

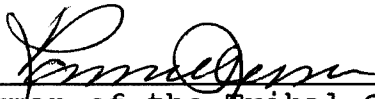
**RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION**

- WHEREAS,** the White Mountain Apache Tribal Constitution was amended and adopted in 1958 pursuant to the Indian Reorganization Act; and
- WHEREAS,** the Tribe has experienced some difficulty operating under the 1958 Constitution originally drafted by the Bureau of Indian Affairs'; and
- WHEREAS,** the Tribal Council has identified the need to update and improve the existing tribal constitution to strengthen tribal sovereignty and expand tribal jurisdiction commensurate with existing law; and
- WHEREAS,** the Tribe has developed a plan to update and revise the existing Constitution, a copy of which is attached to this resolution and incorporated by reference herein; and
- WHEREAS,** the revision plan includes the services of a consultant experienced in constitutional revision projects; and
- WHEREAS,** the Tribal Council is advised that there may be monies available through ANA grants, 638 contracts and other funding resources to finance the constitutional revision project; and
- WHEREAS,** the first phase of the proposed plan primarily requires Tribal Council member input and a Council decision as to the scope of the project goals; and
- WHEREAS,** pending application and approval of any grants or contract to finance the constitutional revision, the Tribal Council concludes that tribal monies should be appropriated for the purpose of beginning Phase 1, the Design Plan, which will determine the scope and cost of the entire project.
- BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby adopts the proposed Constitutional Amendment Project attached and incorporated by reference herein.

**BE IT FURTHER RESOLVED** by the Tribal Council that it hereby appropriates an amount not to exceed \$10,000.00 from Tribal Contingency Funds to commence and complete Phase 1, the Design Plan, of the Constitution Revision Project, pending application and approval of funding grants for the overall project.

**BE IT FURTHER RESOLVED** by the Tribal Council that it hereby authorizes the Tribal Chairman to enter into any necessary consultant agreement with Robert Lyttle to effectuate this resolution.

The foregoing resolution was on July 21, 1992, duly adopted by a vote of seven 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 (a) (b) (k) (s) (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

  
\_\_\_\_\_  
Secretary of the Tribal Council

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JUL 27 1992

FORT APACHE INDIAN AGENCY  
WHITERIVER, ARIZONA

# White Mountain Apache Tribe Constitutional Amendment Project

## Proposed Plan

### Executive Summary

The 1958 WMAT Constitution sets the foundation for all tribal government. The BIA-drafted Constitution includes BIA supervision over the Tribe. The Tribal Council is investigating whether to update the 34-year-old document. A revised Constitution provides many benefits with minimal costs.

A 4-phase plan to amend the Constitution is proposed. The Tribal Council controls all phases of the plan:

- Phase 1: Council designs overall plan, (4 months),
- Phase 2: Community participation, (4 months),
- Phase 3: Committee drafts proposed amendments under Council supervision, (5 months),
- Phase 4: BIA Secretarial Election process, (5 months).

### Overview of Tribal Constitutions

Tribal Constitutions establish the foundation of all tribal government. They set the most important rules for Tribes.

In the 1930's the BIA persuaded Tribes to adopt written Constitutions according to the Indian Reorganization Act (IRA). These documents are called IRA Constitutions.

Most Tribes in the U.S. operate under a BIA-drafted Constitution. A typical provision allows the Secretary of the Interior (BIA) to supervise the Tribe by deciding whether to approve or deny certain Tribal Council actions.

Tribes throughout the U.S. have experienced difficulties operating under IRA Constitutions. Recently some Tribes have revised their old IRA Constitutions to make governmental reforms, and to obtain greater autonomy and freedom.

### **Benefits of a Revised Constitution**

A strong well-written Constitution can expand Tribal sovereignty and jurisdiction to the fullest extent allowed under law. A revised Constitution can support self-determination by removing BIA supervision. Benefits can include:

- Strengthen Tribal sovereignty and power,
- Remove outdated BIA supervision over Tribal affairs,
- Simplify process for Tribal Council to pass laws,
- Improve Tribal Court system, when appropriate,
- Increase stability within Tribal government,
- Reduce potential for recall abuse and election fraud,
- Strengthen Tribe's bargaining power over state government,
- Clarify Tribal membership rules.

### **Costs Are Minimal**

Costs of the proposed project are reasonable. Costs are limited, because Council or the community can stop the process at any point. Costs will include:

- At least 1-2 hours per month of Council Members' time,
- Project expenses, (see proposed budget).

### **Phase 1, Council Designs Overall Plan**

The Tribal Council controls the project. In Phase 1 the Tribal Council sets project goals and identifies issues to be addressed.

