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Resolution No. 81-39

FEB 19 1981

**Fort Apache Indian Agency  
Whiteriver, Arizona**

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

- WHEREAS, on November 9, 1971, acting pursuant to previous agreements between the White Mountain Apache Tribe and the United States of America, that if the warfare then on-going between the Apaches and the U. S. Army would be terminated, the White Mountain Apache Reservation (since officially described as the Fort Apache Indian Reservation) would be established as a permanent home and abiding place, there was issued an Executive Order pursuant to which the Fort Apache Indian Reservation was created, and
- WHEREAS, the White Mountain Apache Tribe, acting in utmost good faith, withdrew to the Fort Apache Indian Reservation as established by the aforesaid Executive Order, and have at all times resided upon that reservation in strict conformity with the agreement pursuant to which that reservation was established, and
- WHEREAS, it has been historically recognized that the principal utilization which could be made of the Fort Apache Indian Reservation was for grazing purposes, and the United States of America (as trustee), acting by and through the Bureau of Indian Affairs, had the obligation and undertook to administer the grazing lands within the reservation, and
- WHEREAS, the facts indisputably prove that the United States of America, as trustee, in total disregard of the interests of the White Mountain Apache Tribe permitted virtually uncontrolled grazing by thousands of head of livestock owned by off-reservation non-Indians, with the consequences that the entire reservation was seriously overgrazed, resulting in the destruction of the once-abundant grazing resources, and
- WHEREAS, the United States permitted the overgrazing for a period commencing in 1890, if not earlier and with the further result that the White Mountain Apache Tribe did not have an opportunity to establish their own herds of livestock; and when they attempted to demand grazing rights on their own reservation, those rights were so severely limited that Apache grazing was essentially prohibited for a period of forty (40) years, during which time the serious overgrazing continued, with attendant sharp reduction in the carrying capacity of the grazing land, and
- WHEREAS, not only were the White Mountain Apache Tribal members deprived of their grazing rights, but also the greatly reduced carrying capacity resulted in sharply reduced grazing fees collected from non-Indians, and

- WHEREAS, an example of the predominantly non-Indian grazing are these figures which show that in 1930, there were approximately 27,000 head of cattle, 29,000 head of sheep and 2,700 head of horses (far beyond the carrying capacity of the range), demonstrating the magnitude of the overgrazing and the total disregard of the needs of the White Mountain Apache Tribe for grazing rights to meet their needs, and
- WHEREAS, the White Mountain Apache Tribe lost millions of dollars in grazing fees to which they were entitled from non-Indians (who frequently grazed their animals without charge); and because of the reduced grazing capacity, the fees paid by the non-Indian livestock owners were greatly reduced, and
- WHEREAS, in the process of overgrazing (chargeable to the mismanagement of the United States Trustee) the natural vegetation cover was destroyed and for the last three-quarters of a century the invaluable and irreplaceable top soil was destroyed, resulting in irreparable and continuing damage to the reservation totalling tens of millions of dollars in damage to the White Mountain Apache Tribe, and
- WHEREAS, so severe has become the erosion for the last half century that huge gullies have been eroded to great depths, rendering virtually useless the lands thus intersected by the gullies; said damage stemming from the gross violation of the Trustee United States in failing properly to administer the grazing lands within the White Mountain Apache Indian Reservation, and
- WHEREAS, there has been tendered to the White Mountain Apache Tribe an offer of settlement to repay the Tribe for the irreparable and continuing damage by the United States of America stemming from the mismanagement of the grazing lands, all as stated above, the sum of \$13,000,000.00 for all damages to the grazing lands, the forest lands, and the mismanagement of tribal funds, and
- WHEREAS, the White Mountain Apache Tribe is informed and believes that of the \$13,000,000.00 offered to the Tribe, something less than \$3,000,000.00 is being offered as recompense for the long-term mismanagement of its invaluable grazing lands, and
- WHEREAS, the White Mountain Apache Tribe believes that the \$13,000,000.00 falls far short of a reasonable payment to the Tribe for the damages it has sustained through the gross mismanagement of its grazing lands, as described above, and
- WHEREAS, the White Mountain Apache Tribe desires to have initiated a long-term program which would correct the mismanagement of its grazing lands and restore those grazing lands, to the extent possible to the former excellent status of those lands for grazing purposes.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the White Mountain Apache Indian Reservation is desirous of accomplishing to the fullest extent possible, a sound economic base which will ensure the White Mountain Apache Tribe that it will be a viable Indian community now and in perpetuity.

BE IT FURTHER RESOLVED that an imperative step in establishing that permanent viable economic community is the restoration at the earliest possible date of the grazing lands which have been so badly damaged by the maladministration of those lands by the United States of America.

BE IT FURTHER RESOLVED that the Chairman of the Tribal Council be authorized to seek from the officials of the Department of Justice in charge of prosecuting on behalf of the United States the case of White Mountain Apache Tribe vs. United States, No. 22-H, now in the U. S. Court of Claims, clarification of paragraph six (6) of the letter dated October 28, 1980, to the White Mountain Apache Tribe making the \$13,000,000.00 offer which states:

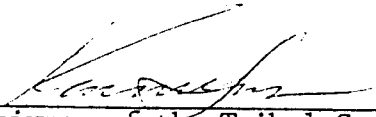
"That the judgments entered into pursuant to this settlement shall finally dispose of all rights, claims, and demands, which the plaintiffs have asserted or could have asserted against the defendants under the provisions of the Indian Claim Commission Act in Docket No. 22-H before the Court of Claims."

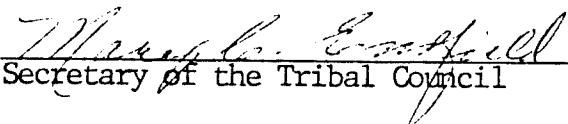
BE IT FURTHER RESOLVED that the Chairman proceed to initiate and to carry on direct negotiations with the Attorney General of the United States, the Assistant Attorney General of the United States, Land and Natural Resources or their designees to the end that the Tribe may obtain from the Department of Justice that Agency's interpretation of paragraph 6 as set forth in the Department of Justice's October 1980 offer of settlement.

BE IT FURTHER RESOLVED that the Tribal Council is perplexed and has not been fully informed as to the consequences of the above-quoted paragraph 6 in regard to the Tribe's rights to the use of water and does not know if the Tribe would be precluded from obtaining additional damages if it is determined judicially or otherwise that the United States had violated the Tribe's rights to the use of water in the Salt River and its tributaries or if the United States of America had diminished or impinged upon those rights.

BE IT FURTHER RESOLVED that the Tribal Council must know from the Department of Justice whether the acceptance of the settlement of October 28, 1980, will preclude the Tribe from recovering the value of the lands excluded from the Fort Apache Indian Reservation along the northern boundary of that reservation and which lands are by error now included in the Sitgreaves and Apache National Forests.

The foregoing resolution was on February 10, 1981 duly adopted by a vote of 10 for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (i) 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