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1/25/89

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

WHEREAS, Ted Wilbert of Wilbert Associates, Inc. has for many years been researching the feasibility of constructing a paper and/or pulpmill on or near the Fort Apache Indian Reservation; and

WHEREAS, by Resolution No. 08-87-258 the Tribal Council of the White Mountain Apache Tribe authorized Mr. Wilbert to act in the name of the White Mountain Apache Tribe for the purpose of investigating the economic and physical feasibility of developing said paper or pulpmill; and

WHEREAS, Mr. Wilbert has verbally reported back to the Tribe the fact that a particular corporation has shown great interest in such a project and expects to make definite decisions within 60 to 90 days regarding pursuing such a project; and

WHEREAS, the interested corporation needs concrete assurances from the White Mountain Apache Tribe that it is ready, willing and able to provide wood products, water and human resources for such a project upon terms and conditions acceptable to the White Mountain Apache Tribe; and

WHEREAS, it is in the best interests of the White Mountain Apache Tribe to wholeheartedly support appropriate actions to see the project to fruition so that employment for tribal members and revenue to the White Mountain Apache Tribe for essential governmental functions and services might be realized, and more specifically the proposed mill will benefit the Tribe as follows:

1. Provide a stable market for FATCO chips;
2. Provide a market for the White Mountain Apache Tribe under utilized supply of roundwood;
3. Put the Tribe in a position to more competitively bid on national forest multiple use timber sales;
4. Assist FATCO in maintaining full production and employment.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes Ted Wilbert of

Wilbert Associates, Inc., to continue to act for one year from the date of the adoption of this resolution in the name of the White Mountain Apache Tribe for the purpose of investigating, researching, and developing a paper and/or pulpmill on the Fort Apache Indian Reservation; and

BE IT FURTHER RESOLVED that the Tribal Council of the White Mountain Apache Tribe commits to said project residual chips, under the terms and conditions specified in the attached Exhibit A entitled "Sales Agreement for Residual Chips" and pulpwood on such terms and conditions as may later be negotiated and found acceptable to the tribe; the volume of roundwood committed to said project from the Fort Apache Indian Reservation shall be determined by the White Mountain Apache Tribal Council at a later date in consultation with the Tribe's forestry experts; and

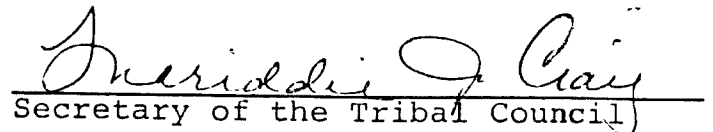
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the tribal interest in this project is conditioned upon its' understanding that tribal wood, water and human resources will be utilized by the project to provide revenue to the White Mountain Apache Tribe for essential tribal government functions and services and to provide employment for members of the Tribe; and

BE IT FURTHER RESOLVED that Ted Wilbert of Wilbert Associates, Inc., shall consult with and advise the Tribe at all stages of said project and obtain prior written approval from the Tribe before taking any action in the name of the Tribe. Ted Wilbert, dba Wilbert Associates, Inc., shall have no authority to enter into contracts for or on behalf of the Tribe or to make any financial or legal commitments without prior written approval of the Tribe and all such contracts and agreements shall be authorized by the Tribal Council and executed by authorized Tribal Officers; and

BE IT FURTHER RESOLVED by the Tribal Council that, Wilbert shall make available to the Tribe all engineering, forestry, environmental, water, economic, financial and other pertinent studies which may come into his possession relating to or affecting the project.

The foregoing resolution was on January 24, 1988, duly adopted by a vote of EIGHT for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1(b,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

SALES AGREEMENT FOR  
RESIDUAL CHIPS

WHITE MOUNTAIN APACHE TRIBE d/b/a/ FORT APACHE TIMBER COMPANY, P.O. Box 1090, Whiteriver, Arizona 85941, herein called "SELLER", agrees to sell to WILBERT ASSOCIATES, INC., Three Landmark Square, Stanford, Connecticut 06901, herein called "BUYER", who agrees to purchase wood chips, of the kind and quality herein described, from Seller's plants upon the terms and conditions hereinafter set forth.

