

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

(Approving a Consultant Services Agreement with Elmer M. Clark)

WHEREAS, the White Mountain Apache Tribe previously engaged the services of Elmer M. Clark; and

WHEREAS, the Agreement for the employment of Mr. Clark as an expert consultant to assist the Tribe in recovery of 16,355 acres of land excluded from the Tribe's northern boundary due to U.S. Deputy Surveyor Wallace's erroneous 1887 boundary survey and for damages and compensation from the United States Government for the wrongful diversion or appropriation of the Tribe's grazing lands, timber or other property belonging to the Tribe, has expired; and

WHEREAS, the Tribal Council of the White Mountain Apache Tribe wishes to enter into a new Agreement to employ Mr. Clark for a term of three years; and

WHEREAS, the Agreement for Consulting Services shall compensate Mr. Clark a total sum of \$24,000.00, inclusive of expenses and materials; and

WHEREAS, compensation to be paid to Mr. Clark for services rendered pursuant to the Agreement may be paid from the following sources depending upon the tasks performed and if allowable by the funding source and if available:

- (A) Miner Flat Dam 638 Contract between the White Mountain Apache Tribe and the Department of the Interior/Bureau of Indian Affairs;
- (B) Bureau of Indian Affairs Water Resources Planning, Management, and Pre-Development Contract Services Grand Funds;
- (C) Bureau of Indian Affairs Water Rights Litigation and Negotiation Funds;
- (D) Any appropriation of funds authorized by Senate Bill 437 or its successor now pending in the U.S. Congress, House of Representatives, known as the Arizona Water Settlements Act; and
- (E) Tribal funds, but only if specifically budgeted by the White Mountain Apache Tribe for the purpose of providing compensation to Mr. Clark for services rendered pursuant to the Agreement.

WHEREAS, the Tribal Council wishes to contract with Mr. Clark as a consultant to assist the Tribe to pursue the recovery of the land and/or damages associated with the erroneous 1887 survey and exclusion of said land from the Tribe's Reservation pursuant to the terms of the Agreement for said services attached hereto and to expedite transfer of Mr. Clark's knowledge of the 1887 survey to other qualified expert(s) for that purpose.

NOW, THEREFORE, BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that:

- 1. An Agreement for Consultant Services between the White Mountain Apache Tribe and Elmer M. Clark is hereby approved.
- 2. The Tribal Chairman, and in his absence, the Vice-Chairman, is hereby authorized to negotiate and execute any and all documents necessary to implement the intent of this Resolution.
- 3. The Agreement between the White Mountain Apache Tribe and Mr. Clark shall not exceed \$24,000.00, inclusive of expenses and materials.
- 4. Compensation for the Agreement shall be paid (if available) from:
 - (A) Miner Flat Dam 638 Contract between the White Mountain Apache Tribe and the Department of the Interior/Bureau of Indian Affairs;
 - (B) Bureau of Indian Affairs Water Resources Planning, Management, and Pre-Development Contract Services Grand Funds;
 - (C) Bureau of Indian Affairs Water Rights Litigation and Negotiation Funds;
 - (D) Any appropriation of funds authorized by Senate Bill 437 or its successor now pending in the U.S. Congress, House of Representatives, known as the Arizona Water Settlements Act; and
 - (E) Tribal funds, but only if specifically budgeted by the White Mountain Apache Tribe for the purpose of providing compensation to Mr. Clark for services rendered pursuant to the Agreement.

The foregoing resolution was on DECEMBER 16, 2004 duly adopted by a vote of SEVEN for, ZERO 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), (b), (f), (i), (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).

RECEIVED

JAN 11 2005

FORT APACHE INDIAN AGENCY
WINTER RIVER, ARIZONA

Frank J. Endfield Jr.
ACTING Chairman of the Tribal Council

Cindy B. Harvey
Secretary of the Tribal Council