

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

- WHEREAS**, the Tribal Council on January 14, 2004, adopted Resolution No. 01-2004-03, requesting that Secretary of the Interior, Gale A. Norton, appoint a federal negotiating team to assert and protect the White Mountain Apache Tribe's vested property rights to the use of water which traverses, borders, and underlies its ancestral lands, now known as the Fort Apache Indian Reservation; and
- WHEREAS**, on June 25, 2004, the Secretary advised the Tribe through the Director of the Secretary's Indian Water Rights Office of her decision to appoint a federal negotiating team for the Tribe; and
- WHEREAS**, appointment of a federal negotiating team will provide an opportunity for the White Mountain Apache Tribe to insure that the Secretary, the principal agent of the Tribe's trustee, the United States, is fully aware of the nature and extent of the Tribe's aboriginal and otherwise reserved rights to the use of water in the Little Colorado River and Salt River Water Systems and in the transbasin Coconino Aquifer, the source of the base flow for both river systems; and
- WHEREAS**, appointment of a federal negotiating team will provide the Tribal Council with: (1) an official forum to assert the Tribe's aboriginal and reserved rights to the use of water; (2) insight and clarity of the trustee United States' willingness to assert and protect the Tribe's aboriginal and reserved rights to the use of water on its Reservation homeland; and (3) the opportunity to present and resolve outstanding claims the Tribe may have against its Trustee, the United States, for its knowing neglect and, at times, intentional suppression of water use and development on the Fort Apache Indian Reservation, among other claims; and
- WHEREAS**, the federal negotiating team process will also enable the Tribal Council to formally meet with State parties and other competing downstream water users in regards to quantification and resolution of the Tribe's competing water use claims, which have a time immemorial priority date; and
- WHEREAS**, a federal negotiating team will be required for the Tribe to secure an amendment to the pending Arizona Water Settlement Act (S. 437) to protect the Tribe's aboriginal and reserved rights to the use of water and to obtain Congressional funding from the Lower Colorado River Basin Development Fund and appropriations to develop the Tribe's aboriginal and reserved water use rights; and
- WHEREAS**, all reserved and non-reserved water rights in the Salt River and Little Colorado River Basins will be quantified by adjudication in State Court, as the United States Supreme Court has interpreted the McCarran Amendment, or by Congressional settlement; and, in either case will be entered in and protected by a State Court decree; and

WHEREAS, the Tribe's water rights team has presented for Tribal Council review and approval, a proposed amendment to the Arizona Water Settlement Act (S. 437) which will set aside for the use and benefit of the White Mountain Apache Tribe, diversion and depletion rights in the Gila River System of which the Salt River System is a primary component, as well as diversion/depletion rights to the Little Colorado River and to the transbasin Coconino Aquifer, the source of the base flow of both the Little Colorado River and Salt River Systems within the Tribe's Reservation; and

WHEREAS, the proposed amendment to the Arizona Water Settlement Act would fund the development of the Tribe's reservation-wide rural water system to insure a safe and reliable drinking water supply for the White Mountain Apache people until the year 2050; and

WHEREAS, in addition to providing funding for the White Mountain Apache Rural Water System, critical to the future existence and growth of the White Mountain Apache Tribe, funds from the Lower Colorado River Basin Development Fund and appropriations, requested in the proposed amendment, would also provide for: (1) development of a water based economy to take advantage of the Tribe's aboriginal and other reserved rights to the use of water on the Tribe's reservation lands including, but not limited to, development and improvement of the Tribe's recreational lakes and facilities; (2) rehabilitation and upgrades to the Alchessay-Williams Creek Fish Hatchery Complex; (3) establishment of a hatchery grow-out facility on the west side of the reservation; (4) a feasibility study of needed forest products and improvements and forest management practices; and (5) development of the Tribe's agricultural lands, all of which are necessary for a self-sustaining homeland for the White Mountain Apache people; and

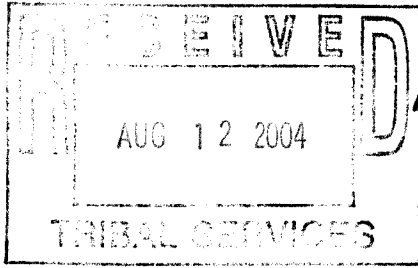
WHEREAS, the Tribal Council concludes that the proposed amendment to the Arizona Water Settlement Act (S.437) will protect and assert the Tribe's aboriginal and otherwise reserved and vested property rights to the use of water for its people and their permanent homeland.

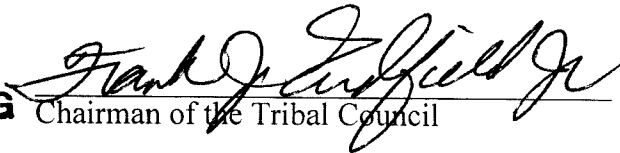
BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby asserts its prior and paramount rights to the use of water in the Salt and Little Colorado River surface and groundwater sources as set forth in the proposed amendment and approves for distribution to the Arizona Congressional delegation, the Secretary of Interior, the State of Arizona and other necessary State parties, including the Salt River Project, the Tribe's proposed amendment to the Arizona Water Settlement Act (S. 437).

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the Tribal Chairman and/or his designees, including members of the water rights team as considered necessary, to pursue Congressional, Secretarial, and State support for the Tribe's proposed amendment to S. 437 and the aboriginal and reserved water use rights asserted and described therein.

Resolution No. 07-2004-139

The foregoing resolution was on JULY 15, 2004, duly adopted by a vote of SIX 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), (c), (f), (g), (i), (t), and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



ACTING 
Chairman of the Tribal Council


Secretary of the Tribal Council