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

FORT APACHE INDIAN AGENCY
RESERVE, ARIZONA

(Approving Plan For The Use And Distribution Of Judgment Funds
In No. 99-148L, *White Mountain Apache Tribe vs. United States Of America*,
U.S. Court Of Federal Claims)

- WHEREAS**, on March 18, 1999, the White Mountain Apache Tribe sued the United States in the U.S. Court of Federal Claims in the case entitled *White Mountain Apache Tribe vs. United States of America*, No. 99-148L, alleging damages for breach of fiduciary duty on the part of the United States to maintain the Fort Apache Property while under the Secretary of Interior's control, use and occupation for school or administrative purposes; and
- WHEREAS**, there is a tentative offer from the defendant United States to resolve the Tribe's breach of trust damage claims against the United States for the sum of \$12,000,000 and pursuant to other conditions and requirements set forth in the draft Settlement Agreement dated December 9, 2004, approved by Tribal Council Resolution No. 12-2004-291, on Tuesday December 14, 2004, pursuant to the conditions set forth in the Tribal Council Resolution approving the Proposed Settlement Agreement between the Tribe and the United States of America; and
- WHEREAS**, in the event the associate Attorney General approves the Settlement Agreement approved by the Tribal Council in Resolution No. 12-2004-291, the Secretary of the Interior and the Tribal are required to comply with the Indian Tribal Judgment Funds Use or Distribution Act, 25 U.S.C. §1401, *et seq.* (hereinafter the "Act"); and
- WHEREAS**, pursuant to §1402 of the Act, the Secretary of the Interior is required to prepare and submit to Congress a plan for the use and distribution of the judgment funds ("Plan"); and
- WHEREAS**, §1403 of the Act requires the Secretary, in addition to preparing a Plan, to hold a public hearing of record, after appropriate public notice, and obtain the testimony of Tribal leaders and members of the Tribe who may receive any portion, or be affected by the use or distribution of such funds; and
- WHEREAS**, the Tribal Council has reviewed a draft Plan (dated December 7, 2004) for the Use and Distribution of any Judgment Funds to be received in No. 99-148L, which would establish a perpetual and permanent Fort Apache Preservation Fund, ("Fund") for the repair, rehabilitation, maintenance, restoration and preservation of the Fort Apache Property listed and described in Exhibit "A" of the Proposed Settlement Agreement dated December 9, 2004, between the Tribe and the United States in No. 99-148L; and

WHEREAS, the Tribal Council concludes that the Draft Use Plan dated December 7, 2004 would be in the best interests of the White Mountain Apache Tribe for the Tribe's economic development and cultural preservation, and, accordingly, requests the Secretary of Interior to hold a timely hearing of record, after appropriate public notice, regarding the Draft Use Plan pursuant to 25 U.S.C. §1403(a), after a Settlement Agreement is signed by the Tribe and the United States.

NOW, THEREFORE, BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the December 7, 2004 draft Plan for the Use and Distribution of Judgment Funds in No. 99-148L, *White Mountain Apache Tribe vs. United States of America*, incorporated by reference herein.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the Tribal Chairman, and in his absence, the Vice Chairman, to submit this Resolution approving the Draft Use Plan dated December 7, 2004, to the Secretary of the Interior, Gayle Norton, to Wayne Nordwall, BIA Regional Phoenix Office, and to the Superintendent of the Apache Agency, with the request that as soon as a Settlement Agreement is signed by the White Mountain Apache Tribe and the United States of America in No. 99-148L, that a hearing of record, after appropriate public notice, be scheduled by the Bureau of Indian Affairs for the purpose of obtaining testimony of Tribal leaders and members of the White Mountain Apache Tribe with respect to the Use and Distribution of Judgment Funds to be received pursuant to the Settlement Agreement.

The foregoing resolution was on December 14, 2004, 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), (b), (f), (g), (h), (i), (j), (s), (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).


Chairman of the Tribal Council


Secretary of the Tribal Council