

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

WHEREAS, the Indian Health Service has entered into a Memorandum of Agreement with the White Mountain Apache Tribe of the Fort Apache Indian Reservation, in furtherance of the project for the installation and/or improvement of community sewage disposal facilities; and

WHEREAS, such services have been completed by the Indian Health Service and are being transferred to the White Mountain Apache Tribe of the Fort Apache Indian Reservation.


BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby declares its intent to enter into a Transfer Agreement accepting transfer of the sanitation facilities associated with Project PH 90-692 as more fully described by the attached Transfer Agreement.

BE IT FURTHER RESOLVED by the Tribal Council that the Tribal Chairman is hereby authorized to sign a Transfer Agreement accepting the sanitation facilities associated with Project PH 90-692.

The foregoing resolution was on November 03, 1994, 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 IV, Section 1 (i) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Chairman of the Tribal Council



Secretary of the Tribal Council

TRANSFER AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
AND
THE WHITE MOUNTAIN APACHE TRIBE
FORT APACHE INDIAN RESERVATION
WHITERIVER, NAVAJO COUNTY, ARIZONA

PROJECT NO. PH 90-692
PUBLIC LAW 86-121

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
PUBLIC HEALTH SERVICE
INDIAN HEALTH SERVICE
PHOENIX AREA OFFICE

NOVEMBER 1994

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BETWEEN
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FORT APACHE INDIAN RESERVATION
WHITERIVER, NAVAJO COUNTY, ARIZONA

PROJECT NO. PH 90-692
PUBLIC LAW 86-121

DATE OF AGREEMENT:
November 1994

WHEREAS, the United States of America, acting through the Indian Health Service, Department of Health and Human Services, hereinafter referred to as the IHS, under and pursuant to the provisions of Public Law 86-121 (73 Stat. 267), and the White Mountain Apache Tribe, hereinafter referred to as the Tribe, acting through the White Mountain Apache Tribal Council, entered into a Memorandum of Agreement executed for the IHS on May 31, 1989, and signed for the Tribe on June 21, 1989, regarding the provision of sanitation facilities on the Fort Apache Indian Reservation, and

WHEREAS, the project provided for under the Agreement has been completed, and

WHEREAS, the IHS has a vested interest in the community wastewater treatment facilities and the appurtenances, materials, supplies, and equipment provided for and incorporated therein pursuant to the aforesaid Agreement, and

WHEREAS, the parties desire to provide for and assure the proper and efficient maintenance and continued operation of the sanitation facilities, and

WHEREAS, under Section 7(a)(4) of Public Law 86-121, the IHS on behalf of the United States of America is authorized to transfer the completed facilities with or without a monetary consideration, and under such terms and conditions as in its judgment are appropriate, considering the contributions made and the maintenance responsibility undertaken, and the special needs of the Indian people.

NOW THEREFORE, in accordance with the terms of the aforesaid Agreement, and pursuant to Section 7(a)(4) of Public Law 86-121:

1. The IHS hereby transfers, assigns, and conveys to the Tribe, without a monetary consideration and under the terms and conditions set forth in the Agreement, all of the right, title, and interest of the United States of America in all community facilities and appurtenances thereto constructed. These facilities include, but are not limited to, the items listed on Attachment A.

2. The IHS will assist the Tribe in start-up operations of the system and will correct any defect related to material or workmanship jointly identified by the Tribe and the IHS for a period of one year after the date of the beginning of beneficial use of the facilities or the date of transfer of the facilities, whichever occurs first (date of beneficial use began on November 30, 1992). This warranty is limited only to the equipment and facilities provided by the IHS under this project. This warranty does not cover normal wear and tear of equipment, replacement parts, operational costs, or abuse or vandalism to equipment or facilities.

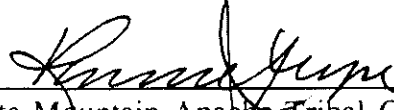
3. The Tribe hereby accepts such transfer of facilities listed on Attachment A under the terms and conditions set forth in the aforesaid Agreement and agrees to operate, maintain, and repair such community facilities as the property of the White Mountain Apache Tribe to keep the facilities in an effective operating condition.

IN WITNESS WHEREOF, the parties have subscribed their names.

FOR THE TRIBE

Nov. 8, 1994

Date



Chairman, White Mountain Apache Tribal Council, having been
duly authorized by the Tribal Council to enter into this
agreement on behalf of the White Mountain Apache Tribe, as
evidenced by the attached certified copy of a Resolution passed
by the White Mountain Apache Tribal Council.

FOR THE UNITED STATES OF AMERICA

Date

Director
Phoenix Area Indian Health Service
Public Health Service, Department
of Health and Human Services

ATTACHMENT A
DESCRIPTION OF FACILITIES INSTALLED

PROJECT NO. PH 90-692

All items will be transferred to the White Mountain Apache Tribal Utility Authority to operate, maintain and repair. Items listed below were constructed by the Tribe and IHS to expand the Cibicue wastewater treatment facilities and to eliminate the discharge of wastewater to Cibicue Creek.

COMMUNITY

DESCRIPTION OF ITEMS TO BE TRANSFERRED

Cibicue

Evaporation/percolation cells (19.2 acres), 6-inch force main (2 miles), sewage lift station, electrical controls and radios and appurtenances.

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BE IT FURTHER RESOLVED by the Tribal Council that the Tribal Chairman is hereby authorized to sign a Transfer Agreement accepting the sanitation facilities associated with Project PH 90-692.

The foregoing resolution was on _____, duly adopted by a vote of _____ for and _____ against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (i) of the Amended Constitution and Bylaws of the Tribe, ratified by the Tribe on 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