

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

- WHEREAS, the Tribal Council of the White Mountain Apache Tribe pursuant to Resolution No. 82-175 granted permission to the M.M. Sundt Construction Company to utilize the Cottonwood Canyon Pit Site for crushing and mixing asphalt pursuant to certain conditions set forth in Resolution No. 82-175 and pursuant to a "Letter of Intent"; and
- WHEREAS, it has been determined that the Cottonwood Wash Area discussed in Resolution No. 82-175 was inadequate for the needs specified and therefore said resolution granting permission to the M.M. Sundt Construction Company to utilize the Cottonwood Canyon Pit Site should be rescinded; and
- WHEREAS, a new aggregate area has been located known as Gold Gulch Wash Area and permission has been granted by the Tribal Council to the M.M. Sundt Construction Company to utilize the Gold Gulch Wash Area pursuant to certain conditions set forth in Resolution No. 82-206; and
- WHEREAS, it was contemplated by the Tribal Council that when Resolution No. 82-175 and 82-206 were passed that the materials utilized by the M.M. Sundt Construction Company would be used on ADOT Project Number FR-044-1 (8) which would include work on Route 260 from Pinetop to Big Lake Road Junction; and
- WHEREAS, the Tribal Council has been advised by the M.M. Sundt Company through its representative, Rick Shelley, Vice President and Assistant Manager of the Heavy Engineering Division, that Resolution No. 82-206 should include also Project No. F 044-1-910 which is the project for the Hawley Lake Road to Big Lake Junction Road part of the contract but was inadvertently omitted from the first resolution; and
- WHEREAS, the project as described will remain exactly the same, that is, that the materials to be removed from the Gold Gulch Pit will be for the ADOT Project from Pinetop to the Big Lake Road Junction but that for purposes of accurate record keeping, the Project No. FR-044-1-910 should also be included in the resolution; and
- WHEREAS, specifically, FR-044-1 (8) includes the Route 260 distance from Pinetop to the Hawley Lake Junction and Fr-044-1-910 begins at the Hawley Lake Road Junction and terminates at the Big Lake Road Junction; and
- WHEREAS, the Tribal Council concludes that Resolution No. 82-206 should be amended by this resolution to provide for the inclusion of the omitted project number; and
- WHEREAS, the M.M. Sundt Construction Company and the Tribal Roads Department has requested that the M.M. Sundt Construction Company be granted

- permission to utilize the McNary Cinder Pit as a hot plant area for the duration of the ADOT Project from Pinetop to the Big Lake Road Junction; and
- WHEREAS, pursuant to said use of the McNary Pit, the M.M. Sundt Construction Company would crush the aggregate at the Gold Gulch Area and transport it by truck for storage at the McNary Cinder Pit whereupon four different piles of aggregate of approximately 20 feet in height and measuring 60 feet by 100 feet in area would be utilized to produce asphalt concrete; and
- WHEREAS, the asphalted concrete would be transported to the project site on Route 260; and
- WHEREAS, the utilization of the Gold Gulch Area and the McNary Cinder Pit Area will provide continued employment for at least six tribal members who will be used as operators and laborers at the Gold Gulch Area as well as the McNary Cinder Pit; and
- WHEREAS, the M.M. Sundt Construction Company will utilize at least two semi-tractors and trailers and operators owned by the Tribal Roads Department for the project at McNary Cinder Pit; and
- WHEREAS, the M.M. Sundt Construction Company will not remove any materials of any kind from the McNary Cinder Pit and will pay the Tribe the sum of \$500.00 per month rental on the McNary Cinder Pit Site when in active use for mixing asphalt and will pay the sum of \$250.00 per month for inactive use of said area for the purpose of storage of materials, stock piles and equipment, providing the project is not completed by December 31, 1982; and
- WHEREAS, the M.M. Sundt Construction Company advises that the McNary Cinder Pit Site is most suitable for storage of the aggregate materials for the reasons that they will be able to abandon the Gold Gulch Area and clean the area up more quickly and further will avoid any danger of flooding and washing away the aggregate piled near the river; and
- WHEREAS, all asphalt, oil spills, deisel spills and any other chemical spills foreign to the native environment will be dug out and removed to an accepted garbage dump area and the use area at the McNary Pit will be recontoured, shaped and seeded to meet ADOT requirments and the ADOT clean-up agreement as well as the standards set by the White Mountain Apache Tribe to restore the site to an acceptable condition; and
- WHEREAS, M.M. Sundt Construction Company will be required to obtain a \$5,000 clean-up bond which will be made payable to the White Mountain Apache Tribe in the event the McNary Cinder Pit Use Area is not restored to a condition acceptable to the White Mountain Apache Tribe; and
- WHEREAS, the agreement will terminate upon the completion of the ADOT Project numbered above; and
- WHEREAS, the M.M. Sundt Construction Company will lease equipment used in this operation from the White Mountain Apache Tribe at the prevailing rate.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that Resolution No. 82-175 is hereby rescinded effective immediately.

