



# SQUAXIN ISLAND TRIBE

## RESOLUTION NO. 12- 74

of the

### SQUAXIN ISLAND TRIBAL COUNCIL

**WHEREAS**, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and

**WHEREAS**, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe; and

**WHEREAS**, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government; and

**WHEREAS**, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe; and

**WHEREAS**, since time immemorial, Tribal ancestors aboriginally occupied and used vast areas of lands and waters to support fishing lifestyles, as well as for residing, hunting, gathering and other purposes; and

**WHEREAS**, in the Treaty of Medicine Creek, the Tribe ceded thousands of acres in return for, among other things, a reserved right to take fish at all usual accustomed grounds and stations in common with all citizens of the Territory and the Squaxin Island Reservation; and

**WHEREAS**, the Tribe agreed to use and occupy the Reservation as a sustainable homeland that was sufficient to support, among other things, the Tribe's fishing lifestyle; and

**WHEREAS**, the U.S. Supreme Court in *United States v. Winters*, 207 U.S. 564 (1908), held that the United States when creating Indian reservations reserved that amount of water necessary to fulfill the purposes of the Reservation; and

**WHEREAS**, the Tribe and the United States reserved instream flows in quantities necessary to fulfill the purposes of the Reservation;

**WHEREAS**, in 1974 the Squaxin Council adopted Resolution 75-15, which claims the Tribe's *Winters* reserved rights to (1) saltwaters surrounding and underlying Squaxin Island, and (2) freshwaters above and below the Island; and

**WHEREAS**, in 1983 the Squaxin Council adopted Resolution 83-33, which among other things asserts *Winters* rights to waters on and below Squaxin Island, and the additional mainland properties that have Reservation status; establishes a permitting process for water use and regulates septs, forestry activities and pumping; and establishes Tribal Court jurisdiction over enforcement cases; and

**WHEREAS**, SIT § 11.12.010, entitled "Water Code," refers to and incorporates Resolution 83-33; and

**WHEREAS**, the Tribe has not fully implemented the Water Code for some time; and


**WHEREAS**, Resolutions 75-15 and 83-33 are accurate but incomplete assertions of the *Winters* doctrine; and

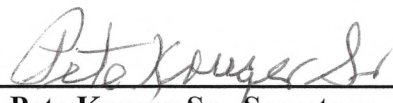
**NOW THEREFORE BE IT RESOLVED**, the Tribal Council hereby repeals Resolutions 75-15 and 83-33, and SIT § 11.12.010 ("Water Code"); and

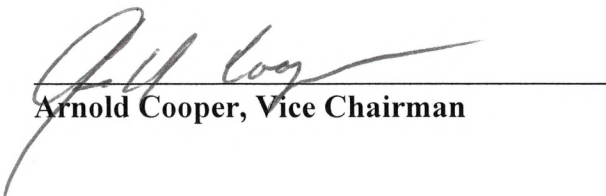
**BE IT FURTHER RESOLVED**, the Tribal Council intends to adopt a revised Water Code that will more fully assert the Tribe's water rights.

**CERTIFICATION**

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 13<sup>th</sup> day of December, 2012, at which time a quorum was present and was passed by a vote of 5 for and 0 against, with 0 abstentions.

  
\_\_\_\_\_  
David Lopeman, Chairman

Attested by:   
\_\_\_\_\_  
Pete Kruger Sr., Secretary

  
\_\_\_\_\_  
Arnold Cooper, Vice Chairman

## **Chapter 11.12**

### **WATER CODE**

Sections:

~~11.12.010 Adopted.~~

~~11.12.010 Adopted.~~

~~The Squaxin Island Tribal Council approves and adopts the Squaxin Island tribal water code as tribal law. Said ordinance is on file for public inspection in the office of the Tribal Council.~~

~~(Res. 83-33)~~