

RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION
RESPECTING
THE TRUST OBLIGATIONS OF THE UNITED STATES
OF AMERICA

I. TRUST OBLIGATIONS OF THE UNITED STATES TO THE TRIBE

WHEREAS, the United States of America, is the trustee for the White Mountain Apache Tribe, its people, and its natural resources, and is charged with the responsibility and obligation of protecting the people and the ancestral lands upon which they live; and

WHEREAS, the Secretary of the Interior and the Attorney General of the United States of America are the principal agents of the trustee United States, and are charged with the most "exacting fiduciary standards" in the performance of their trust responsibilities owing to the White Mountain Apache Tribe which requires the Secretary of the Interior and the Attorney General of the United States to exercise the highest degree of care, skill and diligence in the performance of those functions for the sole benefit of the White Mountain Apache Tribe; and

II. CONFLICTS OF INTEREST PREVENT THE TRUSTEE'S AGENTS FROM FULFILLING THE TRUST OBLIGATIONS OF THE UNITED STATES

WHEREAS, historically and continuing to the present day, irreconcilable conflicts of interest have pervaded all aspects of the Secretary of the Interior's and the Attorney General's conduct respecting the White Mountain Apache Tribe's rights to the Salt River and the development of the Tribe's natural resources with the result that these agents of the trustee United States have utterly failed to perform their duties and responsibilities as trustee for the people and natural resources of the White Mountain Apache Tribe; and

III. THE CONFLICT OF INTERESTS PREVENTING THE PERFORMANCE OF TRUST RESPONSIBILITIES IS MOST MANIFEST IN THE PROTECTION AND DEVELOPMENT OF THE WATER RIGHTS OF THE WHITE MOUNTAIN APACHE TRIBE TO THE SALT RIVER

WHEREAS, contrary to their trust obligations the Secretary of the Interior acting in concert with the Attorney General of the United States has in the past and is continuing today to diminish, limit, denigrate and violate the Tribe's Salt River Rights for the benefit of the Salt River Federal Reclamation Project and the Central Arizona Federal Reclamation Project administered by the Secretary of the Interior; and

WHEREAS, from the inceptive moment of the Salt River Federal Reclamation Project, successive Secretaries of Interior and Attorneys General have violated Indian Rights for the benefit of that Project; and

WHEREAS, the corrupt conduct of the successive Secretaries of Interior and Attorneys General has involved intentional mismanagement and nondevelopment of the Tribe's Salt River Rights; and

WHEREAS, Congress has reported at the inception of the Salt River Reclamation Project, as now, that the Indian interests have been "most outrageously intermingled with the affairs of the Reclamation Service ..."; and

IV. THE PRINCIPAL AGENTS OF THE TRUSTEE UNITED STATES CONTRARY TO THEIR TRUST OBLIGATIONS AND IN BETRAYAL OF THE WHITE MOUNTAIN APACHE TRIBE HAVE ATTEMPTED TO SUBJECT THE TRIBE'S WATER RIGHTS TO HOSTILE STATE COURT JURISDICTION

WHEREAS, the Secretary of the Interior and the Attorney General have continued their efforts to subvert the White Mountain Apache Tribe's rights to the non-applicable Kent Decree and other State Court decrees evidencing a preference that those officials accord to the Federal Reclamation Projects; and

WHEREAS, the actions of the Secretary of the Interior and Attorney General are so submerged in conflicting influences and loyalties proscribed by the canons of ethics which prohibits a lawyer from representing multiple clients with differing interests in litigation that said principal agents for the trustee of the United States cannot possibly exercise judgment "solely" for the benefit of the White Mountain Apache Tribe; and

WHEREAS, it has been admitted by representatives of the Attorney General that, due to conflicts of interest, their position in Indian Water Rights litigation is "untenable" and that likewise it has been admitted that the Secretary's "inherent conflict of interest" has resulted in Secretary Watt asserting rights to the use of water diametrically opposed to the White Mountain Apache Tribe's interest in the Salt River, and that said admissions are set forth in the Congressional record; and

