



AGUA CALIENTE BAND OF CAHUILLA INDIANS
TRIBAL COUNCIL

JEFF L. GRUBBE CHAIRMAN • LARRY N. OLINGER VICE CHAIRMAN • VINCENT GONZALES III SECRETARY/TREASURER
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Resolution No. 44-19

Resolution Mandating Storage of Agua Caliente's Federally Reserved Groundwater

WHEREAS, the Agua Caliente Band of Cahuilla Indians ("Tribe") is federally recognized Indian tribe and the Tribal Council is the elected governing body of the Tribe by authority of Article IV of the Tribe's Constitution and By-Laws, approved and adopted by the Commissioner of Indian Affairs on April 18, 1957; and

WHEREAS, Article V, subsection (a) of the Tribe's Constitution directs Tribal Council to "regulate the uses and disposition of tribal property; to protect and preserve the Tribal property, including wildlife and natural resources;" and

WHEREAS, among the property and natural resource most valuable to the Tribe is the groundwater underlying the Reservation, which has been of fundamental importance to the Tribe since time immemorial; and

WHEREAS, the Tribe holds the full equitable title to groundwater appurtenant to the Reservation in an amount necessary to fulfill the purpose of the Reservation, as confirmed in *Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water Dist.*, 849 F.3d 1262 (9th Cir.), *cert denied*, 138 S. Ct. 468, 199 L. Ed. 2d 356 (2017), and *cert. denied sub nom. Desert Water Agency v. Agua Caliente Band of Cahuilla Indians*, 138 S. Ct. 469, 199 L. Ed. 2d 356 (2017); and

WHEREAS, no other government possesses authority to regulate the Tribe's groundwater to protect it from diminution, degradation, trespass, or injury, and in the absence of governmental regulation, the aquifer underlying the Reservation presently suffers from a state of long-standing overdraft, resulting in declining groundwater levels under the Reservation; and

WHEREAS, various entities currently produce more groundwater on and in the immediate vicinity of the Reservation than is naturally replaced in the aquifer, such that there is no surplus or excess native groundwater; and

WHEREAS, the imported Colorado River water currently used to artificially recharge the aquifer in an effort to stabilize groundwater levels has severely degraded and continues to degrade further the quality of the native groundwater underlying the Reservation; and

WHEREAS, the authority to manage groundwater appurtenant to the Agua Caliente Reservation inherently lies within the retained powers of the Tribe and is consistent with long-standing federal



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policies of supporting tribal self-determination, self-governance, and economic self-sufficiency; and

WHEREAS, adequate supplies of clean groundwater are vital to the Reservation economy; and

WHEREAS, it is in the long-term best interests of the Tribe, tribal enterprises, and the broader Reservation community to take immediate steps to protect and preserve the Tribe's groundwater to ensure that there are sufficient supplies of groundwater for future generations; and

WHEREAS, Tribal Ordinance No. 55, the Agua Caliente Water Authority Ordinance, enacted on August 6, 2019, established the Agua Caliente Water Authority in exercise of the Tribe's power to regulate the Tribe's groundwater for the purpose of protecting the public health, safety, welfare, and economic security of the Tribe, tribal members, tribal entities, and the Reservation community as defined in that Ordinance; and

WHEREAS, the Tribe, through Ordinance 55, delegated to the Agua Caliente Water Authority certain powers to protect the Tribe's groundwater; and

WHEREAS, the Tribal Council estimates that the amount of water needed to fulfill the purposes of the Agua Caliente Reservation is at least 60,000 acre-feet per year;

WHEREAS, it is the Tribal Council's considered judgment that the storage of its groundwater is an essential use of the Tribe's groundwater and is necessary to promote the health, safety and welfare of the Tribe's members;

WHEREAS, the Tribe has a sovereign authority over the pore space underlying its Reservation and the authority to regulate its use, including for the purpose of storage of the Tribe's federally reserved groundwater; and

WHEREAS, underground storage is a management tool that is likely to replenish and increase groundwater levels and assist in the protection and preservation of groundwater underlying the Reservation.

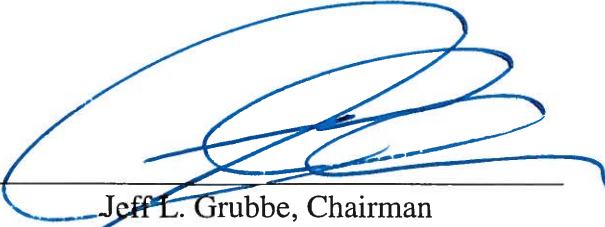
NOW THEREFORE BE IT RESOLVED, in exercise of the inherent sovereign authority of the Tribe and pursuant to sections (a), (b), (d), (f), (g) of Article V of the Tribe's Constitution as well as pursuant to any applicable delegations of federal authority to the Tribe, Tribal Council hereby directs the Agua Caliente Water Authority to take all necessary steps to annually store at least 20,000 acre-feet of the Tribe's federally reserved groundwater.



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Dated: September 24, 2019



Jeff L. Grubbe, Chairman

CERTIFICATION

I, the undersigned, the Secretary of the Agua Caliente Band of Cahuilla Indians, hereby certify that the Tribal Council is composed of five members of whom 4 constituting a quorum, were present at a meeting whereof duly called and noticed, convened and held this 24th day of September, 2019; that the foregoing resolution was duly adopted at such meeting by a vote of 3-0-0 members and that said resolution has not been rescinded or amended in any way.



Vincent Gonzales III, Secretary/Treasurer