

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

WHEREAS, the White Mountain Apache Tribe opposes S. 291 and H.R. 748, 102 D Congress, 1st Session which purport to approve an Agreement awarding to the San Carlos Tribe 7,300 acre-feet of water from the Salt and Black Rivers and additionally all of the ground waters under the San Carlos Indian Reservation and the surface water of the tributaries to the Black and Salt Rivers within the reservation in total disregard of the White Mountain Apache Tribe's vested reserved rights to the use of water in the Black and Salt Rivers and the tributaries to those streams; and

WHEREAS, Seventy-five percent (75%) of the water in the Salt and Black Rivers arise within the Fort Apache Indian Reservation rendering it a physical and legal impossibility to grant and apportion to the San Carlos Apache Tribe 7,300 acre feet of water or any other quantity of water for the Salt River Users Association and the Roosevelt Water Conservation District, without violating the invaluable reserved rights to the use of water from the Black and Salt Rivers of the White Mountain Apache Tribe whose rights are presently in litigation in the case of White Mountain Apache Tribe v. United States, Docket No. 22-H in the United States Claims Court; and

WHEREAS, the legislation approving the San Carlos Agreement has precipitated the issue of whether the White Mountain Apache Tribe can have forced upon it, over its unvarying objection, the representation of the Department of Justice in the State Court Salt River W-1 Proceedings and it is apparent from the express language of the "Agreement" that if it is enacted into law by the Congress, both the jurisdiction over Indian rights to the use of water and the curtailment of the White Mountain Apache Tribe's rights will be consummated; and

WHEREAS, the Secretary of the Interior in the construction and operation of the Salt River Federal Reclamation Project attempted illegally to seize and take all of the Salt and Black River waters from the White Mountain Apache Tribe for the benefit of the downstream non-Indian water users within the service area of the Salt River Federal Reclamation Project in clear violation of the White Mountain Apache Tribe's reserved right to the

use of water in the Salt and Black Rivers and likewise in clear violation of the provision of the Constitution of the United States that prohibits the seizure and use for public purposes the vested rights to the use of water of the White Mountain Apache Tribe; and

WHEREAS, the principal beneficiaries of the Secretary of Interior's attempts illegally to seize and take from the White Mountain Apache Tribe its reserved Salt and Black River rights to the use of water are likewise the principal beneficiaries of the "Agreement", including but not limited to the United States of America, the State of Arizona, the Salt River Valley Water Users Association and the Cities of Chandler, Tempe, Scottsdale, Globe, the Phelps Dodge Corporation, and others; and

WHEREAS, the provisions in the "Agreement" that it would not in any way effect the rights of any other Indian Tribe is contrary to fact and, the White Mountain Apache Tribe requests the members of Congress to reject the "Agreement" because the Salt and Black Rivers are vastly over-appropriated and any attempt to make a firm allocation of the already deficient supply of water in the Salt and Black Rivers could have no other result than irreparable and continuing damage to the White Mountain Apache Tribe; and

WHEREAS, the White Mountain Apache Tribal Council is most anxious fully to review the long and shameful history of Secretary of Interior violations of the White Mountain Apache Tribe's rights to the use of water within its reservation by suppressing the Tribe's use of those waters for its own economic and social development while simultaneously subsidizing the downstream non-Indian's use of those waters with the attendant economic and social destructive consequences to the White Mountain Apache Tribe which in effect would be ratified and approved by the passage of legislation effectuating the "Agreement", which constitutes a threat to the White Mountain Apache Tribe's very survival; and

WHEREAS, the White Mountain Apache Tribe respectfully petitions the House Interior and Insular Affairs Committee to conduct a full and fair hearing in regard to the White Mountain Apache Tribe's opposition to the "Agreement" to the end that the White Mountain Apache Tribe will have an opportunity to fully and completely explain to

the Congress of the United States the disaster which has already befallen the Tribe due to the attempted illegal seizure of its reserved Salt River Rights and the further disastrous consequences which will befall the tribe if there is an effort legislatively to apportion the waters of the Salt River as proposed by the Agreement as set forth in S. 291 (i).

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that Ronnie Lupe, Chairman of the Tribal Council of the White Mountain Apache Tribe take immediate action to inform the proper congressional leaders in both the House and Senate that the proposed San Carlos Agreement gravely imperils the rights and interests of the White Mountain Apache Tribe, indeed the very survival of the Tribe.

BE IT FURTHER RESOLVED by the Tribal Council that Chairman Lupe propose Congressional legislation in furtherance of the preservation and protection, of the White Mountain Apache Tribe's reserved rights to the use of water, and other natural resources which have been so badly diminished by maladministration by the Trustee United States.

BE IT FURTHER RESOLVED by the Tribal Council that Chairman Lupe forthwith inform the Secretary of the Interior, the Assistant Secretary of Indian Affairs, the Phoenix Area Director, Bureau of Indian Affairs, and the Superintendent at Whiteriver of the strenuous objections of the White Mountain Apache Tribe to the "Agreement" and to take all further and necessary action to prevent the enactment of the pending legislation to approve the "Agreement".

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that by virtue of the joint ownership between the White Mountain Apache Tribe and the San Carlos Tribe to the reserved rights to the use of water in the Black and Salt Rivers and tributaries of those streams has resulted in investiture in the White Mountain Apache Tribe of title to all of the reserved rights to use of water to the Salt and Black Rivers and tributaries to those streams stemming from the abandonment by the San Carlos Apache Tribe of its reserved rights in the Black and Salt Rivers all as set forth in the "Agreement" S. 291.

Resolution No. 11-91-303

The foregoing resolution was on November 07, 1991, duly adopted by a vote of ten for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (a) (c) (f) (h) (i) (u) of the Amended Constitution and Bylaws 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



Secretary of the Tribal Council

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FORT APACHE INDIAN AGENCY
WHITERIVER, ARIZONA