



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

(Lifting Ban on BIA Burning of Slash on the Fort Apache Indian Reservation)

- WHEREAS**, after experiencing at least two incidents where safety and control of the use of fire were reported, the Tribal Council adopted Resolution No. 10-2004-247 on October 7, 2004 expressing its concerns about the method, manner and general failure by the Bureau of Indian Affairs' Fort Apache Agency to follow its policies and guidelines for safety and monitoring prescribed burning on the Tribe's lands; and
- WHEREAS**, the Tribal Council clarified Resolution No. 10-2004-247 in Resolution No. 11-2005-265, which incorporated and restated the substance and purpose of Resolution No. 11-2004-247, but which also included BIA fuel management practices discussed and agreed to by the Tribal Council on October 7, 2004; and
- WHEREAS**, Resolution No. 11-2004-265 directed the Fort Apache Agency to cease and desist all prescribed burning operations on the Fort Apache Indian Reservation until such time as the BIA's After Action Review (hereinafter "AAR") team report findings and recommendations are implemented; and
- WHEREAS**, the White Mountain Apache Tribe has endorsed land management plans that set the direction for the management of Tribal lands, goals and objectives; and
- WHEREAS**, the management philosophies described in those plans are based on sound scientific knowledge, silvicultural principles and Apache culture; and
- WHEREAS**, fire use, including prescribed fires by the BIA's Fort Apache Agency on Tribal lands has raised serious concerns with Tribal members, Tribal leaders and staff due to the damages resulting from several of the burns; and
- WHEREAS**, a letter from the Tribal Chairman requesting an After Action Review of the prescribed burning incidents was sent to the Superintendent of the Fort Apache Agency on September 16, 2004, and an Action Review Panel was appointed pursuant thereto submitted and presented a written report to the Tribal Council on the Largo Mountain and Corduroy Prescribed Burns, and AAR, that detailed Finding/Recommendations, Best Management Practices, High Reliability Organizations, Recognition, and Contacts; and
- WHEREAS**, the AAR Team findings indicated that Agency guidelines were not followed and in many cases simply ignored and they strongly recommended an overall program review of the Ft. Apache Agency Prescribed Fire Program after reviewing information from the BIA (Blue Book 2004), Ft. Apache Fire Management Plan, Black River Review (1999), Sawtooth Mountain Review (2003), BIA Fire Use

Handbook, and the Largo Mountain and Corduroy Prescribed Fire Plans; and

WHEREAS, Tribal Council concluded after reviewing the AAR Report and Panel presentation that the White Mountain Apache Tribe should be compensated for damages caused by prescribed burns initiated by the Fort Apache Bureau of Indian Affairs which have gone out of control and caused damage to the Tribe's commercial timber and to archeological, sacred, and culturally protected sites on the Tribe's lands in Forestdale (Nov. 2003), McNary (2004), Black River (1999) and Sawtooth Mountain (2003) prescribed burn areas; and

WHEREAS, the Tribal Council remains concerned about negligent fire use to dispose of logging and thinning slash which has damaged hundreds of trees, elk and other wildlife habitat in violation of pre-sale and timber sale prescriptions; and

WHEREAS, the Tribal Council is appreciative of the AAR Team's Report and the valuable findings and recommendations therein, but the Tribal Council has the obligation as the governing body of the beneficial owners of the Forest Trust Resources, to assess, through its Tribal Forestry Department, Wildlife and Outdoor Recreation Department ("WORD"), Ft. Apache Timber Company ("FATCO") and Tribal Historic Preservation Office ("THPO"), the amount of damages, if any, for which the Bureau of Indian Affairs may be liable to the Tribe for the loss of commercial timber resources, and for damages to archeological, wildlife habitat, and cultural sites as a result of the prescribed burns identified herein and to take whatever steps are necessary to halt such practices and to bring them into compliance with timber sale requirements, Best Management Practices, the Ft. Apache Fire Management Plan, BIA Fire Use Handbook, and BIA Blue Book (2004); and

WHEREAS, the Tribal Council of the White Mountain Apache Tribe directed the Fort Apache Agency to cease and desist all prescribed burning operations on the Fort Apache Indian Reservation until such time as the AAR Team report findings and recommendations were implemented, but to date, the Agency has not provided a management and operational plan or submitted new personnel assignments for review and consideration by the Tribal Council; and

WHEREAS, the Tribal Council in Resolution No. 11-2004-272, adopted November 5, 2004, further requested the Bureau of Indian Affairs to transfer certain BIA personnel named herein who were in charge of the BIA's fuel management program on the reservation to non-fuels management, non-thinning and non-fire management positions within BIA forestry, and the Tribal Council has been advised that this has been accomplished; and

