribes. The Ninth Circuit found that the burden from the project on the religious practices of the tribes, falls "roughly into two categories: (1) the inability to perform a particular religious ceremony, because the ceremony requires collecting natural resources

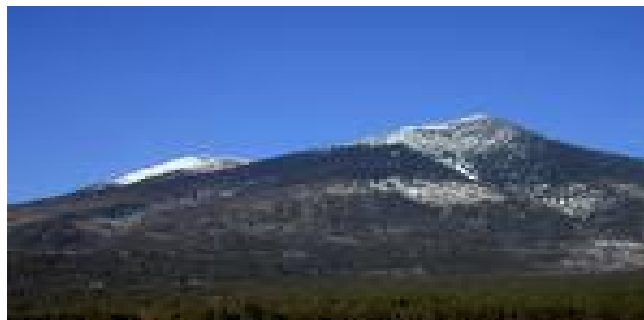


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San Francisco Peaks—Continued

from the Peaks that would be too contaminated—physically, spiritually, or both — for sacramental use; and (2) the inability to maintain daily and annual religious practices comprising an entire way of life, because the practices require belief in the mountain’s purity or a spiritual connection to the mountain that would be undermined by the contamination.”

The Ninth Circuit made it clear that this was an extremely egregious example of government insensitivity to Native religions. In its own words, “The Forest Service and the Snowbowl now propose to put treated sewage effluent on the Peaks. To get some sense of equivalence, it may be useful to imagine the effect on Christian beliefs and practices — and the imposition that Christians would experience — if the government were to require that baptisms be carried out with ‘reclaimed water.’ The Court in *Lyng* denied the Free Exercise claim in part because it could not see a stopping place. We uphold the RFRA claim in this case in part because otherwise we cannot see a starting place. If Appellants do not have a valid RFRA claim in this case, we are unable to see how any Native American plaintiff can ever have

a successful RFRA claim based on beliefs and practices tied to land that they hold sacred.” This is the first case that has held that RFRA is available to protect Native American sacred sites.

The Court also held that the Forest Service had failed to adequately analyze the dangers of children (and skiers) eating the snow made from wastewater. If the project were to go forward, Snowbowl would be the first ski resort in the world to totally rely on treated sewage effluent for artificial snowmaking.

AAIA Executive Director Jack Trope represented three of the thirteen plaintiffs in the case, as co-counsel with attorneys from DNA Legal Services in Flagstaff and Window Rock, Arizona, and argued the case before the Ninth Circuit. Those plaintiffs were the Hualapai Tribe, Mr. Norris Nez, a traditional Navajo practitioner, and Mr. Bucky Preston, a traditional Hopi practitioner. When informed of the decision, Bucky said, “I am really thankful and deeply appreciate the 9th circuit court’s decision....Some of the judges in the courts must have a good heart and looked deeply into themselves to realize that the Peaks are so sacred to us and they understood our beliefs.”

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Scholarship & Summer Camp Information

AAIA will be accepting scholarship applications for the 2007-2008 school year between May 1 and July 16 only.

Please see our website at
www.indian-affairs.org
for full details.



AAIA will be accepting grant proposals for 2007 Summer Youth Camps beginning May 21st.

Please see the *Youth* section under the *Programs* heading of our website at www.indian-affairs.org.

Tribal child welfare programs to receive \$40 million in additional funding over the next 5 years

The Promoting Safe and Stable Families Act (Title IV-B, Part 2 of the Social Security Act) is a federal law that is an important source of funding for state child welfare services designed to prevent the breakup of the family. In 2006, this law was reauthorized. The reauthorization included a 3% allocation for tribes, up from 1-2% under current law. This will result in increased funding of about \$40 million to tribes for child welfare services over the next 5 years. The bill also allows for tribes to apply as consortia and makes tribes eligible for competitive grants that would address the methamphetamine problem, particularly in terms of its impact upon the child welfare system. Methamphetamine abuse has become a huge problem in Indian country. For example, on one reservation in Arizona, more than 25% of babies born in 2005 were addicted to "meth".

AAIA was very active in the legislative process, working closely with tribes and other national organizations, including the National Indian Child Welfare Association and National Congress of American Indians.

Remembering

Lucy Kramer Cohen

On January 2, 2007, Lucy Kramer Cohen passed away at the age of 99. Lucy served as a member of AAIA's Board of Directors from 1961-1994. She also served as a member of our Advisory Board from 1994 until her death. Lucy was a vibrant, committed person who brought her passion and expertise to many issues affecting American Indian and Alaska Native peoples. Trained as an anthropologist, she worked closely with her late husband, Felix Cohen, to develop a landmark treatise on Indian law published in the 1940s. The 2005 version of the treatise was dedicated to Lucy and continues to be the basic text for attorneys who practice in Indian law. Felix also had a close relationship with AAIA, serving as our Counsel for a number of years prior to his death.

