

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

Docket 22-H


Contract with Morrison-Maierle, Inc.

- WHEREAS, the White Mountain Apache Tribe has a number of claims against the United States which are being prosecuted in Docket 22-H before the U.S Claims Court; and
- WHEREAS, the Tribe has employed an attorney pursuant to a contract (Symbol H50C1420, Contract Number 2596) to prosecute said claims on behalf of the Tribe; and
- WHEREAS, the Tribe has previously made application for, and obtained approval of, a loan from the United States to procure expert assistance under the Act of November 4, 1963 (77 Stat. 301); and
- WHEREAS, the Tribal Council of the White Mountain Apache Tribe has considered a proposed contract to employ Morrison-Maierle, Inc. of Helena, Montana to perform investigations and studies in connection with the prosecution of the Tribe's claims in Docket 22-H; and
- WHEREAS, the Tribal Council by prior Resolution No. 83-77, directed the Tribal Attorney to negotiate a contract with Morrison-Maierle, Inc. for the purpose of advancing the claims of the Tribe in Docket No. 22-H; and
- WHEREAS, the Tribal Council pursuant to Resolution No. 83-77 authorized the Tribal Chairman to execute any and all documents necessary to carry out the directives of said resolution; and
- WHEREAS, the Tribal Attorney has negotiated a contract with Morrison-Maierle, Inc., a copy of which is attached hereto and by reference is made a part hereof.

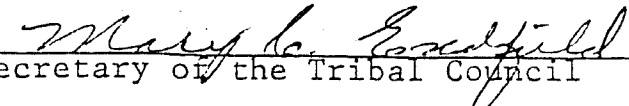
BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that approval is hereby given to said contract, a copy of which is attached hereto and by this reference is made a part hereof.

BE IT FURTHER RESOLVED by the Tribal Council that it hereby authorizes the Tribal Chairman to execute the contract any any other documents necessary to effectuate performance of the contract.

The foregoing Resolution was on June 15, 1983, duly adopted by a vote of 8 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(d & i) of the Amended Constitution and Bylaws 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

CONTRACT
FOR
EMPLOYMENT OF EXPERT CONSULTANT ASSISTANCE

THIS CONTRACT is made by and between the WHITE MOUNTAIN APACHE TRIBE (the "TRIBE") and MORRISON-MAIERLE, INC., a Montana Corporation, with its principal place of business located at 910 Helena Avenue, Helena, Montana 59610 (hereinafter "M. & M.").

WITNESSETH:

WHEREAS, the TRIBE is prosecuting several claims against the United States in Docket No. 22-H before the United States Court of Claims, including claims for but not limited to: (a) damages arising out of mismanagement of the TRIBE'S lands and the grazing and other natural resources and enterprises of the Fort Apache Indian Reservation; and (b) for damages or compensation for other wrongs, including the wrongful use, diversion or appropriation of tribal property belonging to the TRIBE; and

WHEREAS, the TRIBE is represented in said Docket No. 22-H by Attorney Robert C. Brauchli ("ATTORNEY") pursuant to Claims Contract (Symbol H50C1420 - Contract Number 2596); and

WHEREAS, for purpose of litigation or negotiating a settlement in the best interest of the TRIBE and to obtain full and equitable recoveries for the TRIBE, there is a need to consult with and obtain expert assistance in evaluating certain of the claims; and

WHEREAS, the TRIBE previously applied to, and obtained the approval of, the Bureau of Indian Affairs, Department of the Interior, a loan pursuant to the Act of November 4, 1963

(77 Stat. 301) for the purpose of employing expert services in connection with the prosecution of said claims; and

WHEREAS, after careful consideration, the ATTORNEY has concluded that M. & M. is well qualified to perform necessary expert services which are required in investigating and evaluating certain of the tribal claims in Docket No. 22-H, and has accordingly, selected M. & M. to perform such services and has recommended to the TRIBE the ratification of employment of, and the engaging of the services of M. & M., pursuant to the terms of a formal contract providing, inter alia, for the payment of the compensation for the services and reimbursement of the expenses of M. & M. out of the proceeds of the said expert assistance loan; and

WHEREAS, the ATTORNEY is of the opinion that the terms and provisions of this contract are in the best interests of the TRIBE and are fair and equitable; and

WHEREAS, the TRIBE is willing to enter into a contract with M. & M. ratifying the employment of M. & M. by the ATTORNEY and engaging the services of M. & M., in accordance with the terms and provisions hereinafter set forth:

NOW THEREFORE, the TRIBE and M. & M. hereby agree as follows:

1. M. & M. agrees:

(a) to perform and to continue to perform appropriate services requested by the ATTORNEY in connection with the investigation, analysis and evaluation of the tribal claims for over grazing, erosion, mismanagement of the tribe's natural resources by the trustee/defendant United States including but

not limited to water quality, hydrological studies, soil erosion, loss of irrigable acreage, mismanagement of available water resources and its effect on timber, riparian and grazing resources, including the preparation of such reports as may be requested by the ATTORNEY and consulting with the ATTORNEY, for purposes of assisting the ATTORNEY in litigation or settlement including any and all court appearances or other appearances as an expert for the ATTORNEY; and

(b) upon request by the ATTORNEY, to assemble and furnish to the ATTORNEY copies of all documents and records collected by M. & M. in connection with the performance of services relative to the afore-described claims; and

(c) to cooperate, at the request of the ATTORNEY, with other experts employed by the ATTORNEY for the TRIBE relative to the prosecution of the claims in Docket No. 22-H.

