

RESOLUTION
OF THE RESOURCES COMMITTEE
OF THE NAVAJO NATION COUNCIL

Approving a Revised Water Code Water Use Fee Structure
for the Navajo Nation

WHEREAS:

1. Pursuant to 2 N.N.C. § 691, et seq., the Resources Committee is established as a standing committee of the Navajo Nation Council and is responsible for overseeing all matters pertaining to the development and use of natural resources; and

2. Pursuant to 22 N.N.C. § 1307 of the Navajo Nation Water Code, the Resources Committee is authorized to impose reasonable fees for the use of the waters of the Navajo Nation and grant waivers of said fees if the use is of benefit to the Navajo Nation; and

3. By Resolution RCJA-02-97 (Exhibit "A"), the Resources Committee directed the Director of the Department of Water Resources (Department) to perform a comprehensive study of water use fees and waivers within six months of the date of that resolution and formulate recommendations for a new fee structure that "balances the resources related aim of conservation and to obtain the maximum benefit from the Nation's water resource while keeping in mind the economic development related need to create a climate favorable to business"; and

4. By Resolution RCAP-02-97, the Resources Committee directed the Director of the Department of Water Resources (Director) to suspend collection of retroactive fees, and to conduct public hearings and solicit comments on the proposed new fee structure (Exhibit "B"); and

5. The comprehensive study was performed, from which a recommended fee structure was developed (Exhibit "C", Technical Memorandum dated June 18, 1996). Public hearings were held and comments solicited on the proposed new fee structure (Exhibit "D", Summary of Public Hearings dated August 30, 1996). The public comments indicate that many business interests are opposed to any commercial water use fee, while other business interests support the recommended lower commercial water use fee and the suspension of retroactive collections, and recognize that protecting and managing the waters of the Navajo Nation helps to ensure a viable business climate; and

6. After evaluating the public comments, the Department recommends continuing the commercial water use fee of \$0.27 per 1,000 gallons; and

7. The Department recommends continuing the current policy of water fee exemptions for the following uses: Domestic, stock watering, irrigated agriculture, and fish and wildlife; and

8. The Department recommends continuing the following current waiver policies: Waiving 50 percent of the fee for units of local, state and federal governments; and waiving 100 percent of the fee for use of sewer water, use by non-profit institutions; and de minimis uses of less than 10,000 gallons; and

9. The Department recommends continuing the current policy of charging \$2.70 per 1,000 gallons for construction activities and other temporary bulk water uses; and

10. The Department recommends continuing the current water use fee of \$2.70 per 1,000 gallons for industrial and mining activities, except when the rate is set by contract, lease or other agreement, but allowing the Director to consider exceptions on a case by case, industry by industry basis, subject to Resources Committee approval; and

11. The Department recommends continuing the current policy of charging a fixed fee per water well supplying water used to enhance oil recovery; and

12. The Department is hereby directed to waive collection of the water use fee from commercial water users using less than 40,000 gallons of water during any three month billing period; and

13. The Resources Committee believes it will be in the best interests of the Navajo Nation to continue the recommended water use fee structure in Exhibit "B".

NOW THEREFORE BE IT RESOLVED THAT:

1. The Resources Committee of the Navajo Nation Council hereby approves the waiver of the commercial water use fee for commercial water users using less than 40,000 gallons in a three month period; the Water Code water use fee structure, attached hereto as Exhibit "B". (See Exhibit "C", Technical Memorandum dated June 18, 1996 and Exhibit "D", Summary of Public Hearings dated August 30, 1996.)

2. Because of the numerous concerns pertaining to retroactive collection of fees, the Resources Committee hereby suspends the collection of all past water use fees owed the Nation prior to January 1, 1997. This suspension is intended to benefit those water users who have not paid because of lack of notice. The suspension does not apply to those water users who have valid permits and contracts with the Navajo Nation which obligate them to pay for water use. While the Resources Committee is considering the matter, no new legal action shall be taken to collect any outstanding fees, no interest shall be asserted nor shall any penalty be imposed for failure to pay during this suspension.

3. The Resources Committee hereby rescinds any prior conflicting authority.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Resources Committee of 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 4 in favor, 0 opposed and 0 abstained, this 10th day of April, 1997.



Elmer L. Milford, Chairperson
Resources Committee

Motion: Sylvester Chee
Second: Harold Tunney