We thank and honor Lucy Cohen for her contributions to the well-being of Native Americans in general and to AAIA specifically and extend our sincerest condolences to the Cohen family.

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Enemy Swim Day School FACE Program Earns First Ever Verizon Tech Savvy Award

The Enemy Swim Day School FACE Program has been selected as the national winner of the inaugural Verizon Tech Savvy Award.

Dr. Sherry Johnson, Superintendent, and Teresa Shoemaker, FACE Coordinator/Adult Education, were on hand to receive the award on March 5th during a banquet at the 16th annual National Conference on Family Literacy, held in Orlando, Florida. The event was hosted by the National Center for Family Literacy (NCFL).

The FACE program's RealeBook project was chosen from a field of more than 80 programs. Each of the judges scattered throughout the United States selected the Enemy Swim application as their first choice. The ESDS FACE program received a \$25,000 award to continue and expand the RealeBook project and use of technology. In addition, four other programs around the country received regional awards and \$5,000 each at the banquet.

The Verizon Tech Savvy Awards are a joint creation of NCFL, former First Lady of Iowa Christie Vilsack, and the Verizon Foundation. It is the first national award designed to provide an incentive for grassroots community-based non-profit organizations and schools to create programs that demystify technology for parents, enabling them to better guide their children in the use of new media.

"To truly improve literacy and education for the 21st century, we need a comprehensive approach that reaches beyond the classrooms and into community programs and homes," said Verizon Foundation President Patrick Gaston. "These programs are prime examples of how technology can be used to spread educational opportunities to ensure a brighter future for our communities."

The Enemy Swim application described their RealeBook project as follows:

Our best use of technology to communicate information this year has been with our RealeBook project.

Our FACE program produces four original books per month, two from adult students, one from Early Childhood where the children participate with the pictures, and one from the home-based component. The parents/caregivers working on this project are selecting topics to communicate through literacy and topics of interest to children. They are learning skills in planning, organizing, writing, editing, publishing, photography and teamwork, as they use the software, digital cameras and printers to produce the books.



From left: Debbie Lente-Jojola, FACE National Coordinator; James Earl Jones, legendary actor and Verizon Literacy champion; Teresa Shoemaker; Sharon Darling; Dr. Sherry Johnson; Christie Vilsack; and Patrick Gaston; front – Adora Svitak, 9-year old literary prodigy.

Learning the Dakota language is a focus for our school, and the RealeBooks are being used to help teach the language. Books have been created to teach the names of animals, body parts, family members, colors, and numbers in the Dakota Language.

All of our FACE families and the Kindergarteners are receiving these books, as well as Administration and School Board. Copies are also placed in other areas in the school.

Not only are the Realebooks promoting literacy and cultural pride in our community through technology, they are promoting our program. The adults take great pride in the books they produce, especially when they see their books on the Internet in the FACE RealeBook Library. (<http://face.realelibrary.com>)

In addition to the Verizon Tech Savvy Awards presentation, those attending the banquet were treated to a live short story improvisation by legendary actor James Earl Jones and 9-year-old literary prodigy Adora Svitak. The pair, with the help of technology such as digital cameras, cell phones, and an Internet blog, worked with the audience to create a new twist on a children's classic, Robinson Crusoe.

"This is another example of how multiple generations are critical to the learning process for the entire family," NCFLE President & Founder Sharon Darling said. "Together, they can build a stronger foundation for education and lifelong success. In the 21st century, technology must undoubtedly be a main component of education."

This award for Enemy Swim Day School is especially meaningful because it has brought national attention to Indian Education in a small school in rural South Dakota, to the Enemy Swim and national FACE program, and to the Bureau of Indian Education.

Enemy Swim Article & Photos reprinted from Soto Iya Ye Yapi with permission.



"AAIA has always responded to the needs of the education entities through their curriculum productions, along with the books."

Dr. Sherry Johnson, Superintendent of Enemy Swim Day School, was a recipient of an AAIA Emergency Aid Scholarship. As she recently stated to the Director of our Scholarship Program, "Well now you know what happens to your scholarship recipients! They gain enough confidence through their education and abilities that they can do many things including earning a doctorate and becoming a Superintendent. My beginnings are humble... single parent, hungry...more... I REALLY appreciated all the support I received through College."

AAIA has worked with Enemy Swim Day School on Dakota language preservation. The Family Dakota Language Learning Center, which was created by AAIA and Sisseton Wahpeton College, was transferred to Enemy Swim Day School in 2006. AAIA continued to provide support for the Center after its transfer. Enemy Swim also hosted the first community Dakota SCRABBLE tournament. Moreover, as Dr. Johnson has stated, "AAIA has always responded to the needs of the education entities through their curriculum productions, along with the books."