WHEREAS, Mr. George Leech, an employee of the Fort Apache Agency has submitted documents to retire from his current Fire Management Officer position effective in January 2006; and

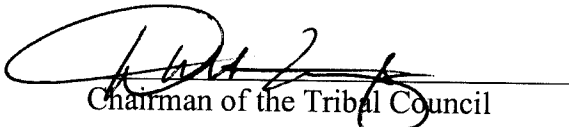
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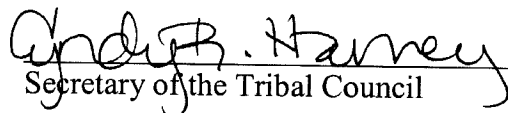
- WHEREAS**, Mr. Ralan Hartzell has been reassigned to the Training Officer Planning position at the Fort Apache Agency and the Fort Apache Agency Superintendent has formally submitted a request to Western Regional Office Personnel Department to transfer Mr. Hartzell, which is pending approval at WRO; and
- WHEREAS**, Mr. Ralph Thomas and Ralan Hartzell of the Fort Apache Agency will be directed by the Agency Superintendent to no longer participate in any fire use and prescribed burn activities; and
- WHEREAS**, the Tribal Council has also been advised by the BIA that the Fort Apache Agency Forestry Department has adopted the recommendations of the AAR team in its report on the Largo Mountain and Corduroy prescribed burns; and
- WHEREAS**, the Tribal Council concludes that as a matter of financial necessity for the Tribe's Fort Apache Timber Company's sawmill operation, and because BIA has transferred certain BIA fuel management personnel named herein to non-fuel management positions, and has advised the Tribe that it has implemented the AAR Panel's recommendations, that the Tribe's ban on BIA conducting prescribed burning on the Fort Apache Indian Reservation, as mandated by Resolution No. 11-2004-265 and Resolution No. 10-2004-247, be lifted, provided that BIA agrees to closely follow and monitor its own regulations and guidelines; and
- WHEREAS**, the Tribal Council acknowledges the Fort Apache Agency Superintendent's memorandum dated May 24, 2005 regarding Agency actions to implement program review recommendations, including additional mitigation measures in said memorandum; and
- WHEREAS**, the Tribal Council is also exploring alternatives to prescribed burning as a way of disposing of timber, fuel reduction and slash treatment, but that the ban on prescribed burning by the BIA must be lifted in the interim, pending future decisions on alternative ways of removing slash from thinning, logging and fuels management activities; and
- WHEREAS**, the Tribal Council further concludes that Tribal Forestry Department and Tribal Historic Preservation Office should be directed to monitor all prescribed burning by the BIA to insure compliance with the AAR Team Report Recommendations and that the BIA be required to strictly follow their own published guidelines for the protection and preservation of the Tribe's forests; and
- WHEREAS**, approval by the Tribal Council to lift its burn on BIA fuel management burning and prescribed burning on the Reservation does not constitute a waiver by the Tribe of any damage claims it may have against the BIA for prior damages to commercial and other timber, or for desecration of or trespass on sacred sites, as described in Resolution No. 11-2004-265 and in the AAR Team Report.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the previous ban on all burning operations by the Bureau of Indian Affairs on the Fort Apache Indian Reservation is hereby lifted, provided that:

1. The AAR Team Report recommendations which includes findings, recommendations, best management practices, and other applicable and current guidelines and plans for prescribed burns be followed by BIA; and
2. The BIA must provided timely assurance to the Tribe that any and all BIA personnel responsible for burning operations are certified for such operations and have a proven record of experience without any record of adverse or safety violations; and
3. Prior to any burning operation, the BIA shall coordinate with Tribal Forestry, Tribal Historic Preservation Office and other applicable Tribal personnel who, in turn, shall monitor and report compliance by BIA with all applicable burning, thinning and fuels management operation guidelines; and
4. The Tribal Council recommends some form of reprimand or personnel action be taken by the Fort Apache Agency Superintendent, but at a minimum that BIA confirm to the Tribal Council that Mr. George Leech will retire January 2006, that Mr. Ralan Hartzell has been reassigned into a non-fuels management position, and that Messrs. Ralph Thomas and Ralan Hartzell are no longer involved with fire use and prescribed burn activities; and
5. The BIA Western Regional Office should not intentionally hold-up or delay future timber sales due to is own internal management problems related to prescribed burning on the Fort Apache Indian Reservation; and
6. The BIA Fort Apache Agency implements program review recommendations and added mitigation measures outlined in the Agency Superintendent's memorandum dated May 24, 2005, including those pertaining to trained and qualified personnel assignments.

The foregoing resolution was on September 13, 2005, duly adopted by a vote of FOUR for and THREE against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (c), (f), (h), (i), (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).


Chairman of the Tribal Council


Secretary of the Tribal Council