

HOPI TRIBE v. ARIZONA SNOWBOWL RESORT
Opinion of the Court

municipal water sewer system, has passed through a treatment facility, and meets certain standards.” The Tribe further alleged it “has special interests in the environment, including the flora and fauna, of the San Francisco Peaks in the immediate vicinity of the Snowbowl Resort Area.” The Tribe also claimed it “will suffer specific injury” from the “runoff, windblown snow, increased unnatural noise, and elevated air pollution [that] will pervade beyond the Snowbowl Resort Area” and into areas the Tribe uses “for ceremonial practices, hunting[,] . . . the gathering of natural resources[,] . . . and utilitarian purposes.” For example, “[n]atural 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,” “negatively impact[ing]” the Tribe’s use of the wilderness and surrounding areas. More broadly, the Tribe alleged that “the Snowbowl expansion project,” “additional traffic,” and the very “presence of the Snowbowl Resort” itself will adversely impact the “natural environment” and unduly interfere with the Tribe’s cultural use of the public wilderness for religious and ceremonial purposes.

¶5 The City filed a third-party indemnification claim against Snowbowl, which then moved to dismiss the Tribe’s public nuisance claim under Arizona Rule of Civil Procedure 12(b)(6), arguing the Tribe’s alleged damages do not constitute the “special harm” needed to maintain that claim. The City later joined in that motion, and the trial