I. TERMS

Delivery of chips under this agreement is expected to commence approximately May 1, 1990. A more precise date will be agreed upon as soon as construction of the pulpmill has commenced. Shipments shall continue for a period of thirty-five (35) years from the initial chip delivery and shall encompass approximately 41,000 bone dry units (BDU'S) per year by mutual agreement the parties may renew this agreement for five year periods thereafter. A BDU is described in Section V.E. Seller retains the right to use part or all of the wood chip production as fuel for Seller's boilers in the event of emergency fuel requirement; however, Buyer shall have the right, conditioned upon its ability to deliver and actual delivery, to provide at no expense to the Seller, equal quality alternate wood fuel for Seller's boilers and/or pay for additional electric power required because of lack of fuel for Seller's boiler generator sets.

II. SPECIFICATIONS

A. Seller agrees to manufacture coniferous wood chips from residual wood produced through lumber manufacturing processes at Seller's plants located at Whiteriver and Cibecue, Arizona, hereinafter called "Seller's Plants". Such wood must not be kiln or air dried and must be entirely free of char and substantially free of rot. Seller's chipper knives must be kept sharp and changed frequently, the anvils kept square and the equipment maintained and operated so that substantially all of the chips are between 1/2" and 3/4" in length with an allowable maximum of 1-1/2" in length.

B. Chips will be classified as "Screened based on analysis through testing procedures by the Buyer. "Screened" chips must not contain over 2% fines or sawdust, over 4% over-size by weight or over 1% bark content by weight. Deductions will be made for fines, bark, or over-size content exceeding "Screened" specifications by mutual agreement.

C. The testing procedure will be based on samples taken from representative trucks selected by Buyer. These samples will be sampled and tested for oversize chips, fines and bark content. The Williams method or any other standard method acceptable to Seller, designed to yield comparable results, may be used. Fines are defined as that fraction passing through the 3/16" screen and oversize chips are defined as that fraction remaining on the 1-1/2" screen in this testing procedure.

D. Buyer reserves the right to reject and shall not be obligated to pay for any truck in whole should examination or testing show that the entire contents are beyond the limits of normal deviation required for purchased chips or would create contamination of the Buyer's chip inventory.

E. The Buyer shall notify Seller, immediately following examination or testing, of any truck selected in C, of any failure of the chips to conform to accepted Specifications or Standards. If Buyer fails to give such notice within twenty-four (24) hours following examination or testing, the chips shall be deemed to conform to the specifications or standards and Buyer shall be bound to accept and pay for the chips. Seller shall have the right to have an agent present during any inspection of the chips by Buyer and during any and all tests of the chips made by the Buyer to determine either the quantity or quality of the chips. Neither Buyer nor Seller have any claim for consequential damages by reason of rejected chips. Upon request, Buyer shall make available to the Seller, at all reasonable times, Buyer's records concerning the testing of the chips sold hereunder.

### III. DELIVERY

A. Chips shall be delivered and title and risk of loss shall pass to Buyer, F.O.B. Buyer's plant.

B. Buyer agrees that it will maintain facilities which will unload chips from Seller's trucks in a reasonable manner and at a reasonable rate at no expense to Seller. If Seller's trucks are not unloaded within one (1) hour from arrival, Buyer shall pay the prevailing stand-by charge. Which stand-by charge will be negotiated between the parties.

C. Buyer may reject any truck which it considers unsafe for unloading or which may expose its employees, guests, or invitees to an unreasonable risk of injury or which may expose either party to citations, procedures or claims under any Tribal or Federal Occupational Health and Safety Law or Regulation.

D. Buyer agrees to accept any shipment of chips received by it unless such chips are thereafter determined to be of unsatisfactory quality by tests conducted in accordance with II.C. The Seller shall not be required to dispose of defective chips delivered to Buyer's plant, but all expenses of disposal of chips found defective in accordance with specifications and testing in Section II, shall be Seller's obligation.

#### IV. QUANTITIES

A. Buyer agrees to purchase and Seller agrees to sell all chips produced at Seller's plant in approximate equal monthly volumes.

B. If Seller is unable to produce chips or Buyer is unable to accept them by reason of occurrences beyond Seller's or Buyer's control, such as "Strikes" or "Acts of God", forest fires, natural disasters, insect infestations, tree blight or disease, destruction by fire or otherwise of the plant facilities of Buyer or Seller, or if governmental action restricts the allowable cut of Seller, either Seller or Buyer shall have a reasonable time after such occurrence to resume performance of this Agreement.