**Step 1.** A preliminary meeting with the Tribal Council introduces the project, provides legal training on the current Constitution, and the required steps for amendment.

**Step 2.** Informal meetings are held with each individual Council Member to gather comments, ideas and suggestions, and to answer questions.

#### **Phase 1, Design Plan**

- Step 1: Initial Council meeting,
- Step 2: Gather comments of each Council Member,
- Step 3: Council decides project goals,
- Step 4: Council appoints Constitution Committee.

Council Members' comments are gathered anonymously to guarantee confidentiality. For example, some Council Members may want to identify certain issues to be included in the discussions. Other Council Members may want to limit the scope of the project to only a certain number of amendments or to certain subject areas.

**Step 3.** All ideas and comments are transmitted in a written report to the full Tribal Council. These suggestions are used to decide project goals and objectives.

**Step 4.** After the meetings are completed, the Tribal Council appoints a Constitution Committee to work out project details and recommend draft amendments. The committee provides regular progress reports to Council. Modifications directed by Council are incorporated into the project.

## **Phase 2, Community Participation**

Amendments to the Constitution must be placed before the voters in a special "Secretarial Election" run by the BIA. Voters have the final say on whether any amendments are adopted.

Tribal members are encouraged to participate in the constitutional amendment process. Widespread community support insures successful passage of any final amendments.

**Step 1.** Community outreach efforts are designed to insure that all interested persons are informed of the intent and purpose of the project. An introductory meeting is held in each of the major communities on the reservation. Each community meeting is well publicized in advance. Food and refreshments are served to boost attendance. An Apache interpreter is available to increase understanding and participation.

**Step 2.** The community meetings provide background information on the existing Tribal Constitution, and the BIA election process. Handouts and information packets are distributed at each meeting.

A variety of methods are used to involve the public, including radio interviews, newspaper reports, posters, flyers, video tapes, questionnaires and community meetings. Press releases and community flyers are used throughout the project to dispel any false information or negative rumors about the project.

### **Phase 2, Public Participation**

- Step 1: Community outreach and meetings,
- Step 2: Public information,
- Step 3: Involve Tribal programs,
- Step 4: Summary report to Council.

**Step 3.** Workshops and training sessions are conducted for tribal employees, tribal programs and other community groups and organizations.

**Step 4.** A final report is made to the Tribal Council summarizing the community meetings. The summary report includes all relevant public comments from the meetings.

### **Phase 3, Committee Drafts Proposed Amendments**

**Step 1.** Tribal Council appoints a representative committee to research, debate and draft proposed amendments. The committee makes regular reports to Council and the community.

**Step 2.** Committee develops proposed amendments from Council recommendations and initial public comments.

**Step 3.** The committee holds field hearings on proposed amendments to gather additional public comments. Results will be published and distributed.

**Step 4.** The committee makes revisions and develops final amendments, which are submitted for Tribal Council review. The Tribal Council has several opportunities to debate and discuss any proposed amendments. Council may make revisions, or send its comments and instructions back to the committee. Any amendments proposed by the committee must gain Tribal Council approval before an election is held. Amendments approved by Council are submitted to BIA to start the Secretarial Election process.

**Phase 3, Committee Work**

- Step 1: Research and debate,
- Step 2: Draft proposed amendments,
- Step 3: Conduct field hearings,
- Step 4: Tribal Council decides final amendments.

### **Phase 4, Secretarial Election Process**

**Step 1.** Final amendments are sent to the BIA Phoenix Area Office to begin the election process. A Secretarial Election is not a normal tribal election, and follows complicated BIA rules and regulations.

**Phase 4, BIA Election Process**

- Step 1: Submit final amendments to BIA,
- Step 2: Council appoints Election Board to develop procedures,
- Step 3: Conduct Secretarial Election, and monitor final BIA approval.

Federal law requires BIA to hold a Secretarial Election within ninety days of the Tribe's request. However, BIA delays usually occur.

**Step 2.** Tribal Council appoints a special Election Board to protect the Tribe's interests, and to assist BIA in conducting the Secretarial Election. At least seven Election Board meetings are held to decide election matters like deadlines, staffing and logistics of conducting a reservation-wide election. The Election Board may decide to conduct the entire election through the U.S. mail.

The Election Board develops the text of the ballot, list of voters, notice packets, mailing lists, registration forms, absentee forms, and location of polling places. The board must anticipate and prevent any potential problems in the election process. The committee may decide to conduct all election activities in both Apache and English, including the ballot.

**Step 3.** Election Board and BIA conduct the Secretarial Election. Results are sent to the Assistant Secretary of Interior (BIA) for final approval. BIA has forty-five days to approve or disapprove the voter-passed amendments. The Tribe must carefully monitor the BIA approval process to insure compliance with federal law.