

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

- WHEREAS,** the Reservation is now facing the fifth consecutive year of devastating drought which has contributed to wildfires and the loss of millions of dollars of revenue from lost commercial timber and impaired ski and rafting industries, as well as endangering livestock, wildlife, and domestic water supplies; and
- WHEREAS,** the Tribe's Miner Flat well field, which supplies municipal and industrial water to nearly 80% of the Reservation's population (10,000 persons), including the greater Whiteriver area, comprised of several reservation communities, continues to show signs of extreme dewatering and faces probable extinction within 3 to 5 years at current extraction rates; and
- WHEREAS,** off-Reservation groundwater pumping from the transbasin Coconino and related aquifers in the Little Colorado River Basin may become an imminent threat to the Tribe's groundwater supplies and the source of base flow of the Tribe's springs and rivers within the Salt River Basin; and
- WHEREAS,** the White Mountain Apache Tribe must construct a Reservation-wide rural water system to ensure a dependable, high quality drinking water supply for the White Mountain Apache Tribe if it is to survive as a people on its ancestral and aboriginal land base, the remnant of which is now the Fort Apache Indian Reservation; and
- WHEREAS,** the United States Congress is considering S. 437, known as the "Arizona Water Settlements Act," which is intended to settle certain outstanding Indian water rights claims, but includes no consideration of the substantial and senior water rights of the White Mountain Apache Tribe; and
- WHEREAS,** the Arizona Supreme Court has held in the Gila River and Little Colorado General Stream Adjudications that federal reserved rights extend to groundwater; and
- WHEREAS,** the Tribe has asserted prior and paramount rights to the use of water from not only surface waters of the Little Colorado River and Salt River basins, but from the Coconino and other transbasin aquifers that provide the base flow of the Tribe's springs and streams; and
- WHEREAS,** the Tribal Chairman, on behalf of the White Mountain Apache Tribe, submitted testimony to Congress in 2003 opposing the passage of S. 437 as written and the Tribe has likewise opposed an Environmental Impact Statement alternative that would support the allocation of Central Arizona Project waters as proposed in S. 437 due to the failure to consider the substantial diversion/depletion rights of the White Mountain Apache Tribe in the Salt River Basin; and
- WHEREAS,** the Secretary of the Interior has agreed to appoint a Federal Negotiating Team for the purposes set forth in the Department of Interior's Criteria Procedures for the

Participation of the Federal Government in Negotiations for the Settlement of Indian Water Rights Claims; and

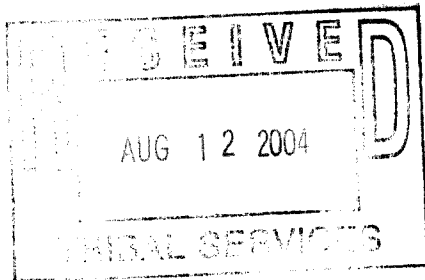
- WHEREAS,** the Tribe has proposed an amendment to S. 437 that would set aside for the use and benefit of the White Mountain Apache Tribe, diversion and depletion rights in the Gila River System of which the Salt River System is a primary component, as well as diversion/depletion rights to the Little 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 Tribe's proposed amendment to S. 437 would protect the Tribe's aboriginal and reserved rights to the use of water and secure 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,** a federal negotiating team would be required for the Tribe to secure the proposed amendment to S. 437; and
- WHEREAS,** the federal negotiating process will require the Tribe to assert and prove the validity of its water rights claims to the Salt River and Little Colorado River systems and associated aquifers; and
- WHEREAS,** the funding request outlined in the Tribe's water rights litigation and negotiation (344) and Water Resources, Planning, Management, and Pre-Development (340) BIA grant applications identify issues raised by the Arizona Department of Water Resources and other parties in the General Stream Adjudications which must be clarified and investigated by the Tribe for the protection and advancement of its aboriginal and otherwise reserved rights; and
- WHEREAS,** there is a pressing and urgent need for the Tribe to obtain funding from the BIA to: (1) support development of basic resource studies and technical data to prepare and defend the Tribe's reserved water rights claims; (2) conduct technical studies and investigations related to the Tribe's water rights claims in the ongoing General Stream Adjudications in the Apache County and Maricopa County Superior courts and prepare to defend those claims in the federal negotiation process; (3) continue to update its groundwater model for the transbasin Coconino and other aquifers; (4) continue and expand water development and other water monitoring studies as described in the Tribe's BIA 2005 funding requests, including, but not limited to, contracting of competent historians and agricultural, livestock, and recreational economists for the preparation of practicable irrigable acreage and other water use claims; (5) conduct a depletion analysis, and other technical studies as described in the Tribe's FY2005 BIA grant applications; and
- WHEREAS,** the Tribe has completed the tasks previously funded by the BIA as itemized in the associated Accomplishment Reports included in the Tribe's current and prior funding requests for the BIA Water Resources (340) and Water Rights Litigation and Negotiation (344) grants.

Resolution No. 07-2004-140

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves under authority of Public Law 93-638, FY2005 funding applications to the Bureau of Indian Affairs Branch of Land and Water Resources and to the Office of Trust Responsibilities under the category of "Water Resources Planning, Management, and Pre-development (340)" in the amount of \$303,167 and under the category of "Water Rights Litigation and Negotiation (344)" in the amount of \$359,094, as itemized and justified therein.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Tribal Chairman, and in his absence, the Vice Chairman, is hereby authorized to sign any and all necessary documents related to the two BIA funding requests for FY2005, reviewed and approved this date by the Tribal Council.

The foregoing resolution was on JULY 15, 2004 duly adopted by a vote of SEVEN 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), (d), (f), (h), (i), (j), (k), (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).



Grand J. Indjell
ACTING Chairman of the Tribal Council

Cyndy R. Harvey
Secretary of the Tribal Council