2. The TRIBE agrees to compensate M. & M. for all services performed by M. & M. under this contract on an hourly basis plus any out-of-pocket expenses such as subsistence, transportation, professional services, printing, equipment rental, maps, charts and photo costs, engineer's supplies, postage and telephone costs as set forth hereinafter: provided, however, that it is understood and stipulated that, in the absence of the written consent of the TRIBE, the total compensation to be paid by the TRIBE to M. & M. shall not exceed the sum of Seventy Three Thousand Dollars (\$73,000.00) and provided further, however, that, unless the TRIBE gives its written consent to compensation in an amount in excess of Seventy Three Thousand Dollars (\$73,000.00), M. & M. shall not be obligated to perform any

further services under this contract when the total compensation paid and payable has amounted to Seventy Three Thousand Dollars (\$73,000.00):

(a) the hourly rate of compensation of Michael B. Kaczmarek, Chief Geologist for M. & M., in performing services under this contract shall be Forty Five Dollars (\$45.00) per hour; and

(b) the hourly rate of compensation of other associates, investigators and technicians, employed by M. & M. in performing services under this contract shall be fixed by agreement between M. & M. and the ATTORNEY: provided, however, that in no event shall any such rate exceed Forty Five Dollars (\$45.00) per hour.

3. The TRIBE further agrees to reimburse M. & M. for actual non-labor out-of-pocket expenses which are reasonably and necessarily incurred in performance of services under this contract: provided, however, that, unless the TRIBE gives its written consent, reimbursement shall not exceed the sum of Fifteen Thousand Dollars (\$15,000.00) to be deducted from the total contract ceiling of Seventy Three Thousand Dollars (\$73,000.00), including:

(a) actual traveling expenses (including transportation costs and subsistence) of Michael Kaczmarek and investigators and technicians employed by M. & M., while away from office and home and performing services hereunder; and

(b) expenses of printing, microfilming, photographing of documents, maps and charts and reports furnished to the ATTORNEY; and

- (c) long distance telephone calls and telegrams; and
- (d) fees for data searched, postage, supplies, equipment rental, maps, charts and photo costs, engineer's supplies, telephone, etc.

4. Payment of the aforesaid compensation and reimbursement of expenses, as provided in Paragraph 2 and 3 hereof, shall be made only upon the submission of proper itemized monthly vouchers and the approval of the Secretary of the Interior or his authorized representative. M. & M. shall submit each voucher to the ATTORNEY, who shall certify thereon that the services rendered and expenses incurred were, to the best of his knowledge, necessary and reasonable, and in accordance with the terms of this contract. The ATTORNEY shall then submit the voucher and certificate to the TRIBE and to the Bureau of Indian Affairs. Payment on each voucher shall be made within fifteen (15) days after submission of each voucher by the ATTORNEY.

5. No assignment of the obligations of this contract, in whole or in part, shall be made without the consent previously obtained of the TRIBE, the ATTORNEY and the Secretary of the Interior or his authorized representative; nor shall any assignment or encumbrance be made of any interest of M. & M. in the compensation to be paid under this contract without such consent.

6. This contract may be terminated at any time, on behalf of the TRIBE by the TRIBE or by the ATTORNEY, or by M. & M. upon thirty (30) days written notice; and, if the contract is so terminated: (a) M. & M. shall furnish and submit to the ATTORNEY all documents, studies and reports assembled and prepared up to the time the termination becomes effective; and (b) M. & M. shall

be entitled to compensation for all services and reimbursement for expenses as provided herein up to the time that termination becomes effective.

7. This contract shall be effective as of June 9, 1983, upon approval of the contract by the Secretary of the Interior or his authorized representative, and shall continue in force and effect until June 9, 1984, unless sooner terminated, as provided in Paragraph 6 hereof.

8. This contract may be extended for additional periods of one year each upon request by M. & M. and the ATTORNEY, with the consent of the TRIBE and the approval of the Secretary of the Interior or his authorized representative.

IN WITNESS WHEREOF, the parties have executed this contract this 9th day of June, 1983.

WHITE MOUNTAIN APACHE TRIBE

ATTEST:

Mary C. Endfield
Mary C. Endfield
Tribal Council Secretary

Ronnie Lupe
Ronnie Lupe, Chairman
White Mountain Apache Tribe

Signed on behalf of the TRIBE on the 16th day of June, 1983.

MORRISON-MAIERLE, INC.

By: John H. Morrison Jr.
John H. Morrison, Jr. President

Date: 21 June 1983

WITNESS:

James A. Maule

APPROVED BY CLAIMS ATTORNEY

Robert C. Brauchli
Robert C. Brauchli