Director's Corner

Sand Creek Dedication

On April 28, 2007, I was honored to be able to attend the dedication of the Sand Creek National Historic Site in southeastern Colorado. The site commemorates and bears witness to one of the most horrible episodes in our national history. On November 29, 1864, a group of Colorado militiamen who were paid and armed by the United States Government, descended upon a peaceful encampment of the Cheyenne Tribe. A few members of the Arapaho Tribe were also present at the campsite. More than 160 Indian people, mostly women and children, were killed in the ensuing attack. As former Senator Ben Nighthorse Campbell, sponsor of the bill establishing this new National Historic Site, said at the dedication, "If there were any savages that day, it was not the Indian people." A number of regular U.S. Army officers refused to participate in the attack and ultimately testified against the militiamen, leading to a Congressional condemnation of the massacre. But the leader of the militia was lionized by local citizens as a hero.

The psychological impact of this terrible event is still felt within tribal communities today. Many current Cheyenne and Arapaho can trace their lineage directly to individuals

who were killed at Sand Creek or who survived the attack and some believe that the spirits of some of those who were slaughtered are still present at the site. Thus, the official recognition by the United States Government that this was a tragedy that should be memorialized and that the American people should learn about and understand what really happened at Sand Creek is a very important acknowledgment for the affected tribes. This recognition will help to heal the wounds that are still present.

Many individuals and organizations played a role in making this site a reality. The descendants of the Sand Creek victims were especially active and effective in this effort. I am happy to be able to say that AAIA was one of the organizations that worked with the tribes and the descendants to obtain legislation creating the site and that we also helped to resolve issues pertaining to the repatriation of the human remains of the victims in the massacre.



Supporters which included historians and local people, gathered with people from several tribes at the dedication of the Sand Creek Historical Site in southeastern Colorado.



Otto Braided Hair, Director of the Northern Cheyenne Sand Creek Office, making a presentation honoring those who had helped make the National Historic Site a reality. Jack Trope, Executive Director of AAIA, is third from the right, just to the right of former Senator Ben Nighthorse Campbell.

Photos: National Park Service Office of Indian Affairs and American Culture

Scholarship Profile:



*Mary Beth Jiron, Isleta Pueblo
Displaced Homemaker Scholarship
Institute of American Indian Art,
Studio Art*

Mary volunteers in her community, participates in local art shows and the Santa Fe Indian Market. Her art has recently been selected by the Pendleton Company and the American Indian College Fund to be produced on a blanket. Mary has recently been juried into the upcoming show at the Eiteljorg Museum in Indianapolis. Mary's long term goal is to open a gallery in her native pueblo exhibiting not only her own work, but work of other local artists.

Mary first applied for and received AAIA's Displaced Homemaker Scholarship in 2003-2004. Mary has received the Displaced Homemaker Scholarship a total of 3 times in addition to receiving the David Risling Emergency Aid Scholarship. She has completed her Associates Degree in Studio Art and is currently working on her Bachelor's Degree.

Despite many difficulties in her life, Mary has become deeply rooted in her culture, learning ceremonial dances, language and artistry. Mary comes from a family of artisans including potters, silversmiths and storytellers.

Mary lives in Albuquerque with her children and enrolled at IAIA when her job of 19 years ended due to downsizing. She drives 150 miles round trip to IAIA in Santa Fe twice a week where she is a member of Phi Theta Kappa International Honor Society and is on the President's and Dean's Lists. She takes classes at Albuquerque Community College in real estate as well.

AAIA is honored to be able to help Mary achieve her goals and we are proud of her accomplishments.

AAIA is a 501(c)(3) non-profit organization dependent upon the support of people just like you. AAIA will be participating in the 2007 Combined Federal Campaign. Our organization number is 12307.

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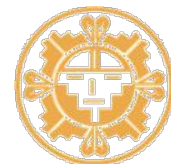
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**Dedication of the Sand Creek
National Historic Site -**
See Page 6 for the full story.

Photo: National Park Service Office of Indian Affairs and American Culture.

In This Issue:

Religious Freedom:
Snowmaking Plan
Halted

Safe & Stable Families
Act Reauthorization

Enemy Swim Day
School Receives
Verizon Grant for
FACE Program

Scholarship Application &
Summer Camp Grant
Proposal Information

Tribute to Lucy
Kramer Cohen

Scholarship Profile

Dedication of Sand Creek National Historic Site

Issue 161
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See our website at www.indian-affairs.org
for information about all of our programs.