C. In the event that management of the Seller's sawmills or Buyer's pulpmill decides to temporarily suspend operation of the sawmills or pulpmill, which prevents Seller from producing chips and/or Buyer from accepting chips, Seller and/or Buyer shall immediately notify the other party, in accordance with Section VII, of the anticipated duration of the suspension of activity. If the suspension is anticipated to exceed 30 days, Seller and Buyer shall negotiate an interim agreement which will remain in effect until the suspension is lifted and this agreement resumes.

D. If delivery of chips to the Buyer is suspended under Section IV.B, or for more than 30 days under Section IV.C, Seller shall at its option, (1) make other arrangements to dispose of such chips at Seller's expense during the period of suspension and/or; (2) store such chips and Buyer shall use reasonable efforts to take delivery of such stored chips as promptly as practical after such suspension. However, all such chips will be subject to the same specifications and standards set forth in Section II. Buyer's obligation to purchase stored chips shall continue until termination of conditions under Section IV.B or 30 days under Section IV.C. Further, Buyer agrees to pay reload costs if chips are stored pursuant to this section.

V. PAYMENT

A. Price of Chips: Seller agrees and Buyer agrees to pay \$32.10 per BDU plus transportation for 41,000 BDU's per year with escalation or de-escalation as provided in Section V.B.

B. Escalation Clause: Establishing the January 1, 1989, per ton selling price of 30# Newsprint and 42# Linerboard in equal quantities combined as a base, any increase or decrease in selling price realized by Buyer will be automatically converted to a percentage of the establishment base. The prices shall be the carload delivered price of 30# Newsprint as published in an acceptable trade journal and the carload delivered price of 42# Fourdrinier Kraft Linerboard, as published in the "Official Board Market". It is understood by both Buyer and Seller that announced selling prices will be a representative of the actual market for Newsprint and Linerboard published the month previous, for the purpose of this escalation or de-escalation, these prices as of January 1, 1989, are \$630.00 per metric ton less discount, if any, and \$410 per short ton respectively. This percentage will be automatically applied to the BDU base prices for chips on the first of the month following any increase or decrease to arrive at a monetary increase or decrease in the price of chips. The chip prices as determined in Section V.A and B, above shall be reviewed after four (4) years from the startup of the pulpmill, and the prices adjusted if deemed necessary by mutual agreement of Buyer and Seller to reflect major unforeseen factors that may have affected these prices. A similar review of other contract provisions will be made in successive two (2) year periods over the life of the contract.

C. Transportation Allowance: Truck transportation costs borne by Seller will be compensated for by Buyer at a per mile rate with a stand-by charge to be established by mutual agreement at least six months prior to the first shipment of chips. Truck transportation costs will be reviewed jointly by Seller and Buyer at six (6) month intervals, at which time if deemed necessary by mutual agreement of Seller and Buyer, adjustments will be made to the transportation allowance. Every effort will be made by Seller and Buyer to adjust the transportation allowance to reflect a rate comparable to any common carrier in the transportation of wood chips. All records of the Seller related to transportation income and expense through delivery of wood chips to Buyer will be made available to Buyer at reasonable times and with reasonable notice by Buyer for reasonable inspection.

D. Time of Payment. Payment for chips shall be made within 7 (seven) days by Buyer to Seller for chips received and accepted during the previous week.

E. Determination of Number of Bone-Dry Units. Buyer shall determine the weight of representative loads of chips delivered by weighing the loaded vehicle and deducting the tare weight. Buyer shall take representative samples and determine the percentage of bone-dry wood in such samples. This percentage shall be multiplied by the weight of the load in pounds (lbs.) to determine the pounds of bone-dry chips. The resulting product shall be divided by twenty-four hundred (2400) to determine the number of bone-dry units in such load. Seller shall have the right to inspect Buyer's records relating to such weight determinations at any reasonable time within ninety (90) days after determination.

#### VI. ASSIGNMENT

This Agreement shall not be assigned without the prior written consent of the other party; provided, that Seller may upon written notice to Buyer assign the money due or to become due to it under this Agreement without the consent of Buyer and provided, further, that consent to assignment will not be unreasonably withheld. In the event of assignment by Seller consented to by Buyer, Seller shall nevertheless continue to be responsible for the performance of the terms and conditions of this Agreement during the remaining term of the same. Likewise, in the event of assignment by Buyer consented to by Seller, Buyer shall nevertheless continue to be responsible for the performance of the terms and conditions of this Agreement during the remaining term of the same. This Agreement shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and permitted assignees of the parties.