WHEREAS, the Secretary of the Interior and the Attorney General and their predecessors have engaged in intentional, arbitrary and capricious conduct and have intentionally mismanaged the Tribe's Salt River Rights in favor of the Federal reclamation Project known as the Salt River Project and in bad faith have attempted to represent the interests of the White Mountain Apache Tribe against the will of the Tribe thereby causing the White Mountain Apache Tribe to suffer irreparable injury and damage to their natural resources contrary to the trust responsibilities of the trustee United States which dictates that the Secretary of the Interior and

his Attorney act solely for the benefit of the Indian people; and

WHEREAS, because of this irreconcilable conflict of interest and the resulting preference accorded to the Federal Reclamation Projects, the Secretary of the Interior and the Attorney General of the United States have caused and will continue to cause irreparable and continuing damage to the Tribe by the seizure, dimunition and violation of the Tribe's Salt River Rights and development of water related natural resources; and

WHEREAS, the White Mountain Apache Tribe has sought declaratory and injunctive relief in the Federal Courts to enjoin the Secretary of the Interior and the Attorney General from taking further action which would submit the Tribe's Salt River Rights to the laws of Arizona or the Courts of that State; and

V. IMMEDIATE CORRECTIVE ACTION NECESSARY

WHEREAS, because of this continuing bad faith conduct on the part of the principal agents of the trustee United States and the resultant injury suffered by the Tribe, the White Mountain Apache Tribe has pursuant to Resolution No. 82-304 proposed to directly contract with the trustee United States for the management and administration of its own natural resources so that the people and land of the White Mountain Apache Tribe will not suffer from further bad faith and intentional mismanagement, nonfeasance of duty, malfeasance of duty, and opposition to the development of the water rights and other natural resources on the reservation at the hands of the Secretary of the Interior and his Attorney, the Attorney General of the United States; and

VI. THE EXERCISE OF THE TRIBE'S RIGHT TO EXCLUDE NON-MEMBERS IS NECESSARY TO PREVENT FURTHER INJURY

WHEREAS, the Tribal Council because of the irreconcilable conflict of interests and bad faith conduct on the part of the principal agents of trustee United States, has passed Resolution No. 82-289 amending the Exclusion and Removal Ordinance No. 128, to provide for the protection of the Tribe's natural resources from being undermined by investigations by the Agents of the trustee of those natural resources without tribal consent for purposes of undermining the Tribe's water rights claims; and

WHEREAS, the Secretary of the Interior and the Attorney General of the United States as principal agents of the trustee United States have grossly failed in the performance of their trustee responsibilities because of the above-described irreconcilable conflicts of interest and their bad faith attempts to subvert the tribe's Rights to the Salt River and its tributaries to the Federal Reclamation Project whenever that Project's interests conflict with those of

the White Mountain Apache Tribe.

VII. THE TRIBAL COUNCIL OF THE WHITE MOUNTAIN APACHE TRIBE DIRECTS THE ASSESSMENT OF DAMAGES FOR BREACH OF THE TRUST OBLIGATION; CONGRESSIONAL INVESTIGATION OF CONFLICTS OF INTEREST REQUESTED; DEMAND IS MADE UPON TRUSTEE AGENTS TO FULFILL TRUST OBLIGATIONS.

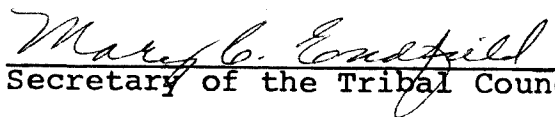
BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman of the Tribal Council is hereby directed by the Council to conduct an analysis of the magnitude of the monetary damage experienced and suffered by the White Mountain Apache Tribe due to the gross failure, negligence and intentional nonfeasance of duty engaged in by the trustee United States through its principal agents the Secretary of the Interior and the Attorney General of the United States of America.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby requests that an investigation be initiated by the Congress of the United States whereby the White Mountain Apache Tribe can present evidence of irreconcilable conflicts of interest and bad faith conduct on the part of the principal agents of the trustee United States of America, the Secretary of the Interior and Attorney General of the United States.

BE IT FURTHER RESOLVED by the Tribal Council that it hereby demands that the Secretary of the Interior and the Attorney General of the United States of America as principal agents of the trustee United States fulfill their trust responsibilities now and in the future and that they act solely for the benefit of the White Mountain Apache Tribal people and further that they cease all representation of the Tribe without its consent and utilize the vast resources of their respective departments to further the development of the water rights and natural resources of the White Mountain Apache Tribe rather than that of the Salt River Project, of the Bureau of Reclamation.

The foregoing resolution was on December 16, 1982 duly adopted by a vote of 9 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 (a) (d) (e) (f) (h) (i) (m) (s) (t) and (u) 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