



Resolution No. 05-2006-140

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

(Requesting transfer of Judgment and Settlement Funds in *White Mountain Apache Tribe vs. United States of America*, U.S. Court of Federal Claims, No. 99-148L, from Office of Special Trustee to the White Mountain Apache Tribe in accordance with the Use Plan)

WHEREAS, on December 14, 2004, the Tribal Council of the White Mountain Apache Tribe adopted Resolution No. 12-2004-292, approving a Plan For The Use And Distribution Of Judgment Funds ("Use Plan"), in U.S. Court of Federal Claims, No. 99-148L, entitled, *White Mountain Apache Tribe v. United States of America*; and

WHEREAS, as provided in the Settlement Agreement between the White Mountain Apache Tribe and the United States, the Secretary of the Interior has completed the requirements of the Indian Tribal Judgment Funds Act, 25 U.S.C. § 1401, *et seq*, (hereinafter the "Act") by filing the Use Plan with the United States Congress on March 3, 2006, for a period of sixty (60) days as required by the Act; and

WHEREAS, Settlement Funds in the original sum of twelve million (\$12,000,000) dollars have been on deposit with the Office of the Special Trustee since June 2005 and have earned interest and the total amount on deposit as of May 5, 2006, was approximately \$12,436,000; and

WHEREAS, the Use Plan requires establishment of 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 Settlement Agreement between the Tribe and the United States in U.S. Court of Claims, No. 99-148L; and

WHEREAS, the Use Plan approved by the Tribe and the Secretary of the Interior provides that the Tribe shall control the Settlement Funds and use the principal and earnings from the Settlement Funds pursuant to the Use Plan; and further, the Tribe may withdraw the Settlement Funds from the Office of Special Trustee and transfer the Funds to the Tribe for investment by a SEC registered investment advisor selected by the Tribal Council; and

WHEREAS, the Tribal Council is advised that the transfer of the Tribe's Settlement Funds now on deposit with the Office of Special Trustee must be done in accordance with the American Indian Trust Fund Management Reform Act of 1994 (PUB. L. 103-412, 108 Stat.; 4239, 25 U.S.C. 4001; 25 C.F.R. Part 1200, Subpart B) which

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provides that a Tribe may withdraw and transfer the Settlement Funds in accordance with a Congressionally approved Use Plan; and

WHEREAS, the Office of the Special Trustee, after Congressional approval of the Use Plan for the Settlement Funds, and upon receipt of a Tribal Council resolution requesting transfer of the Settlement Funds to the Tribe's account, can do so in accordance with federal law and the Use Plan to an account managed by a SEC registered investment advisor selected by the Tribal Council; and

WHEREAS, the Tribal Council concludes that it would be in the best interests of the White Mountain Apache Tribe if the Settlement Funds could be transferred from the Office of the Special Trustee to the Tribe so that the Fort Apache Property can be formally transferred from the control and responsibility of the Federal Government to the Tribe and so that necessary repairs, rehabilitation, maintenance, restoration and preservation of the Fort Apache Property can commence in accordance with the Congressionally approved Use Plan.

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


1. The Office of Special Trustee is hereby requested to transfer the Settlement Funds in *White Mountain Apache Tribe v. United States of America*, U.S. Court of Federal Claims No. 99-148L, to an account designated for that purpose by the White Mountain Apache Tribe.
2. Attached and incorporated by reference herein, is a signed copy of the Settlement Agreement in *White Mountain Apache Tribe v. United States of America*, U.S. Court of Federal Claims, No. 99-148L, and the Congressionally approved Use Plan for the Settlement Funds, as required by the Office of Special Trustee.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby requests the Superintendent of the Fort Apache Agency to complete BIA Form 1034 for the transfer of the Settlement Funds from the Office of Special Trustee to the Tribe's designated account and SEC registered investment advisor for the Settlement Funds.

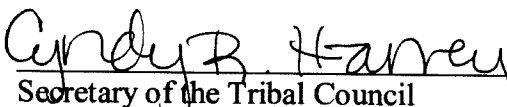
BE IT FINALLY RESOLVED by the Tribal of the White Mountain Apache Tribe that it hereby requests that the Fort Apache Agency meet with designated representatives of the Tribal Council as soon as possible to coordinate the timely and formal transfer of control and responsibility of the Fort Apache Property listed in the Settlement Agreement to the White Mountain Apache Tribe so that the Fort Apache Property can be appropriately insured and protected by the Tribe before formal transfer of control from the Federal Government and transfer of the Settlement Funds by the Office of Special Trustee to the Tribe.

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The foregoing resolution was on May 10, 2006, duly adopted by a vote of TEN for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (f), (g), (h), (i), (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