

RECEIVED

NOV 18 1983

FORT APACHE INDIAN
AGENCY
WHITERIVER, ARIZ.

Resolution No. 83-334

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

WHEREAS, the Tribal Council of the White Mountain Apache Tribe has been advised by Special Counsel to the Tribe that the defendant United States of America in the proceedings before the U.S. Claims Court known as Docket 22-H have petitioned the court presiding over 22-H for an order compelling the White Mountain Apache Tribe as plaintiff to disclose all of its evidence in support of its claims against the trustee United States in the form of written expert reports in voluminous detail regarding mismanagement of the tribe's natural resources, specifically, mismanagement of the grazing lands, timber lands, and watershed, and

WHEREAS, the Tribal Council has been further advised that the Motion of the defendant United States to compel the plaintiff White Mountain Apache Tribe to reveal every detail of its case in the form of a written expert report months before trial for study and rebuttal by the Defendant United States has been approved by the Court presiding over Docket 22-H, and

WHEREAS, pursuant to said court order the plaintiff White Mountain Apache Tribe shall be compelled to disclose in minute detail every aspect of its case in the form of expert written reports several months prior to the time that the United States of America must disclose its defense of said claims, and

WHEREAS, the Tribal Council of the White Mountain Apache Tribe has expended and will continue to expend a tremendous amount of money for the gathering of scientific data and studies necessary to prosecute its claims before the Claims Court and said work product of the tribe's experts are now being

compelled to be disclosed fully to the United States of America which will have the advantage of hiring experts for the sole purpose of rebuttal of the tribe's expert reports; thereby undermining efforts to get a fair hearing before the United States Claims Court, and

WHEREAS, the Tribal Council maintains that the relinquishment of its experts' work product in a form other than contemplated by the rules of discovery constitutes a violation of the attorney-client privilege which only the client can waive and which the Tribal Council hereby refuses to waive, and

WHEREAS, the Tribal Council is well aware of the abuse that has resulted from sequential filing of written expert reports which will drastically undermine the effective presentation of the tribe's claims before the U.S. Claims Court, and

WHEREAS, the Tribal Council observes that judicial tribunals such as the U.S. Claims Court have a special historical and constitutional status, are not administrative agencies, and that the Court must be vigilant not to blur the lines between the two so as to maintain faith in the integrity of its processes in the eyes of litigants who appear before the court and to continue to maintain the lofty goals of the United States Claims Court whose mission is to carry on the tradition of United States Court of Claims and the Indian Claims Commission, and

WHEREAS, the Tribal Council concludes that its attorney of record in 22-H should take any and all steps necessary to protect the integrity of the tribe's case now pending before the United States Claims Court in 22-H and the pending case of White Mountain Apache Tribe v. James G. Watt, et al., Civ. No. 83-2045 PCT CAM, which can only be protected by pursuing all judicial remedies of appeal, modification, or to vacate the present court order requiring that the tribe disgorge its whole case against the United States in the form of written expert reports which are to be delivered over the the United States of America, months before the United States is likewise required to do so, thereby giving the United States the decided advantage of hiring experts for the sole purpose of

rebuttal over the next several months all, to the irreparable harm and damage of the White Mountain Apache Tribe, and

WHEREAS, the Defendant United States of America has the further advantage as trustee of being in primary possession of warehouses full of records about the Fort Apache Indian Reservation.


BE IT RESOLVED by the White Mountain Apache Tribal Council that it hereby instructs Special Counsel, William H. Veeder and any attorneys of counsel representing the White Mountain Apache Tribe in Docket No. 22-H or WMAT v. James Watt, et al, 83-2045 PCT CAM not to disclose any materials, scientific studies or work product of experts retained by the tribe in violation of the attorney-client privilege unless the Tribal Council gives its consent to the same.

BE IT FURTHER RESOLVED BY the Tribal Council of the White Mountain Apache Tribe that it hereby directs Special Counsel, William H. Veeder and any other attorney of record representing the tribe in 22-H or White Mountain Apache Tribe v. James Watt, et al, 83-2045 PCT CAM to take any and all necessary steps to overturn, vacate, or modify the present order of the U.S. Claims Court directing that the tribe submit all evidence of its claims in the form of expert reports to be delivered to the defendant United States of America several months before trial.

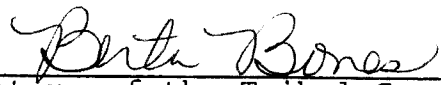
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby declares that the present order of the Claims Court gives unfair advantage to the defendant United States of America, violates the spirit and letter of the fair and honorable dealings clause of the Indian Claims Commission Act, constitutes denial of due process and a fair trial to the plaintiff White Mountain Apache Tribe in that it compels and directs the plaintiff tribe to present its case not by way of the traditional legal process but pursuant to the arbitrary dictates of the defendant United States of America; and, finally, said court order constitutes an unconstitutional deprivation of property without due process of law, a denial to plaintiff White Mountain Apache Tribe of effective assistance of counsel, and obstruction of the courts ability to focus on the crucial issues

and significant exhibits to be presented in support of the tribe's claims in Docket 22-H.

The foregoing resolution was on November 9, 1983 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, i t, and u) of the Amended Constitution any 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



Acting Secretary of the Tribal Council

Resolution No. 83-334