

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

**RESOLUTION OF THE WHITE MOUNTAIN APACHE TRIBAL COUNCIL,  
GOVERNING BODY OF THE WHITE MOUNTAIN APACHE TRIBE, DIRECTING  
PREPARATION FOR AND THE ACTIVE PARTICIPATION IN THE SPECIAL ACTION  
IN ARIZONA'S SUPREME COURT AND IN THE SUPERIOR COURT**

**WHEREAS,** the White Mountain Apache Tribe, Fort Apache Indian Reservation, Arizona -  
- after 200 years of constant bitter struggle against the aggressive assaults of  
the white population, illegally to seize and to take Tribe's invaluable property  
rights, of which Tribe's Reservation is comprised, the consequences of which,  
if successful, would, in the ultimate, destroy the Tribe as a separate, distinct,  
and independent sovereign, with its inherent power of self-government -- is  
today, threatened by the United States Trustee, the State of Arizona, and the  
Salt River Federal Reclamation Project, with total destruction by the illegal  
seizure of Tribe's priceless life-sustaining aboriginal rights to the use of the  
surface and ground waters of the Salt River, which have their source within,  
arise upon, traverse or border Tribe's Fort Apache Indian Reservation; and

**WHEREAS,** that ongoing planned destruction of the White Mountain Apache Tribe, by a  
principal agent of the Tribe's Trustee, the Attorney General of the United  
States, through the illegal seizure of Tribe's aboriginal Salt River rights to the  
use of water, is, today, being accomplished by the forced fraudulent  
representation of the Tribe by the United States Department of Justice in the  
Gila River General Adjudication Proceedings, W-1, now pending in Arizona's  
Superior Court of Maricopa County, by filing on January 4, 1985, a  
fraudulent claim purportedly on behalf of the White Mountain Apache Tribe  
which: (1) abandoned Tribe's invaluable aboriginal Salt River rights to the use  
of water; (2) sharply constricted Tribe's water requirements; (3) seeks to  
pervert Tribe's aboriginal rights to the use of water to "federal reserved rights,"  
which fraudulent representation was forced upon the White Mountain Apache  
Tribe by the Department of Justice, irrespective of the fact that the Tribe has  
expressly and repeatedly rejected that forced representation and continues to  
deny that the fraudulent representation has validity; and

- WHEREAS,** the White Mountain Apache Tribe, irrespective of the illegal course of conduct by the Department of Justice in forcing the Tribe into the State Court proceedings, with the attendant threat of irreparable and continuing damage through the loss of Tribe's invaluable aboriginal rights to the use of water, which the Department of Justice has failed to claim in the State Court Proceedings, the Tribe has, at all times, asserted that the Tribe has a right, under the Constitution of the United States, fully to be heard by the Federal Judiciary respecting its aboriginal Salt River rights to the use of water, and could not be deprived of that Constitutional right by being subverted to the jurisdiction of the Arizona courts, to Arizona's adjudicatory processes, and the laws of the State of Arizona, Tribe's "deadliest enemy,"; and
- WHEREAS,** the State of Arizona, in March, of 1995, through the legislative processes, drastically amended its laws respecting the appropriation, regulation, and adjudication of rights to the use of water greatly enhancing the grave threat imposed upon the Tribe by the Department of Justice, when that Department, over Tribe's vigorous objections, entered an appearance for the Tribe in the Courts of Arizona, all as reviewed above; and
- WHEREAS,** the White Mountain Apache Tribe, on May 19, 1995, petitioned Arizona's Supreme Court, without submitting to the jurisdiction of that Court for an Order granting the Tribe a right to be heard in a proposed Special Action, then pending in that Court, respecting the drastic revisions in the laws of the State of Arizona respecting rights to the use of water, creating an acute threat to the survival of the White Mountain Apache Tribe; and
- WHEREAS,** without delay, on May 24, 1995, the Supreme Court of Arizona granted the White Mountain Apache Tribe's Petition to be Heard in the Special Action, with the result that for the first time, the White Mountain Apache Tribe will have an opportunity to challenge being subverted to the Arizona laws and to Arizona courts by illegal conduct of the Department of Justice in mis-applying the McCarran Amendment, 43 U.S.C 666, and otherwise to raise questions challenging the jurisdiction of the courts of Arizona, to adjudicate Tribe's aboriginal rights to the use of water, to impinge upon Tribe's sovereignty, and to trespass upon Tribe's Reservation, and otherwise to obtain relief against Tribe's "deadliest enemy,"; and
- WHEREAS,** Arizona's Supreme Court, respecting the request for a "Special Action" on June 2, 1995, declared: "IT IS ORDERED That the Court accepts jurisdiction of the Petition for Special Action," declaring, moreover, several issues to be heard and referred the case to the Superior Court for Maricopa County, in which there is pending the Gila River General Adjudication Proceedings, the Honorable Susan K. Bolton presiding; and

