

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

- WHEREAS, The Tribal Council is advised by William H. Veeder, Attorney of record in Docket 22-H, entitled White Mountain Apache Tribe v. United States of America, now pending before the U.S. Claims Court that the writ of mandamus filed by the Tribe in the Federal Circuit Court of Appeals was denied on August 1, 1984; and,
- WHEREAS, the effect of the denial of the petition is to uphold the order of the U.S. Claims Court issued by Judge Nettlesheim, specifically requiring the reduction to writing prior to trial, of all of the Tribe's expert witnesses' testimony and further requiring the Tribe to turn over that testimony in written form together with all supporting exhibits to the Defendant, United States of America, some four to six months prior to trial; and,
- WHEREAS, the Tribal Council is still of the opinion that such an order is contrary to the Tribe's constitutional right to a fair trial and the right to present its claims against the United States through oral testimony in open court and further that such an order is contrary to the mandate set forth in Rule 43(a) of the Rules of Civil Procedure as adopted by the U.S. Claims Court; and,
- WHEREAS, the Tribal Council notes herein that it has never objected to its attorneys complying with Rule 16 of the Federal Rules of Civil Procedure governing pre-trial orders or discovery procedures and that in its opinion, full compliance by the parties with Rule 16 and Rule 26, et seq., would accomplish and fulfill the purpose or policy behind Judge Nettlesheim's Orders but without the prejudicial requirement that the Tribe turn over its whole case in chief to the Defendant, the United States, four to six months before trial thereby granting the Defendant an unconscionable advantage at trial, and further would allow the Tribe to fully present the underlying evidentiary

facts in support of its several claims against the United States of America, as opposed to the Court's proposed truncated trial which Judge Nettlesheim has stated will not be permitted to last longer than two weeks; and

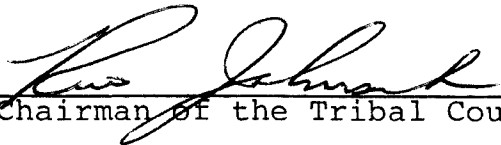
WHEREAS, the Tribal Council concludes that for the reasons set forth in its writ of mandamus and by previous resolutions of this governing body, that it cannot allow its attorneys to comply with Judge Nettlesheim's Order that the Tribe turn over its case in chief including the testimony of its experts in written form to the United States of America six months before trial and directs that its attorneys should seek a modification of Judge Nettlesheim's Order so as to accomplish the purposes and goals of Rule 16 and Rule 26, et seq., Federal Rules of Civil Procedure, without prejudicing the Tribe's right to a fair trial as guaranteed by the U.S. Constitution and Rule 43(a), of the Federal Rules of Civil Procedure.

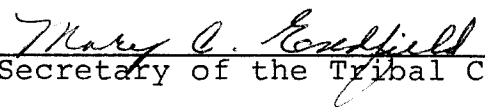
BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs its attorney of record, William H. Veeder, not to comply with Judge Nettlesheim's order requiring that the Tribe reduce the testimony of its expert witnesses to written form and to turn over said written testimony with all supporting exhibits to the United States of America four to six months prior to trial.

BE IT FURTHER RESOLVED by the Tribal Council that it hereby instructs its attorneys to explore all means by which a modification of Judge Nettlesheim's order be accomplished and to seek other legal remedies to overturn the Court's order for the protection of the Tribe's right to adequately and fairly present its claims before the U.S. Claims Court against the Defendant, the United States of America.

The foregoing resolution was on August 16, 1984, duly adopted by a vote of 10 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 () 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

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AUG 22 1984

FORT APACHE INDIAN
AGENCY
WHITERIVER, ARIZ.

Resolution No. 84-258