

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

- WHEREAS,** the Tribal Council of the White Mountain Apache Tribe is advised that the United States Fish & Wildlife Service has proposed to list the Arizona Willow as an Endangered Species and to declare several areas within the Fort Apache Indian Reservation as critical habitat for the Arizona Willow; and
- WHEREAS,** the Tribal Council was not previously advised of or consulted about the proposal by the United States Fish & Wildlife Service, contrary to the government-to-government relationship established by the United States Congress and the President of the United States between Indian tribes and the United States government; and
- WHEREAS,** the proposed rule does not recognize the inherent sovereignty of the White Mountain Apache Tribe over its ancestral lands, a sovereignty which it has exercised since time immemorial, a portion of which is now known as the Fort Apache Indian Reservation; and
- WHEREAS,** the proposed rule does not recognize the right of the White Mountain Apache Tribe to determine fish and wildlife resource management policy and to manage fish and wildlife resources on the Fort Apache Indian Reservation; and
- WHEREAS,** the proposed rule improperly treats the Fort Apache Indian Reservation the same as the Apache-Sitgreaves National Forest, ignoring the different purposes for which reservations and national forests were created, in that the Fort Apache Indian Reservation, part of the Tribe's ancestral lands, was reserved by Executive Order as the homeland for the White Mountain Apache people where they could govern themselves and become economically self-sufficient, whereas the Apache-Sitgreaves National Forest was set aside for other purposes; and
- WHEREAS,** the United States Department of the Interior, of which the United States Fish & Wildlife Service is a department, is the principal agent of the Trustee United States, which has the responsibility and duty of protecting American Indian peoples, including the White Mountain Apache Tribe and the homeland of the White Mountain Apache Tribe, for the use and benefit of the people of the Tribe; and
- WHEREAS,** the proposed rule is contrary to the well-established congressional policy of furthering Tribal self-govern

ment, self-determination and self-sufficiency as it seeks to accomplish by administrative fiat that which should be established through direct negotiations between the Secretary of the Interior and the White Mountain Apache Tribe; and

WHEREAS, the Tribal Council, pursuant to its inherent sovereign powers and powers delegated to it by its Tribal Constitution, enacted and approved pursuant to the Indian Reorganization Act of 1934, possesses and exercises sovereignty over all natural resources within the Fort Apache Indian Reservation; and

WHEREAS, the White Mountain Apache Tribe from time immemorial, as a part of its culture and value system, has preserved its wildlife and natural resources, while at the same time has provided for the welfare of the Apache people, as manifested in the post-reservation era by state, federal and national recognition of its outstanding game and resource management program; and

WHEREAS, furthermore, the White Mountain Apache Tribe, on its own volition, has established closed areas within the Reservation, has adopted silvicultural practices that protect riparian vegetation, has eliminated abusive broadcast burning by the Bureau of Indian Affairs, and has insisted upon selective cuts of its timber rather than clear cuts in order to preserve aesthetic appearances, protect wildlife, and maintain a canopy for certain species; and

WHEREAS, the Tribe has further directed a reduction in the allowable cut of its timber with a goal to reduce the annual overcutting authorized by the BIA by some 40 million board-feet per year to preserve Tribal forests; and

WHEREAS, the proposed Arizona Willow rule would result in imminent and acute economic damage to the Tribal Sunrise Park Resort, which provides employment to tribal members and income to the Tribe and fosters economic development in the neighboring non-Indian communities; and the rule would halt or curtail planned expansion of the ski park area as well as necessary improvements; and

WHEREAS, the proposed rule also constitutes and threatens to do irreparable harm and injury to the Tribe's right of self-government over its natural resources and is contrary to the Congressional policy of recognizing the Fort Apache Indian Reservation as a homeland for the use and benefit of Apache people and, in effect, constitutes a condemnation of equitable title and an unlawful taking of Tribal land in violation of the Due Process clause of the Fifth

Amendment to the United States Constitution; and

WHEREAS, the Tribal Council concludes that the Secretary of the Interior should suspend or withdraw all procedural rulemaking or any proposed regulations that would designate the Fort Apache Indian Reservation as critical habitat for the Arizona Willow, that any such designation should await direct negotiations between the Secretary of the Interior and the White Mountain Apache Tribe, and that adequate time should be granted to the Tribe to develop its own conservation and management plan for the Arizona Willow, which for the most part, is located within areas already closed by the White Mountain Apache Tribe for over a decade to grazing, logging and other activities which would jeopardize plant or wildlife within the area.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it respectfully requests that the Secretary of the Interior meet with the White Mountain Apache Tribe for the purpose of entering into direct negotiations regarding the proposed listing of the Arizona Willow as an endangered species and the designation of areas of the Fort Apache Indian Reservation, homeland of the White Mountain Apache Tribe, as critical habitat; and provide the Tribe the opportunity to present direct evidence to the Secretary of the Interior of its own management program for the preservation of the Arizona Willow.

BE IT FURTHER RESOLVED by the Tribal Council that it hereby condemns the imminent curtailment of the economic development of the White Mountain Apache Tribe, the denigration of the Tribe's water rights, and the infringement upon its aboriginal rights to the use, occupancy and enjoyment of equitable title to its ancestral homeland that the current proposed application of the Endangered Species Act would inflict upon the Fort Apache Indian Reservation, in direct violation of the trust relationship existing between the United States and the White Mountain Apache Tribe, in breach of the government-to-government relationship between the United States and the White Mountain Apache Tribe and in direct violation of the White Mountain Apache Tribe's right of self-government, self-sufficiency and self-determination.

BE IT FURTHER RESOLVED by the Tribal Council that it requests that the Secretary of the Interior suspend any further attempts to list the Arizona Willow as an Endangered Species and to declare parts of the Fort Apache Indian Reservation as critical habitat until the Tribal officials have the opportunity to meet and confer with the Secretary or his designee.

BE IT FURTHER RESOLVED by the Tribal Council that in the event the rulemaking procedures are not suspended, the Tribe requests that a separate rulemaking process be established for the White Mountain Apache Tribe in recognition of the unique political status, trust relationship and government-to-government relationship the Tribe has with the trustee United States of America and its principal agent, the Secretary of the Interior, and that the Secretary explicitly exclude the Fort Apache Indian Reservation from designation as critical habitat for the Arizona Willow.

BE IT FURTHER RESOLVED by the Tribal Council that it requests the Secretary of the Interior, the Arizona Congressional Delegation, the Senate Select Committee, and the House Interior Committee on Indian Affairs to take whatever steps are necessary to exclude the White Mountain Apache Tribe and other tribes from the general provisions of the Endangered Species Act and that direct negotiations be entertained instead with the sovereign Indian tribes to assist them in establishing, as necessary, conservation or recovery programs for endangered species on Tribal homelands, in recognition of the tribes' sovereign rights to manage their own resources and to develop their homelands as self-sufficient and self-sustaining.

BE IT FURTHER RESOLVED by the Tribal Council that it hereby authorizes Tribal Chairman Ronnie Lupe to take whatever action is necessary to accomplish and preserve the Tribe's sovereign and ancestral rights over its homeland and to carry out the mandate of this resolution.

The foregoing resolution was on February 4, 1993, duly adopted by a vote of nine for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article VII, Section 1(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