BE IT FURTHER RESOLVED, by the Tribal Council of the White Mountain Apache Tribe that it hereby amends Resolution No. 82-206 with the addition of Project No. F 044-1-910 which includes that distance of Route 260 from Hawley Lake Road Junction to the Big Lake Road Junction.

BE IT FURTHER RESOLVED by the Tribal Council it hereby directs and authorizes the Tribal Chairman to send a "Letter of Intent", on behalf of the White Mountain Apache Tribe doing business as Tribal Roads Enterprise, agreeing to the foregoing terms and conditions for the use of the McNary Cinder Pit Area.

BE IT FURTHER RESOLVED, that the Chairman of the White Mountain Apache Tribe be authorized to sign all documents necessary to effectuate any contract drafted to carry out this resolution.


BE IT FURTHER RESOLVED, that the Bureau of Indian Affairs be requested to issue a revocable use permit to the M.M. Sundt Construction Company subsequent to approval of this resolution.

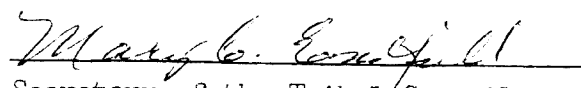
BE IT FURTHER RESOLVED, that all affected land owners and assignees be provided a copy of this resolution.

The foregoing resolution was on September 1, 1982 duly adopted by a vote of 11 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).

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FORT APACHE INDIAN  
AGENCY  
WHITERIVER, ARIZ

  
Chairman of the Tribal Council

  
Secretary of the Tribal Council

White Mountain Apache Tribe  
Fort Apache Indian Reservation  
Whiteriver, Arizona

On August 31, 1982, the Tribal Attorney was asked by Alvino Hawkins, acting as representative on behalf of the Tribal Roads Enterprise, to draft a resolution granting the M.M. Sundt Construction Company of Tucson, Arizona use of the McNary Cinder Pit Area for purposes of storing materials and equipment for ADOT Project No. FR 044-1 (8) and F 044-1-910, said projects being located on Route 260 from Pinetop to Hawley Lake Junction and then from Hawley Lake Road to Big Lake Road Junction.

The Tribal Roads Department advises the Council through this memorandum that M.M. Sundt Construction Company does not wish to take a chance of storing crushed rock at the Gold Gulch Area because flooding would wash the aggregate downstream and also by removing the crushed rock from the Gold Gulch Area to the McNary Cinder Pit Area, will enable Sundt Construction Company to abandon and clean up the Gold Gulch Area at a much earlier date.

M.M. Sundt Construction Company will abide by all of the clean-up provisions and bonding provisions which have been required in both the Cottonwood Wash Area and the Gold Gulch Area and will pay the tribe \$500.00 per month for active use and \$250.00 for inactive use in the event that they cannot complete the ADOT Project by December 31, 1982.

Pursuant to Resolution No. 82-206 which gave permission to Sundt Construction Company to utilize the Gold Gulch Area, the Cottonwood Wash Area was deemed inadequate for their purposes. Therefore, this proposed resolution, attached hereto, also rescinds the Cottonwood Wash Area Resolution 82-175.

The resolution, attached hereto, also provides that Tribal Roads equipment and operators will be utilized by Sundt Construction Company at the McNary Cinder Pit Site. Utilization of the McNary Cinder Pit will extend the employment time for tribal operators and laborers because they will be transferred from the Gold Gulch Area to the McNary Cinder Pit Area for the hauling of mixed asphalted concrete to the Route 260 project site. Moreover, there is a possibility of hiring one or more tribal members as flag men and laborers for that site.

The reason that Tribal Roads Department is requesting a walk-through resolution is because most of the crushing will be completed within three weeks and if Tribal Roads waits until the September 8th Tribal Council Meeting, it may not be feasible to utilize the McNary Cinder Pit as a storage and hot plant area. Also, the Tribal Council Meeting was originally set for September 2, 1982 however was re-set for September 08, 1982 due to the Tribal Fair.

The resolution provides that the Sundt Construction will post a clean-up bond and that the Tribal Chairman will execute a "Letter of Intent" to Sundt Construction Company similar to that issued to the company in regards to the Gold Gulch and Cottonwood Wash Area.

The following members of the Governing Body of the White Mountain Apache Tribe constitute a quorum in accordance with the Constitution and By-Laws of the White Mountain Apache Tribe:

Ronnie Lupe  
Ronnie Lupe, Chairman

Reno Johnson  
Reno Johnson, Vice-Chairman

Raynis Albert  
Raynis Albert, Council Member

Lafe Altaha  
Lafe Altaha, Council Member

West Anderson Sr.  
West Anderson, Sr., Council Member

Adam Lupe Sr.  
Adam Lupe, Sr., Council Member

Ernie Crocker  
Ernie Crocker, Council Member

Alvino Hawkins  
Alvino Hawkins, Council Member

Judy DeHose 9/1/82  
Judy DeHose, Council Member

Raymond Endfield Jr.  
Raymond Endfield, Jr., Council Member

Rudy Walker Sr.  
Rudy Walker, Sr., Council Member

W. E. Endfield  
Secretary of the Tribal Council

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FORT APACHE INDIAN  
AGENCY  
WHITERIVER, AZ 857