

WHEREAS, the Tribal Council hereby condemns the dishonorable, inequitable and unfair conduct of the trustee United States which by its denial of the tribe's request is suppressing evidence which should be brought out before the trier of fact and be weighed with other evidence to be presented in support of the tribe's claims now pending in 22-H, and 83-2045, and

WHEREAS, the Tribal Council concludes that the refusal by the Secretary of the Interior through the Solicitor William H. Coldiron for Charles P. Corke to appear as an expert witness on behalf of the White Mountain Apache Tribe is arbitrary and capricious, and unconstitutional and will result in the denial of due process to the White Mountain Apache Tribe and will in fact constitute an unwarranted interference with the presentation of the tribe's just claims now pending before the U.S. Claims Court and will further result in the denial of adequate representation of the tribe's claims in Docket 22-H and PHX CIV No. 83-2045, supra, both cases being inextricably bound and entwined with each other, and


WHEREAS, the Tribal Council concludes that in the interest of protecting the welfare, people and natural resources of the White Mountain Apache Tribe that it is absolutely mandatory that Special Counsel William H. Veeder pursue any and all means to secure the appearance of Charles P. Corke as expert witness for the White Mountain Apache Tribe, Charles P. Corke in Docket 22-H and No. 83-2045 PCT CAM.

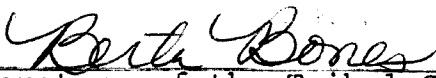
BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby condemns the deplorable conduct of the trustee United States in its obdurate refusal to consent to the request of the White Mountain Apache Tribe that Charles P. Corke be allowed to testify as an expert witness in view of his extensive and expert knowledge of irrigation works, irrigable acreage, and the watershed of the Fort Apache Indian Reservation in Docket 22-H and U.S. District Court 83-2045 PCT CAM.

BE IT FURTHER RESOLVED BY the Tribal Council of the White Mountain Apache Tribe that it hereby requests Special Counsel, William H. Veeder, to utilize any and all necessary legal remedies or other means to

secure the appearance of Charles P. Corke as an expert witness for the plaintiff White Mountain Apache Tribe in Docket 22-H, now pending before the U.S. Claims Court and U.S. District Court No. 83-2045 PCT CAM, now pending before the U.S. District Court for the District of Arizona.

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 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

  
Acting Secretary of the Tribal Council

Resolution No. 83-335

William H. Veeder

*Attorney at Law*

818 - 18th Street, N. W., Suite 920

Washington, D. C. 20006

(202) 466-3890

November 5, 1983

William H. Coldiron  
Solicitor  
Department of the Interior  
Washington, D.C. 20240

Dear Mr. Coldiron:

There has been served upon you the complaint, dated October 20, 1983, in the case entitled White Mountain Apache Tribe v. James G. Watt, Secretary, \* William H. Coldiron, et al., Civ. No. 83-2045 PCT CAM. There is likewise pending in the United States Claims Court case No. 22-H, White Mountain Apache Tribe v. United States of America. In both cases, it is believed that time and costs may be vastly reduced by agreements among the parties as to many of the facts in both cases.

Mr. Charles P. Corke is employed by the Bureau of Indian Affairs, United States Department of the Interior, in the capacity of General Engineer (Hydrologist), currently serving as Chief of the Division of Water and Land Resources. Mr. Corke, because of his intimate knowledge respecting the facts in both cases, could render assistance to all parties by appearing in the proceedings as a witness for the Tribe. On November 4, 1983, there was transmitted to Paul T. Baird, Associate Solicitor, Division of Indian Affairs, who is on your staff, a request that Mr. Corke be made available as an expert witness to testify in both cases. A copy of that letter to Mr. Baird is attached. It is observed from Title 43 CFR, Public Lands: Interior, Section 2.80, that you, as Solicitor, are authorized to exercise all of the authority of the Secretary of the Interior respecting this request. It is hoped by the White Mountain Apache Tribe that you will act favorably upon this request.

As of the date of writing this letter, I have not received from you a copy of the "Notice and Acknowledgment of Receipt of Summons and Complaint" which was forwarded to you on October 20, 1983.

Sincerely,

  
William H. Veeder

White Mountain Apache Tribe

Encl.

William H. Veeder

*Attorney at Law*

818 - 18th Street, N. W., Suite 920

Washington, D. C. 20006

(202) 466-3890

November 4, 1983

Paul T. Baird  
Associate Solicitor  
Division of Indian Affairs  
Department of the Interior  
18th & C Streets, N.W. Room 6458  
Washington, D.C. 20240

Dear Mr. Baird:

This will refer to our conversation on November 3, 1983, respecting the request by the White Mountain Apache Tribe that Mr. Charles P. Corke be permitted to appear and testify as an expert witness in the cases entitled White Mountain Apache Tribe v. United States, in the United States Claims Court, No. 22-H, and White Mountain Apache Tribe v. Secretary James G. Watt, et al., Civ. No. 83-2045 PCT CAM, U.S.D.C. D. Arizona.

Mr. Corke is employed by the Bureau of Indian Affairs, United States Department of the Interior, in the capacity of General Engineer (Hydrologist), currently serving as Chief of the Division of Water and Land Resources.

Mr. Corke's intimate and broad knowledge of the land and water resources within the Fort Apache Indian Reservation, Whiteriver, Arizona, qualifies him, perhaps better than any expert in the country, to testify respecting the availability of water in the Salt River and its tributaries, the sharp competition for that supply of water, and the history of irrigation and management of land and water resources within the Fort Apache Reservation.

