

RESOLUTION OF THE  
NAVAJO NATION COUNCILApproving the Settlement of the 1934 Case Between the Navajo Nation and the San Juan Southern Paiute Tribe and Authorizing the President of the Navajo Nation to Execute the Treaty Between the Navajo Nation and the San Juan Southern Paiute Tribe

## WHEREAS:

1. The Navajo Nation Council is the governing body of the Navajo Nation; and

2. In 1974, Congress gave certain Paiute individuals living on the Navajo Nation the right to apply for allotments; 25 U.S.C. §640d-8, P.L. 93-531 (December 22, 1974); and

3. On December 20, 1983, the San Juan Southern Paiute Tribe was permitted to intervene in the lawsuit commonly known as the 1934 Case (then entitled Sidney v. Zah v. James, No. CIV 74-842 PHX-EHC) claiming lands within the Navajo Nation Reservation in Arizona; and

4. In December 1992, the Federal District Court entered a judgment in the 1934 Case ruling that the San Juan Southern Paiute did have an interest in lands on the Navajo Reservation; and

5. In 1933, when Congress added the "Paiute Strip" in Utah to the land of the Navajo Nation, the statute that withdrew the land stated that the land was "for the benefit of the Navajo and such other Indians as the Secretary of the Interior may see fit to settle thereon," which uses "other Indians" language similar to that in the 1934 statute, which has resulted in decades of litigation among the Navajo, Hopi and Paiute people in the 1934 Case; and

6. In April 1993, after the 1934 Case was appealed to the Ninth Circuit Court of Appeals, the Ninth Circuit Office of Mediation contacted the Navajo Nation and the San Juan Southern Paiute Tribe urging the two Indian Nations to settle the lawsuit without further litigation; and

7. For more than six years those Navajo People living near the San Juan Southern Paiute families within the Tuba City Bodaway-Gap and Navajo Mountain Chapters, including the respective chapter officials and officials from the Navajo Nation have been making a good faith effort at resolving the lawsuit; and

8. On December 20, 1997, the Navajo Mountain Chapter enacted a resolution supporting and recommending approval of the settlement and on November 21, 1998, the Bodaway-Gap Chapter also enacted a similar resolution, these two resolutions being attached hereto and incorporated herein as Exhibit "A" and Exhibit "B", respectively, and on November 8, 1998, the Tuba City Chapter for a second time, tabled a similar resolution without ever taking a vote to approve or disapprove the resolution; and

9. On December 3, 1998, the Navajo-Hopi Land Commission enacted Resolution NHLCD-31-98 supporting and recommending approval of the settlement of the 1934 Case by entering into a treaty with the San Juan Southern Paiute Tribe; on December 15, 1998, the Transportation and Community Development Committee of the Navajo Nation Council enacted Resolution TCDCD-117-98 supporting and recommending approval of the 1934 Case by entering into a treaty with the San Juan Southern Paiute Tribe; and on December 17, 1998, the Resources Committee of the Navajo Nation Council enacted Resolution RCD-244-98 supporting and recommending approval of the 1934 Case by entering into a treaty with the San Juan Southern Paiute Tribe; and on April 15, 1999, the Government Services Committee of the Navajo Nation Council enacted Resolution GSCAP-32-99 supporting and recommending approval of the 1934 Case by entering into a treaty with the San Juan Southern Paiute Tribe; these four resolutions are being attached hereto and incorporated herein as Exhibit "C", Exhibit "D", Exhibit "E" and Exhibit "F", respectively; and

10. The Navajo Nation Council has been fully briefed on the proposed settlement and it believes it is in the best interest of the Navajo Nation to approve the settlement of the 1934 Case as documented by a treaty between the Navajo Nation and the San Juan Southern Paiute Tribe because no Navajo people currently reside on the land proposed to be given to the San Juan Southern Paiute Tribe, so the settlement will not require relocation of any Navajo family; if the Paiute claims continue in litigation, there is a risk that the courts may award more land to the Paiutes than is being proposed in the settlement and/or the lands awarded may require relocation of Navajo families; the proposed settlement would avoid the possibility of individual Paiutes obtaining allotments on the Navajo Nation; the proposed settlement would avoid possible litigation about the "Paiute Strip" and the effect of the 1933 statute; and the settlement would allow the Navajo Nation to stop spending the Nation's funds to defend against the Paiute claims in the 1934 Case; and

11. The Navajo Nation Council is aware of arguments that have been raised by a small number of Navajo individuals who reside near the lands proposed to be given to the San Juan Southern Paiute Tribe in the settlement, but the Navajo Nation Council believes the greater good of the Navajo Nation would be served by entering into the proposed settlement; and

12. The Navajo Nation Council is aware that the United States Court of Appeals for the Ninth Circuit has ordered that if no settlement is reached, either the Navajo Nation or the San Juan Southern Paiute Tribe may reinstate the appeal on or before February 14, 1999. The Navajo Nation Council does not believe it is in the Navajo Nation's best interest to request any further extension for settlement negotiations nor does the Navajo Nation Council believe that it is in the Navajo Nation's best interest to litigate this matter any further.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Council hereby approves the settlement of the 1934 Case and other outstanding disputes between the Navajo Nation and the San Juan Southern Paiute Tribe by entering into a treaty in the form attached hereto as Exhibit "G" and incorporated herein by reference.

2. The Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute the attached treaty between the Navajo Nation and the San Juan Southern Paiute Tribe.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 60 in favor, 10 opposed and 7 abstained, this 20th day of July 1999.



Edward T. Begay, Speaker  
Navajo Nation Council

July 21, 1999

Date Signed

Motion: Robert Whitehorse  
Second: David John

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby give notice that I will not veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C)(10), on this 23<sup>rd</sup> day of July 1999.

  
Kelsey A. Begaye, President  
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C)(10), this \_\_\_ day of \_\_\_\_\_, 1999 for the reason(s) expressed in the attached letter to the Speaker.

Kelsey A. Begaye, President  
Navajo Nation