

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

WHEREAS, the July 2002 Rodeo/Chedeski Fire created an immediate need to salvage the remaining standing commercial timber value that would be lost due to dry check, accelerated blue stain, insect infestation, and mortality from the fire as soon as practicable; and

WHEREAS, the FATCO Plan of Operations requires that FATCO harvest an Annual Allowable Cut (ACC) of commercial timber to be manufactured and sold by FATCO and the Plan of Operations provides the following guidance in such matters:

Section B.3.a states that "The Tribe reserves the right to sell forest products from the FATCO Operating Area, which FATCO cannot manufacture, process or produce, to other companies, provided FATCO has the right of first refusal."

Section B.3.b states that "In the event of extreme emergencies in the FATCO Operating Area, when timber must be salvaged to avoid value loss through deterioration, the Tribe, with the approval of the Superintendent, may sell that salvage timber to others which is in excess of FATCO's capability for utilization to insure the best economic interests of the Tribe."; and

WHEREAS, FATCO recognizes that the Bureau of Indian Affairs Agency Superintendent and Forestry Department should act in the best interests of FATCO to remove as a priority: 1) large diameter salvage logs as represented by Forestry estimates; and 2) in volumes represented by Forestry estimates; and

WHEREAS, FATCO has advised, in its Resolution on this subject, the following experience as reflecting the performance of the Superintendent and Forestry Staff in relation to the Rodeo-Chediski fire salvage sale:

FATCO advises that the BIA consistently misrepresented the volume and diameter estimates available to FATCO, failed to sample any work areas available to FATCO to adjust to working conditions and approved interim timber operations that were void of 16" diameter and above with less than 30% of the volume of timber available to FATCO causing FATCO to lose production and to find it necessary to return to its ACC sales area prior to the close of the logging season.

FATCO advises that the BIA ignored FATCO's request to provide Timber Sales Officers (TSOs) to their initial sales so that field training and policies could be established before the larger volume activities would take place in order to protect Tribal environmental and archeological sites given the nature and scope of the fire area.

FATCO advises that the BIA continued to ignore the needs of FATCO and resisted acknowledgment of these underestimates while representing to the Tribe that FATCO was not performing despite the fact that FATCO was able to harvest less than 6 mmbf by the end of 2002 since the fire;

FATCO advises that the BIA failed to provide requested financial assistance, the needed technical assistance, and to build up the necessary internal resources to handle the immense size of the project while concentrating on its outside sales program only;

FATCO advises that the Fort Apache Agency directed all of its attention to potential outside sales of the highest and best value timber while admitting that its staff had no experience in such endeavors;

FATCO advises that the BIA applied undue influence to encourage FATCO to convince the Tribe to remove "System Roads" from the federal inventory to assist the BIA in funding roads repair and maintenance at tribal expense or to gain access to FEMA funding.

FATCO advises that the BIA acted in an adversarial manner to convince the Tribal Council to rescind three (3) timber sales identified by FATCO as necessary for its winter operations in order to offer them to outside contractors without first consulting FATCO in order to assist in its outside sales program.

FATCO advises that the BIA finally acknowledged that their estimates may have been too low but only after it was too late for FATCO to make up the volume for winter deck without opening up the green side logging creating added financial burden on the Tribe and FATCO; and

WHEREAS, The Tribal Council of the White Mountain Apache Tribe desires to hear from the Bureau of Indian Affairs Fort Apache Agency Superintendent, Ben Nuvamsa, and the Bureau of Indian Affairs Fort Apache Agency Forestry Department Manager Robert Lacapa on the allegations made against them and their performance during the Rodeo-Chediski Fire Salvage operations at the Tribal Council's next duly called meeting.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that in the interim time period between the date of this Resolution and the time appointed when the Tribal Council will hear from the Fort Apache Agency Superintendent Ben Nuvamsa, and in the interests of ensuring that the following requested investigation be performed without even the appearance of undue influence or interaction from the Fort Apache Agency, the Council requests that the Bureau of Indian Affairs Regional Director Wayne Nordwall place Mr. Nuvamsa on administrative leave from his post as Fort Apache Agency Superintendent or reassign him to a different post and install an acting Agency Superintendent with considerable experience as a BIA Agency Superintendent and with considerable experience in methods of dealing with Indian Nations with attributes in land, size, people and natural resources similar to the White Mountain Apache Tribe.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it seeks a formal investigation be conducted by the Bureau of Indian Affairs into the Fort Apache Agency's administration of the Rodeo-Chediski Fire Salvage sales and remediation activities performed to this date and planned for the future, to ensure that the United States government is honoring the trust responsibility that it must maintain with the White Mountain Apache Tribe for the protection of the Tribe's lands, people and natural resources.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it by no means intends to allege misconduct or malfeasance on the parties named herein, but wishes to have its trust agent, the United States of America, through the Department of Interior and Bureau of Indian Affairs, provide justification to the Tribe of the basis for the reasons and manner in which the federal government administered the Rodeo-Chediski salvage operations and answer whether the Fort Apache Agency observed its obligations to the White Mountain Apache Tribe and the Fort Apache Timber Company as reflected in the logging contract between them.

The foregoing resolution was on MAY 6, 2004 duly adopted by a vote of SIX for, FOUR against and ONE abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (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).

Chairman of the Tribal Council

Secretary of the Tribal Council