

Resolution No. 74-91

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

WHEREAS, the Bull Cienega Logging Unit is included in the five-year timber sale program, and

WHEREAS, this unit is part of the allowable annual cut and part of the Northfork Management Block, and

WHEREAS, the five alternatives of areas to be excluded from logging in the sale area and various techniques of logging have discussed in detail in the Forestry Committee, and

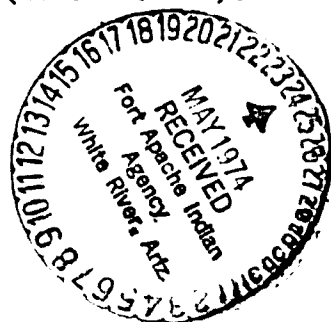
WHEREAS, they recommended that alternative No. 2 be adopted for this sale and that 21.3 MM board feet be sold under this timber sale.

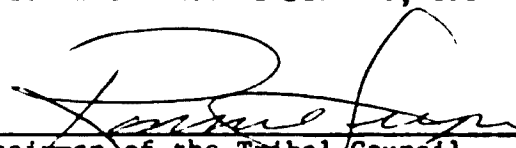

BE IT RESOLVED that the Bull Cienega Logging Unit as presented in the Forest Officer's Report and proposed contract covering the recommended sale of this timber and subject to minor changes and administrative adjustments by the Approving Officer, be sold to the Fort Apache Timber Company.

BE IT FURTHER RESOLVED that the Chairman and Secretary of the Tribal Council are authorized to execute the contract and related documents necessary to administer the sale of timber on behalf of the Tribal Council.

BE IT FURTHER RESOLVED that a deduction not to exceed twenty-five percent (25%) of the receipts received from the purchaser will be accrued in the road suspense account. This accrual will continue until the road suspense is funded to the extent required to provide the road construction fund reserve authorized by the tribe.

The foregoing resolution was on May 13, 1974 duly adopted by a vote of 6 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (1) of the Amended Constitution and By-Laws 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

Resolution No. 74-91

JUN 5 1974

MEMORANDUM

**TO: Area Director
Attention: Tribal Operations**

FROM: Superintendent

SUBJECT: Tribal Resolution No. 74-91

The Bull Cienega Logging Unit is included in the five-year timber sale program. The five alternatives of areas to be excluded from logging in the sale area and various techniques of logging have been discussed in detail. The Forestry Committee recommended that alternative No. 2 be adopted for this sale and that 21.3 MM board feet be sold under this timber sale.

Resolution No. 74-91 approves the sale of the Bull Cienega Logging Unit to Fort Apache Timber Company.

The resolution further authorizes the Tribal Chairman and Secretary to execute the contract and related documents.

The resolution was adopted on May 13, 1974, by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (1) of the Amended Constitution. Under this authority the resolution is not subject to review or approval.

/s/ Tim C. Dye

Superintendent

S r p t
Bureau of Indian Affairs
Phoenix Area Office
P. O. Box 7007
Phoenix, Arizona 85011

Forestry

July 29, 1974

Memorandum

To: Commissioner of Indian Affairs
Attention: Director, Div. of Trust Services

From: Area Director

Subject: The Endangered Species Act of December 28, 1973,
and its affect on the harvesting of timber on the
Fort Apache Reservation.

On May 13, 1974, the White Mountain Apache Tribal Council, by Resolution No. 74-91, approved the sale of 21.3 million board feet of timber (Alternate Plan #2) from the Bull Cienega Logging Unit. Prior to that approval, a Forest Officer's Report and an Environmental Analysis had been prepared and discussed with all interested parties on the reservation including the local Bureau of Sport Fisheries and Wildlife office which expressed opposition to the sale. They felt it would destroy the habitat and result in the extinction of the Arizona Apache Trout, Salmo Apache, an endangered species under the Endangered Species Act of 1973. A Memorandum dated January 17, 1974, from the Regional Director, Bureau of Sport Fisheries and Wildlife suggested environmental standards to be used in connection with logging activities on the Fort Apache Reservation. However, the tribe did not adopt these standards because they were too restrictive.

Phoenix Area Environmental Coordinator, J. R. Crowther in April, 1974, reviewed the Forest Officer's Report, Environmental Assessment and various letters concerning the sale of timber. Because of possible violation of the Endangered Species Act of 1973 (87 Stat 884) and other considerations, Mr. Crowther determined that the project as it was constituted at that time would require an Environmental Impact Statement; consequently, he recommended further consultations with tribal officials and other interested parties to determine if they desired further consideration of Alternate Plan #2.

On May 29, 1974, members of the White Mountain Tribal Council met with the Assistant Area Director, Charles Worthman, and other Bureau employees to discuss alternatives to Plan #2.

In order to minimize the damage to the habitat, Tribal officials agreed to modify Plan #2 to exclude 344 acres of timber land. Included in this area are the spawning grounds and their environs. While the tribe agreed to this modification by Tribal Resolution No. 74-103, by the same resolution they further resolved that the White Mountain Apache Tribe should be reimbursed by the Federal Government for losses to the Tribe because of the requirement limiting the amount of timber to be harvested. The Tribe does not see why it must bear the exclusive financial burden of preserving this species when the policy requiring preservation is a national one which; therefore, should be underwritten by the nation.

As stated in Superintendent Tim Dye's Memorandum of July 8, 1974, "the Tribe is interested in preserving and maintaining the Apache Trout, but it is extremely difficult for them to reconcile the monetary value between the endangered species and the value of the unharvested timber."

We fully agree with the Tribe's position and request that legislation be introduced to exempt tribal lands from the Endangered Species Act of 1973. This office submitted proposed legislation to the BIA Central Office on March 22, 1973, for the exemption of Indian lands from the requirements of the National Environmental Policy Act of 1969 (NEPA), for essentially the same reason, i.e., that NEPA through its stringent time and excessive processing requirements serves to inhibit Indian economic development in ways that do not apply to other privately owned land. An alternative to the exemption of Indian lands from these Acts is reimbursement to the Tribe for the economic losses resulting from the loss of timber revenues. If this is considered a viable alternative, we will prepare an estimate of these losses.

/Sgd/ Charles D. Worthman

Area Director

ENCLOSURES

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cc: ✓ Supt., Fort Apache Agency

Memorandums Concerning the Sale of Timber
from the Sull Cienega Logging Unit

1. Tim Dye, Superintendent
Fort Apache Agency July 8, 1974
2. Area Director
Phoenix Area June 13, 1974
3. Acting Superintendent
Fort Apache Agency June 11, 1974
4. Assistant Area Director
Economic Development June 7, 1974
5. White Mountain Apache
Resolution No. 74-103 June 6, 1974
6. W. O. Nelson, Regional Director
Bureau of Sport Fisheries
& Wildlife
Albuquerque, N.M. May 20, 1974
7. Superintendent
Fort Apache Agency June 5, 1974
8. Assist. Area Director
Economic Development May 15, 1974
9. White Mountain Apache Tribal
Resolution No. 74-91 May 13, 1974
10. Area Environmental Coordinator April 26, 1974
11. Forest Manager, Fort Apache Agency
Environmental Analysis of
the Sull Cienega Logging Unit
Forest Officer's Report May 9, 1974
May 14, 1974
12. Fisheries Management Biologist
Pinetop, Arizona April 5, 1974
13. Bureau of Sport Fisheries & Wild-
life
Environmental Standards
(not accepted by Tribe) Jan. 7, 1974

14. Fort Apache Recreation Enterprise

March 26, 1974

15. Sunrise Park Ski Area
Fort Apache Reservation

March 22, 1974