

RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION

- WHEREAS, the Tribal Council of the White Mountain Apache Tribe has reviewed the U. S. Supreme Court's opinion in Northern Cheyenne v. Adsit, and companion cases decided July 1, 1983, with its water rights attorney and its General Counsel in terms of its impact on the tribe's water rights, and
- WHEREAS, the U. S. Supreme Court's decision in Adsit, infra, does not grant state courts the right to administer Indian water rights and most importantly does not grant state courts the right to determine the threshold question as to whether or not the purported water adjudication pending in the Maricopa County Superior Court is in fact a general stream adjudication within the meaning of the CcCarran Act, and
- WHEREAS, it is obvious to the Tribal Council that the determination of whether or not the McCarran Act is applicable in the pending water rights case before the Maricopa County Court cannot possibly or legally be determined by that state court and can only be decided by a Federal Tribunal, and
- WHEREAS, the Tribal Council concludes that all state court proceedings which purportedly attempt to adjudicate or quantify Indian water rights should be enjoined until a final determination is made by the Federal Court system that the Maricopa County water proceeding is one within the meaning of the McCarran Act, and
- WHEREAS, further, the state court lacks jurisdiction to adjudicate issues of conflict of interest which exist within the offices of the Secretary of the Interior and Attorney General of the United States regarding Indian water rights vis-a-vis the claims of the Salt River Water Users Association, and
- WHEREAS, the state court lacks jurisdiction to determine issues directly bearing on the tribe's water claims stemming from the intentional and gross mismanagement of the tribe's water resources for the benefit of downstream users; namely, the Salt River Reclamation Project, and
- WHEREAS, tribal claims for mismanagement of its water resources must be adjudicated prior to any proper quantification of the tribe's water rights in any forum, and
- WHEREAS, the Tribal Council has reviewed considerable evidence which proves gross mismanagement of the tribe's grazing lands, timber resources and water resources, all for the benefit of the downstream water users, including the Salt River Project, and concludes that the practices detrimental to the tribe's natural resources but beneficial to the downstream users is continuing on the reservation on a daily

basis and must be enjoined to prevent permanent damage and destruction to the tribal homeland of the White Mountain Apache Tribe, and

WHEREAS, because of the foregoing reasons amongst others, the White Mountain Apache Tribe should petition the federal courts in one or more separate actions:

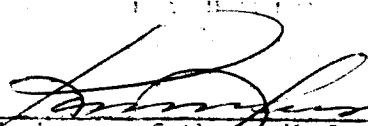
1. To enjoin the trustee United States through its principal agent the Secretary of the Interior and his attorney, the Attorney General of the United States, from continuing the practices destructive of the tribe's natural resources for the benefit of the downstream water users; and
2. To seek a declaratory judgement that the present Maricopa County Superior Court proceedings are not within the purview of the McCarran Act and therefore, are not applicable to Indian tribes; and
3. For a ruling that the irreconcilable conflicts of interest that permeate all activities of the Secretary of the Interior and the Attorney General of the United States, his attorney, reference the protection of Indian water rights constitute a denial of due process and right to counsel as guaranteed by the United States Constitution; and
4. To enjoin all state court proceedings pending resolution of these one or more federal law suits; and
5. To pursue whatever other legal remedies available to preserve and protect the water resources of the White Mountain Apache Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes and directs Special Counsel William H. Veeder, to file an action or actions in the Federal District Court for the District of Phoenix or District of Columbia or any other appropriate court to:

1. Enjoin the present state court proceedings in Maricopa County which have been illegally convened despite the fact that the McCarran Act is clearly inapplicable.
2. Enjoin any attempt to administer water rights on the Fort Apache Indian Reservation.

3. Seek a declaratory action that the irreconcilable conflicts of interest that permeate the Secretary of the Interior and his attorney, the Attorney General of the United States in all activities regarding Indian water rights constitutes a denial of constitutional rights guaranteed to Indian Tribes; and further,
4. Enjoin in a separate proceedings in the appropriate federal forum ongoing natural resource management practices of the Secretary of the Interior which are destroying the reservation's natural resources on a continuing basis, all for the benefit of the downstream water users, especially the Salt River Water Users Association and the Central Arizona Project presently under construction.

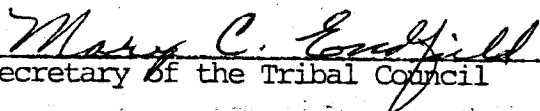
The foregoing resolution was on July 26, 1983 duly adopted by a vote of 7 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (i) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe June 27, 1958 and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

  
Chairman of the Tribal Council

**RECEIVED**

AUG - 1 1983

FORT APACHE INDIAN  
AGENCY  
WHITERIVER, ARIZ

  
Secretary of the Tribal Council

Resolution No. 83-232