

RESOLUTION OF THE PAPAGO TRIBAL COUNCIL  
(H.R. 5118 - Water and Litigation)

RES. NO. 72-82

1 WHEREAS, non-Indian surface water diversion and/or groundwater pumping  
2 near or bordering the San Xavier Reservation, portions of the Garcia  
3 Strip and the Vaya Strip of the Schuk Toak District, the Chuichu  
4 area of the Sif Oidak District and the Gila Bend Reservation has  
5 resulted in the lowering of groundwater tables, the compaction and  
6 periodic flooding of land and the deterioration of water quality,  
7 all in derogation and to the detriment of the rights of the Papago  
8 Tribe and its members; and

9 WHEREAS, the United States and the Papago Tribe and certain allotment owners,  
10 in their own right and on behalf of the Papago Tribe and individual  
11 allottees of the San Xavier District, filed suit in 1975 in the  
12 United States District Court for the District of Arizona (respectively  
13 Cause N. CIV 75-39 and CIV 75-51) seeking, among other remedies, a  
14 declaration of their rights in and to the use of surface and ground-  
15 waters; damages resulting from the use of surface and groundwater  
16 in derogation of their rights; and injunctive relief to prohibit  
17 withdrawals of surface and groundwaters of the Upper Santa Cruz Basin;  
18 and

19 WHEREAS, the Papago Council did appoint a Water Commission made up, among  
20 others, of members residing within the San Xavier, the Schuk Toak,  
21 the Sif Oidak, and the San Lucy Districts, in order to review and  
22 study all available materials and data relative to the water basins  
23 on, near or under their respective Districts, and to negotiate and  
24 develop a legislative settlement of the water rights claims of their  
25 respective districts in said basins, and to conduct public hearings  
26 in the Districts; and

27 WHEREAS, on the 14th day of February, 1980, the Papago Tribal Council passed  
28 Resolution No. 10-80, wherein it authorized and approved the nego-  
29 tiation and development of a legislative settlement of the water right  
30 claims of the Papago Tribe and its members in the water basins on,  
31 near or under the San Lucy District, San Xavier District, Garcia Strip  
32 and Vaya Strip of the Schuk Toak District, and the Chuichu area of

1 the Sif Oidak District by means of a congressional bill to be enacted  
2 into Public Law of the United States which would provide the terms  
3 and conditions of the settlement and would establish the method and  
4 means of implementing the settlement, and delegated to the Water  
5 Commission and the Chairman of the Papago Council full authority to  
6 negotiate and develop such legislative settlement; and

7 WHEREAS, on December 3, 1981, Congressman Udall introduced a bill in the U. S.  
8 House of Representatives, H.R. 5118, and Senators Goldwater and  
9 DeConcini subsequently introduced a corresponding bill in the Senate,  
10 S. 2114, which were processed through the appropriate committees and  
11 passed by both Houses and sent to the President of the United States  
12 for enactment into law; and

13 WHEREAS, during the legislative process the proposed legislative settlement  
14 of the water right claims of the Chuichu area of the Sif Oidak District  
15 and of the San Lucy District were eliminated from both bills with  
16 assurances from members of the congressional delegation that a sub-  
17 sequent bill would be introduced within this or the next session of  
18 Congress which would resolve the water problems of these two Districts;  
19 and

20 WHEREAS, on June 1, 1982, President Reagan vetoed H.R. 5118, stating that the  
21 Federal Government did not participate in the negotiations, that the  
22 Federal cost of the bill was too high, and that the local residents of  
23 Southern Arizona should pay this cost, which veto sent a message to  
24 all Indian tribes that the Reagan Administration does not recognize  
25 any liability in the Federal government, as Trustees of Indian waters,  
26 for its past failure to protect such waters, or recognize a duty to  
27 protect such waters in the future; and

28 WHEREAS, President Reagan has indicated in his veto that the negotiated  
29 settlement contained in H.R. 5118 should be re-negotiated with the  
30 participation of a Federal negotiator appointed by the President;  
31 and  
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