

Conservation group: Bears Ears proposal has deep roots

BY KRISTA ALLEN
WESTERN AGENCY BUREAU

OLJATO-TSÉBII'NDZISGAILI, Utah – A secular cathedral in southeastern Utah is at risk. But a coalition of five tribes, with support from conservation groups, is pushing for federal designation, seeking to protect 1.5 million acres of culturally significant land.

The land known as Bears Ears – named for twin buttes that jut out over the horizon – has become a conservation battleground.

"We want to preserve," said Leonard Lee, vice chair of the Utah Diné Bikéyah board of trustees, in Navajo at a recent public meeting on the proposal. "A legislative process is at the forefront."

In addition to being a mecca for outdoors people, Bears Ears is home to more than 100,000 archeological sites, ranging from lithic scatter to granaries to complex villages, which are considered sacred by several American Indian tribes, including the Diné and the Kistáanii, who have long-standing ties to the landscape.

"Non-Natives told us, though, that Bears Ears isn't Native land and that it belonged to the Anasazi," Lee explained.

Some tribes, according to the Bears Ears Intertribal Coalition, trace their ancestry to the ancient peoples who populated the region since time immemorial. Some Diné and Nódóáí (Ute) still use the land.

"We don't want our children and grandchildren to go over the fence and be a common criminal," Lee said. "This is our land."

Bears Ears, though, has been a target for looters and grave robbers. Between 2014 and 2015, more than a dozen serious looting cases were reported.

From small-scale theft to ancestral remains being tossed aside to graves being plundered, these acts, the coalition argues, are threatening the past and the future of sacred archeological sites in Bears Ears.

And recently, 26 American Indian tribes with ancestral, historical, and contemporary ties to Bears Ears expressed their support for protecting this landscape through a conservation proposal under the Antiquities Act of 1906.

Lee says the proposal was a long time in the making. And for seven years, grassroots groups and a number of Native leaders worked intensely to get to this point.

The proposal sates that the true origins of the movement, however, go back much farther.

"The need for protecting the Bears Ears landscape has been broad and heartfelt for well

over a century," the proposal reads. "The rampant looting and destruction of the villages, structures, rock markings, and grave sites... sadden and sickened our ancestors, and that sense of loss and outrage continues today."

In a community meeting regarding the proposal March 20, Albert Holiday, member of the UDB board, said that there are plants used as herbal medicine in Bears Ears.

"We want to designate it (Bears Ears) 'Shash Jaa, National Monument,'" Holiday said in Navajo. "We need your input."

Mary Jane Yazzie, member of the UDB board and a representative from the White Mesa Ute tribe, said the Nódóáí people have allotted lands in Allen Canyon near the buttes.

"Herb- and nut-gathering, willow tree-cutting, you name it, we used to gather those things around Bears Ears," Yazzie said on behalf of her tribe.

For one young woman, Shine Salt, student at Northern Arizona University and a correspondent for the Times, the Bears Ears issues has become a research topic for a capstone course.

"Our old hogans are being burnt down and our old corrals are no longer there," said Salt. "You can only see an outline."

Salt said she will be presenting her research soon in Reno, Nev.

The Oljato Chapter last November passed a resolution in support of the national monument by a vote of 40-0-0.

"Tribes and local residents are strongly in favor of protecting the region as a national monument," UDB reported on its website.

While the UDB wants to protect Bears Ears forever, there are at least 500 people who oppose the idea.

"We can just go there and utilize it, getting our resources," Maria S. Holiday said. "Once it becomes a national monument, we're not going to have that access like we do today."

"We don't want a national monument," Holiday added. "We know what's happening to Canyon de Chelly where the people don't have a say. We see that with the tribal parks, (in which) residents want infrastructure. They are having problems."

Helen Nez Yellowman, 85, from Montezuma Creek, Utah listens attentively March 20 during Utah Diné Bikéyah's Bears Ears meeting at the Welcome Center in Tsébi'ndziszgaili, Utah.



Mark Maryboy talks about the federal designation of Bears Ears March 20 during Utah Diné Bikéyah's Bears Ears meeting at the Welcome Center in Tsébi'ndziszgaili, Utah.



Albert Holiday (right), member of the Utah Diné Bikéyah board of trustees, shows a map of the proposed Bears Ears National Monument March 20 during UDB's Bears Ears meeting at the Welcome Center in Tsébi'ndziszgaili, Utah.