It is my sincerest hope that the Department of the Interior, as Trustee for the White Mountain Apache Tribe, will act favorably upon this request which is made pursuant to Title 43, CFR, Public Lands: Interior, Section 2.80, et seq.

Sincerely,

  
William H. Veeder

Special Counsel

White Mountain Apache Indian Tribe

§ 2.80

(6) Special Investigations, Coal Mine Health and Safety, Interior/MESA-10.

(7) Employee Conduct Investigations, Interior/MESA-4.

(8) Employee Financial Irregularities, Interior/NPS-17.

(9) Trespass Cases, Interior/Reclamation-37.

(10) Litigation, Appeal and Case Files System, Interior/Office of the Solicitor-1 to the extent that it consists of investigatory material compiled for law enforcement purposes.

(11) Endangered Species Licenses System, Interior/FWS-19.

(12) Investigative Case File, Interior/FWS-20.

(13) Timber Cutting and Trespass Claims Files, Interior/BIA-24.

(c) *Investigatory records exempt under 5 U.S.C. 552a(k)(5).* Pursuant to 5 U.S.C. 552a(k)(5), the following systems of records have been exempted from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) of 5 U.S.C. 552a and the provisions of the regulations in this subpart implementing these subsections:

(1) Applicant Files System, Interior/Office of the Secretary-29.

(2) National Research Council Grants Program, Interior/GS-9.

(3) Committee Management Files, Interior/OS-1.

[40 FR 7305, Feb. 19, 1975, as amended at 40 FR 54790, Nov. 26, 1975]

**Subpart E—Compulsory Process and Testimony of Employees**

§ 2.80 Compulsory process.

(a) If the production of any record of the Department is sought by compulsory process and if it is determined in accordance with the provisions of § 2.13 that the record should not be disclosed, the person making such determination shall immediately report the matter to the Solicitor. The person to whom the compulsory process is directed shall appear in answer to the process and respectfully decline to produce the record on the ground that the disclosure, pending the receipt of instructions from the Secretary of the Interior, is prohibited by the regulations in this subpart.

**Title 43—Public Lands: Interior**

(b) The solicitor of the Department of the Interior is authorized to exercise all of the authority of the Secretary of the Interior under this section.

§ 2.82 Testimony of employees.

(a) An officer or employee of the Department shall not testify in any judicial or administrative proceeding concerning matters related to the business of the Government without the permission of the head of the bureau, or his designee, or of the Secretary of the Interior, or his designee. If the head of a bureau or his designee, concludes that permission should be withheld, he shall report the matter immediately to the Solicitor for a determination, and the officer or employee shall appear in answer to process and respectfully decline to testify, pending the receipt of instructions from the Secretary, on the ground that testimony is prohibited by the regulations in this part. Pending instructions from the Secretary or his designee, an officer or employee in the Office of the Secretary shall follow the same procedure.

(b) Any person (including a public agency) wishing an officer or employee of the Department to testify in a judicial or administrative proceeding concerning a matter related to the business of the Government may be required to submit a statement setting forth the interest of the litigant and the information with respect to which the testimony of the officer or employee of the Department is desired, before permission to testify will be granted under this section.

(c) The Solicitor of the Department of the Interior is authorized to exercise all of the authority of the Secretary of the Interior under this section.

**APPENDIX A—FEES**

The following uniform fee schedule is applicable to all constituent units of the Department. It states the fees to be charged to members of the public for services performed in locating and making available records or copies thereof in connection with requests made under the Freedom of Information Act. The fees are also applicable to services provided in duplicating and making available records in response to requests made under the Privacy Act. It also states

**Subtitle A—Office of the S**

the fees to be charged for certain documents.

(1) *Photo copies, basic fee.* Copies of documents other than requiring special handling because of age or unusual dimensions: \$0.05 for the first page of copy, \$0.05 for each copy thereafter reproduced on office duplicating machine, in size 8 1/2" x 13"

*Examples:* For a single copy page document, the fee would be \$0.10. For two copies of a three-page document, the fee would be \$0.50. For a single three-page document in a size 8 1/2" x 13" the fee would be \$0.50.

(2) *Photo copies, documents requiring special handling.* For photo copies which require special handling because of their age: \$0.25 for the first copy, \$0.10 for each page of copy reproduced on a standard office duplicating machine, in size up to 8 1/2" x 13"

(3) [Reserved].

(4) [Reserved].

(5) *Clerical searches.* For each hour, or portion thereof, spent by personnel in locating a request: \$1.20.

(6) *Nonclerical searches.* For each hour, or portion thereof, spent by personal or managerial personnel requested record or records search cannot be performed by personnel: \$2.20.

(7) [Reserved].

(8) *Certification.* For each copy of records furnished to a requester: \$0.25.

(9) [Reserved].

(10) *Computerized records, charges.* For services in process for records maintained in computer form (includes personnel cost):

(a) *CDC 6500.*

(i) Batch uses, central processor, \$160.00

(ii) Batch use, Input/Output, \$105.00.

(iii) Remote Terminals, central unit, per hour, \$160.00.

(iv) Remote Terminals, Input/Output, \$185.00.

(v) Remote Terminals, connected, per hour, \$6.00.

(vi) Plotters, \$27.00.

(b) *Burroughs 5500.*

(i) Computer time, per hour, \$10.00.

(c) *CYBER 74-28.*

(i) Core Time, kiloword hour, \$10.00.

(ii) Extended Core Storage, kiloword hour, \$8.00.

(iii) Mass Storage, Input/Output, physical records, \$0.09.

(iv) Central processor, per second, \$0.09.