

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

WHEREAS, the FATCO Road project, which was to have been completed approximately three months ago, is still not completed; and

WHEREAS, the FATCO Mill operations in Whiteriver have been disrupted for many months due to the road construction project; and

WHEREAS, these disruptions have included 1) lost time in re-routing trucks on a lengthy detour to avoid the road construction, 2) running public vehicle traffic through the FATCO yard for several weeks to bypass the construction area. 3) delays in deliveries and shipments because carriers could not find the detour to the mill, and in some cases, chose to drive on to other jobs, and 4) FATCO having to bring out its heavy equipment to tow other trucks which became stuck in attempting to negotiate the detour; and

WHEREAS, these disruptions have created a considerable expense for FATCO; and

WHEREAS, the Tribal Council has been informed by the Bureau of Indian Affairs that the project contractor, Arctic Slope, has been assessed a liquidated damages penalty of seven hundred thirty-five dollars (\$735.00) per day, beginning October 14, 1996 for its failure to complete the project on schedule; and

WHEREAS, assessment of the liquidated damages penalty results in revenues being returned to the federal government; and

WHEREAS, the purpose of the road project was to benefit the White Mountain Apache Tribe, including its economic activities; and

WHEREAS, the White Mountain Apache Tribe has been the primary entity which has suffered economic losses due to the delays in completion.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby requests the Bureau of Indian Affairs to compensate the Tribe for its losses at FATCO due to the FATCO road project delays, by awarding payment to the Tribe of the liquidated damages penalty collected from Arctic Slope, the general contractor.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it authorizes the Tribal Chairman, or in his absence the Vice-Chairman, to take the necessary steps to pursue the recovery of the liquidated damages penalties assessed by the Bureau of Indian Affairs against Arctic Slope.

The foregoing resolution was on January 09, 1997, 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 the White Mountain Apache Tribal Constitution, including Article IV, Sections 1 (a), (c), (h), (i), (s), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe on 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