#### VII. NOTICES

Notices required to be given under this Agreement shall be mailed to the parties at the addresses set forth above, or to such other places as the parties may from time to time hereafter designate in writing and shall be effective upon receipt.

#### VIII. DEFAULT

Default shall occur when provisions of this contract are not complied with by Buyer or Seller; examples are: payment



for chips not timely, chip deliveries not timely, chip quality not within specified limits, Buyer's chip purchase records not available, etc.

#### IX. WAIVER

No waiver of any default hereunder by either party shall operate as a waiver of any subsequent default of any kind or character.

X. This Agreement is subject to Buyer's obtaining the necessary financing and completing construction of the pulpmill as follows:

A. Proof of adequate financing to Seller's satisfaction must be made by Buyer to Seller by December 1, 1989; if said proof is satisfactory to Seller this Agreement shall continue and remain in full force and effect, subject to conditions set forth in this section, in the event that proof of adequate financing is not made to Seller by said date, this Agreement is null and void.

B. If proof of adequate financing is made to Seller's satisfaction by December 1, 1989, then construction of the pulpmill must commence prior to April 1, 1990, otherwise this Agreement is null and void, and of no effect.

C. If construction of the pulpmill commences prior to April 1, 1990, said construction must continue uninterrupted and without undue delay in order to insure to Seller that Buyer will take delivery of the chips from Seller on or before October 1, 1990. Seller has the right to review progress reports furnished by Buyer on the construction of the pulpmill every four (4 months) commencing April 1, 1990, and if construction of the pulpmill is more than one hundred and eighty (180) days behind schedule, according to a construction schedule to be furnished to Seller, based upon a October 1, 1990, delivery date, terms of this Agreement will be renegotiated.

#### XI. EQUITY SHARE AND TRIBAL EMPLOYMENT

##### A. Equity Ownership.

Buyer hereby agrees that upon the execution of this sales agreement to immediately enter into good faith negotiations with the Seller regarding an equity ownership in the Buyer's pulpmill.

B. Employment of Seller's Tribal Members.

1. Buyer agrees to undertake and participate in programs to train Seller's Tribal members for jobs at Buyer's pulpmill and papermill including, but not restricted to, programs organized under the local JTPA, or its successor acts. Seller's Tribal members who have completed such training programs will be applicants of first resource to fill vacancies for jobs for which they demonstrate appropriate skills, subject to provisions of the JTPA, or its successor acts, and Buyer's employment requirements at said pulpmill and papermill set forth in an agreement to be negotiated between the Buyer and the White Mountain Apache Tribe.

2. Buyer agrees to undertake and participate in programs to upgrade training of Seller's Tribal members for jobs at Buyer's pulpmill and papermill in accordance with the provisions of Item I.

3. Buyer agrees to notify the White Mountain Apache Tribe 30 days prior to the initiation of such programs, including with each notification a description of job skills and requirements for entry into the training program.


4. Seller shall provide the Buyer with a list of Tribal members eligible for such training within the number of days specified in each notification, per Section 3.

5. Buyer shall notify Seller of available job openings at the pulpmill and the papermill.

6. The decision on skill qualifications and conformance with these qualifications shall remain with the Buyer.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate this 24th day of January, 1989, at Whiteriver, Arizona.

FOR THE WHITE MOUNTAIN APACHE TRIBE

By:   
Reno Johnson, Sr., Tribal Chairman

FOR THE WHITE MOUNTAIN APACHE TRIBE  
d/b/a/ FORT APACHE TIMBER COMPANY  
(Seller)

By:   
Milfred Cosen, General Manager

STATE OF ARIZONA)  
  ) ss.  
County of Navajo)

Subscribed and sworn to before, the undersigned Notary Public, this 24th day of January, 1989, by RENO JOHNSON, SR., Tribal Chairman of the White Mountain Apache Tribe, and MILFRED COSEN, General Manager, Fort Apache Timber Company.

  
Notary Public

My Commission Expires:  
August 24, 1990

WILBERT ASSOCIATES, INC. (Buyer)

By: \_\_\_\_\_  
Theodore R. Wilbert, President

STATE OF ARIZONA)  
  ) ss.  
County of Navajo)

Subscribed and sworn to before, the undersigned Notary Public, this 24th day of January, 1989, by THEODORE R. WILBERT, President of Wilbert Associates, Inc.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_