Kenneth Maryboy, member of the Utah Diné Bikéyah board of trustees, talks about the federal designation of Bears Ears March 20 during UDB's Bears Ears meeting at the Welcome Center in Tsébi'ndziszgaili, Utah.

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Shiprock Chapter continues to fight lawsuit

BY BILL DONOVAN
SPECIAL TO THE TIMES

SHIPROCK – Duane "Chili" Yazzie this week continued his efforts by Navajo Nation Legislative Council to get the Shiprock District Court to dismiss a lawsuit he filed on behalf of the Shiprock Chapter.

Yazzie has been trying for the past month to get the court to void a resolution passed in January by the Navajo Nation Council concerning a Ute water settlement.

He claimed in his petition that the council failed to send the resolution over to Navajo National President Russell Begaye to get his approval, which Yazzie says is required under tribal law.

Since then, attorneys for the Office of Legislative Council have filed several motions asking the Shiprock court to dismiss the lawsuit over issues like sovereign immunity and lack of jurisdiction.

On Monday, Yazzie filed his response to these motions with the court.

In the response, Yazzie objected to the tone the attorneys took toward the chapter saying they "expressed disrespect for chapters as a form of government."

The legislative motion, he said, "likened us to off-reservation local municipalities while the council is deemed to be a real government."

The response said the case now before the Shiprock Court is "highly important" for a number of reasons, including the responsibilities of the aboriginal Diné people "as stewards of our land and waters."

The decision by the council is being finalized "without providing the local Diné people to exercise its stewardship responsibilities."

In any agreement regarding water rights, "inclusion does not mean just having the right to comment on a deal already ended upon, principally by bologna negotiators"

but it also means actual engagement of the Navajo people "from start to finish."

"In this matter, the Office of the Legislative Counsel has submitted six separate motions asking to dismiss this case on technicalities rather than allow dialog to take place," the Shiprock response said.

The chapter asked the court "to allow a plain speaking and swift dispute resolution, since even now, the Utah Water Settlement is being finalized off-reservation by foreign sovereigns."

The response stresses that there must be "direct access to our courts to question government action," adding that his "must be able to be done without reliance on attorneys."

Yazzie, in a phone interview Wednesday, said the Shiprock court has yet to make a decision dealing with the motions and the chapter's response but he is hoping that this is done quickly.

Hopi tribe, City of Flagstaff reach settlement in Snowbowl lawsuit

WESTERN AGENCY BUREAU

TUBA CITY – Hopi tribal officials are urging the city of Flagstaff to end years of litigation between the two governments.

The city of Flagstaff and the tribe recently reached a settlement in a lawsuit that claims the city's decision to sell treated wastewater to the Arizona Snowbowl.

The city council will consider a settlement agreement that would require the city to build a \$1.6 million filtration system for reclaimed water headed to Snowbowl.

In a press release, the tribe stated the San Francisco Peaks is without a doubt one of the most sacred places.

The tribe in August 2011 filed suit in Arizona Superior Court in Coconino County challenging the city's decision to sell reclaimed wastewater to Snowbowl, alleging that the sale of up to 1.5 million gallons of reclaimed wastewater per day to Snowbowl is illegal because it violates several Arizona laws that govern the proper use of reclaimed wastewater, and creates a public nuisance through environmental contamination.

The Hopi Tribe was the only tribe to assert and litigate public nuisance claims against the city.

The settlement resolves those longstanding claims, which have been pending for many years. The litigation involved

significant motions practice and appeals to establish the validity of the tribe's public nuisance claims.

The settlement reserves the tribe's right to continue to oppose snowmaking on the Peaks, but is an important step in ensuring the use of cleaner water for snowmaking, despite the tribe's continued opposition to snowmaking on the Peaks.

Hopi Chairman Herman G. Honanie stressed the importance of the tribe's stance against snowmaking: "Let's be clear: the Hopi people stand united in their opposition to any activity at Snowbowl, including snowmaking."

The settlement has no adverse effect on the sovereign

immunity of the tribe or the city, but does allow the court to retain jurisdiction over the parties for the limited purpose of enforcing the terms of the settlement.

The Hopi Tribe expects that the city negotiated the settlement in good faith, and will approve the settlement based on the recommendation of the city's staff and city attorney who participated in the settlement negotiations.

"Cleaner water on the San Francisco Peaks benefits the city, fits in with the city's green goals, and recognizes the importance of this issue to the Hopi Tribe and all of the members of the Flagstaff community," Honanie added.

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