**WHEREAS,** acting sua sponte, Arizona's Supreme Court entered on June 7, 1995, an "Amended Order" changing that Court's June 2, 1995 Order, and providing, among many other things, that Judge Bolton should hear these question and others Judge Bolton might decide upon: (a) Does Arizona's revised statutes violate the separation of power provisions of Arizona's Constitution; (b) Does Arizona's revised law, if limited, place the pending general stream adjudications outside the waiver of federal sovereign immunity conferred by the McCarran Amendment, 43 U.S.C. 666; (c) Does the "de minimis" provisions of Arizona's revised law take the proceedings outside the McCarran Amendment, "or violate any other provisions of the Arizona or United States Constitution,"; and

**WHEREAS,** Chairman Ronnie Lupe directed Tribe's Special Counsel to represent the Tribe in the ongoing "Special Action," with the result that on June 30, 1995, Special Counsel attend a hearing before presiding Judge Susan Bolton, at which Special Counsel has the opportunity to be heard respecting the Tribe's position relative to the Special Action, and requested Judge Bolton initially to consider the jurisdictional questions arising from the McCarran Amendment; and

**WHEREAS,** Judge Bolton granted the White Mountain Apache Tribe and the Navajo Nation the right to file simultaneous Opening Briefs, which are not to exceed 150 pages in length, and are due on October 30, 1995; and

**WHEREAS,** the White Mountain Apache Tribe, acting by and through its governing body, the Tribal Council, has determined that Tribe must take full advantage of the opportunity afforded to the Tribe, by the Tribe being permitted to appear in the Special Action, which may well result in the Tribe, for the first time, having an opportunity to challenge, in-depth, the fraudulent claim forced upon the Tribe by the Department of Justice in the Gila River General Adjudication Proceedings, which proceedings directly threaten the Tribe's aboriginal Salt River rights, but concerning which the Tribe has been regularly denied an opportunity to be heard in a Court of competent jurisdiction, which could adjudge the validity or lack of validity of the fraudulent claim filed by the Department of Justice; and

**WHEREAS,** the White Mountain Apache Tribe approves the recommendations that contracts be entered into with the several experts that previously represented the Tribe in the case of White Mountain Apache Tribe v. United States, Docket 22-H, in the United States Claims Court, in which the Tribe has been granted a judgment of \$22M, those experts are only to render current the hydrological and related data that they had prepared and assembled and offered in evidence before the Court in Docket 22-H.

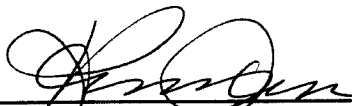
**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the White Mountain Apache Tribe, acting through its Special Counsel and General Counsel, shall proceed to take all requisite action necessary properly to prepare both the facts and law to establish Tribe's assertions in the Special Action, and fully to resist the Department of Justice in its fraudulent claim forced upon the Tribe, and to provide the Tribal Council with complete information respecting the progress made in that Special Action, and the results which have been achieved.

**BE IT FURTHER RESOLVED** by the Tribal Council that for all contracts for the experts, which have been provided to the Tribal Council, and they are, hereby, approved, awarding to the experts the remuneration provided for in each of the contracts, provided, nevertheless, that none of the services to be rendered by the experts is to duplicative of data and information already obtained and assembled by the Tribe's regular staff members, and that the work of the experts be in complete harmony with the members of the Tribe's regular staff and those experts are, at all times, fully to communicate with those regular members of the Tribe's staff.

**BE IT FURTHER RESOLVED** by the Tribal Council that Charles P. Corke, shall insure as coordinator of the employed experts, that the experts employed hereby shall on each field trip to the Fort Apache Indian Reservation to accomplish their respective tasks, be accompanied by selected tribal youth, students and employees, so as to expose tribal youth, students and employees to the professions of the experts so as to inspire their pursuit of careers in said professions.

The foregoing resolution was on August 10 1995, 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 (a), (i), (s), (t) and (u) 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).

FILED  
AUG 18 1995  
BIA

  
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Chairman of the Tribal Council

  
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Secretary of the Tribal Council