

RESOLUTION OF THE PAPAGO COUNCIL  
(Authorization to Negotiate Proposed Settlement  
of Water Rights)

RES. NO. 10-80

1 WHEREAS, non-Indian surface water diversions, groundwater pumping and other  
2 activities near or bordering the Papago Reservation have resulted  
3 in the cessation of surface water flows, the lowering of groundwater  
4 tables, the compaction of subterranean lands and the deterioration of  
5 water quality on, under or from (1) the Upper Santa Cruz River basin  
6 underlying the San Xavier Reservation ("San Xavier District Basin"),  
7 (2) the Altar-Avra Valley basins underlying the Schuk Toak District  
8 and the western portion of the San Xavier District ("Schuk Toak Dist-  
9 rict Basin"), and (4) the Salt River and Bosque Valley Basins under-  
10 lying the Gila Bend Reservation ("San Lucy District Basin"), all in  
11 derogation and to the detriment of the rights of the Papago Tribe and  
12 and its constituents; and

13 WHEREAS, in 1975 the United States (in its own right and on behalf of the  
14 Papago Tribe and individual Papago allottees of the San Xavier District),  
15 and the Papago Tribe together with certain Papago allottees of the San  
16 xavier District (in their own right and on behalf of the class of all  
17 similarly situated Papago allottees of the San Xavier District ) filed  
18 suits in the United States District Court for the District of Arizona  
19 (respectively Cause No. CIV 75-39 and CIV 75-51) seeking, among other  
20 remedies, a declaration of their rights in and to the use of surface  
21 and groundwaters; damages resulting from the use of surface and ground-  
22 water in derogation of their rights; and injunctive relief to limit  
23 with drawals of surface and groundwaters of the San Xavier District  
24 Basin; and

25 WHEREAS, the Papago Council did appoint a Water Commission made up among others  
26 of Papagos residing within the San Xavier District Basin, the Schuk  
27 Toak District Basin, the Sif Oidak District Basin, the San Lucy District  
28 Basin, and a San Xavier District allottee who, in addition to residing  
29 within the San Xavier District Basin, is a named party in the afore-  
30 mentioned lawsuit representing the class of San Xavier District  
31 allottees, in order to review and study all available materials and  
32 data relative to said water basins, to conduct public hearings in the

1 Districts overlying said water basins and to make appropriate re-  
2 commendations regarding water resources; and

3 WHEREAS, the San Xavier District Council, all San Xavier District allottees  
4 who are named parties in the aforementioned lawsuit representing the  
5 class of San Xavier District allottees, individual San Xavier District,  
6 allottees attending the public hearings of the San Xavier District,  
7 the Schuk Toak District Council, the Sif Oidak District Council and  
8 the San Lucy District Council did, after public hearings in their  
9 represective Districts, approve and recommend the negotiation and deve-  
10 lopment of a legislative settlement of the ater rights claims of the  
11 Papago Tribe and its constituents in the San Xavier District Basin,  
12 the Schuk Toak District Basin, the Sif Oidak District Basin, and the  
13 San Lucy District Basin by means of legislation to be enacted into  
14 Public Law of the United States; and

15 WHEREAS, the Papago Council has reviewed the recommendations of the Water  
16 Commission, the San Xavier District allottees, and the affected  
17 District Councils, as well as the recommendations of its and outside  
18 consultants and attorneys, and has concluded that it is in the best  
19 interest of the Papago Tribe and its constituents that legislative  
20 settlement of the aforementioned water rights claims be attempted.

21 NOW, THEREFORE, BE IT RESOLVED by the Papago Council that it does hereby  
22 authorize the negotiation of a proposed settlement, either in whole  
23 or in part, of the water right claims of the Papago Tribe and its con-  
24 stituents in the San Xavier District Basin, the Schuk Toak District  
25 Basin, the Sif Oidak District Basin, and the San Lucy District Basin  
26 by means of legislation to be enacted into Public Law of the United  
27 States together with such other settlement measures, if any, as may  
28 appropriately relate thereto, all of which shall state the terms and  
29 conditions of settlement and shall establish the methods and means  
30 of implementing settlement.

31 BE IT FURTHER RESOLVED that the Papago Council does hereby delegate to the  
32

1 Water Commission and the Chairman of the Papago Council authority  
2 to negotiate such proposed settlement, provided however that before  
3 any required legislation is introduced into the United States Congress  
4 and before any related settlement measures are finalized, the Water  
5 Commission and the Chairman of the Papago Council are required to  
6 submit them for the review and approval or disapproval, of the Papago  
7 Council. The Water Commission and the Chairman of the Papago Council  
8 are directed to report to this Council and to their respective  
9 District Councils on a regular basis concerning the status and progress  
10 of the settlement.

11 BE IT FURTHER RESOLVED that the Tribal Attorney is hereby instructed to take  
12 all measures necessary to preserve the viability of litigation al-  
13 ready initiated, and to initiate any other necessary litigation to  
14 protect the water resources which are the subject of the foregoing  
15 negotiations during the pendency of such negotiations and until such  
16 time as a full settlement is reached and finalized. When such action  
17 requires the cooperation of other agencies, public or private, in  
18 funding or any other respect, and such cooperation is not forthcoming,  
19 the Tribal Attorney is instructed to so report to the Council.

20 BE IT FURTHER RESOLVED that the Chairman of the Papago Council, the members of  
21 the Water Commission, and the attorneys or other agencies of the Papago  
22 Tribe, are hereby authorized and directed to do all things necessary  
23 to accomplish the purposes of this Resolution.

24 The foregoing Resolution was duly enacted by the Papago Council the 15th day of  
25 February 1980, at a meeting at which a quorum was present with a vote of 864  
26 for; 1010 against; 0 not voting; and 3 absent, pursuant to the authority vested  
27 in the Council by Section 2 (a), (d), (e) and (f) and Section 3 (h) of Article  
28 V of the Constitution and By-Laws of the Papago Tribe as amended, ratified by  
the Papago Tribe on December 12, 1936, and approved by the Secretary of the  
Interior on January 6, 1937, pursuant to Section 16 of the Act of June 18, 1934  
(48 Stat. 984). Said Resolution is not subject to review by the Secretary of  
Interior and is effective as of the date of its enactment by the Papago Council.

29 THE PAPAGO COUNCIL

30  
31   
32 MAX H. NORRIS, CHAIRMAN

1 ATTEST:

2 Mary Jane Marcho  
3 MARY JANE MARCHO, SECRETARY  
4

5 COPY RECEIVED this 21<sup>st</sup> day of February, 1980  
6

7 Richard T. Christman  
8 RICHARD T. CHRISTMAN, Superintendent  
9 PAGO AGENCY  
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