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## **9th Circuit Court stops geothermal energy development at sacred Medicine Lake Highlands!**

### **Huge Victory for Pit River Nation and Native and Environmental Justice Allies!**

Pit River Country, CA-Native Americans and their supporters have scored another victory in the effort to protect the Medicine Lake Highlands from the establishment of a geothermal power plant by Calpine energy corporation on lands held by the U.S. Forest Service (FS) and Bureau of Land Management (BLM). Since genesis the Highlands have always been sacred to the Pit River, Wintu, Modoc, Shasta, Klamath, and other Native nations. Many of the families in these nations are the traditional caretakers of these lands and it is their responsibility to protect them. Numerous strategies have been used to accomplish these goals, including securing investor divestment of shares from Calpine, exposing the company's illegal energy price-fixing scheme, and staging a massive protest at the company's headquarters in San Jose earlier this year. In addition, the Pit River Nation and various Native sacred sites protection and environmental groups sued the federal government and Calpine in an attempt to stop the development which will cause irreparable damage to the natural environment and Native cultures of the area. We invite all Native nations working to protect their sacred places to use any of the strategies we have employed, if such approaches would be beneficial to your efforts.

When the plaintiffs lost in federal court in 2004, the judge indicated that federal agencies had complied with all applicable environmental and historic preservation laws and did not violate the federal trust responsibility to the Pit River Nation. However, these laws and the trust responsibility in particular are not to be taken lightly. The federal government has a unique relationship with Indian nations derived from the U.S. Constitution, treaties, Supreme Court doctrine, federal statutes, executive orders, and presidential directives. Federal agencies have a duty to consult with Indian nations on proposed projects and services that may impact upon their socio-economic and governmental wellbeing. When federal agencies issued leases to energy companies to build geothermal power plants in the Highlands, neither the FS nor the BLM consulted with the Pit River Nation.

The plaintiffs appealed the ruling and in a unanimous decision, the 9th Circuit Court on November 6, 2006 reversed the lower court decision. Judge Clifford Wallace indicated that the federal agencies neglected their fiduciary responsibilities to the Pit River Nation by violating the National Environmental Protection and the National Historic Preservation Acts and that the agencies never took the requisite 'hard look' at whether the Highlands should be developed for energy at all. As a result, the court rejected the extension of leases that would have allowed Calpine to develop the geothermal plant and the district court is now directed to enter summary judgment in favor of Pit River consistent with this opinion.

The federal government could appeal the Circuit Court decision to the Supreme Court. In preparation for this potential outcome, the Advocates for the Protection of Sacred Sites is asking you to write Dirk Kempthorne, Department of Interior Secretary, and urge him to ensure that the FS and BLM (two agencies under his jurisdiction) will not appeal and will abide the current rule of law on this issue. The following letter could be used for this purpose:

Department of the Interior  
1849 C Street, NW  
Washington, DC 20240

Dear Secretary Kempthorne,

I am writing to strongly urge you to oppose appealing the decision of the 9th Circuit Court in Pit River v. USFS/BLM. Two federal courts have already spent a great deal of time and other resources reviewing the case. In a unanimous decision, the Circuit Court ruled that the federal agencies neglected their fiduciary responsibilities to the Pit River Nation by violating the NEPA and the NHPA and that the agencies never took the requisite 'hard look' at whether the Medicine

Lake Highlands should be developed for energy at all. As a result, the court rejected the extension of leases that would have allowed Calpine energy corporation to develop a geothermal plant. Another appeal would further drain tax payer dollars and detract agency staff from carrying out their normal functions. The DOI and its agencies need to abide by the current letter of the law in this case.

Sincerely,