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For Immediate Release

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The Hopi Tribe Awaits Flagstaff City Council Action to Approve Settlement

Kykotsmovi, Ariz. – The Hopi Tribe urges immediate approval by the City of Flagstaff of a settlement to end years of litigation between the two governments. The settlement requires the City to construct, operate and maintain an Earthen Filtration System (“EFS”) at Thorpe Park to improve the quality of reclaimed wastewater being sold by the City to the Arizona Snowbowl (“Snowbowl”) for snowmaking at its ski resort on federal land in the San Francisco Peaks.

The San Francisco Peaks, known as Nuvatukya’ovi to the Hopi Tribe, is without a doubt one of the most sacred places to the Hopi Tribe. On August 19, 2011, the Hopi Tribe 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. This settlement – between the Hopi Tribe and the City – 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 Hopi Tribe’s public nuisance claims. The Hopi Tribe Water Resources Program has evaluated the EFS filtration system proposed by the City, and has determined that it will substantially improve the quality of the reclaimed water sold by the City to Snowbowl.

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

The Hopi Tribe 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 Hopi Tribal Council has been closely overseeing the difficult litigation and settlement negotiations throughout the course of the process. Hopi Tribal Council members discussed and analyzed the matter periodically with staff for the Hopi Tribe Water Resources Program, other

departments, and members of the Hopi Tribe over the course of many months, before unanimously approving the settlement on February 24, 2016.

The settlement agreement makes clear that the Hopi Tribe still opposes snowmaking on the San Francisco Peaks. This is consistent with the Hopi Tribe's longstanding position. Additionally, to the extent other Tribes have voiced their views opposing snowmaking on the San Francisco Peaks, have filed claims related to the expansion at Snowbowl over the years, and are periodically in consultation with the United States Forest Service, the City and Snowbowl regarding these issues, the settlement has no legal effect on these activities. All these activities can continue as contemplated by the settlement agreement.

The settlement has no adverse effect on the sovereign immunity of the Hopi Tribe or the City, but does allow the Arizona Superior 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. As stated by Hopi Tribal Councilman Norman Honanie, "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."

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