

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

**(Authorizing Request for Congressional Funding for
Miner Flat Dam Domestic and Municipal Water Storage Facility)**

- WHEREAS,** the White Mountain Apache Tribe occupies a remnant of its once vast ancestral and aboriginal lands, now known as the Fort Apache Indian Reservation, its permanent homeland of approximately 1.66 million acres in the east- central highlands and mountains of the State of Arizona; and
- WHEREAS,** the current population of the Tribe and residents living within the Reservation is approximately 14,000 persons; and
- WHEREAS,** although the Tribe's reservation lands are blessed with abundant springs and streams, there is insufficient ground water resources to meet the domestic, municipal and industrial water needs of the White Mountain Apache Tribe; and
- WHEREAS,** approximately 80% of the reservation population currently relies on the Tribe's Miner Flat Well Field and supplemental contributions from Columbine Spring for its current domestic, municipal and industrial water needs; and
- WHEREAS,** the water delivery capacity of the Miner Flat Well Field has dramatically diminished in the past five (5) years and even with contributions from Columbine Spring and from the recent development of three additional wells, also expected to decline in production over the short and long term, the current peak water needs for the Reservation population cannot be met, nor can they be met by future ground water development due to the inherent limiting factors of the ground water geology on the reservation and lack of any substantial recharge thereof; and
- WHEREAS,** the base flow of the Tribe's springs and streams generally comes from the Transbasin Coconino Aquifer, which on the Tribe's reservation almost entirely discharges to the rivers and springs within the reservation with limited recharge of ground water on the Tribe's reservation; and
- WHEREAS,** the continuing decline in well production and the lack of sufficient ground water within the Tribe's reservation to meet domestic, municipal, and industrial water needs and requirements has been well documented by the Tribe's consulting ground water geologists and consultants and the Indian Health Service; and

WHEREAS, the Tribe is currently drafting an EPA funded, comprehensive Master Plan of Drinking Water Infrastructure needs for the Tribe to the year 2050 and of the Tribe's domestic, municipal, and industrial water needs through the year 2100; and

WHEREAS, preliminary assessment of the Tribe's current and future drinking water needs as part of the EPA Master Plan and other hydrogeologic investigations confirm the insufficiency of the reservation's supply of ground water to meet the Tribe's current and future domestic, municipal, and industrial water needs, and compel the White Mountain Apache Tribe build water storage facilities to regulate surface water flows from the several streams on its lands to meet the domestic, municipal, and industrial water needs of the White Mountain Apache people and reservation residents; and

WHEREAS, the White Mountain Apache Tribe has experienced problems with arsenic levels in its ground water wells and excessive discoloration and brackish water in other well in communities within the Reservation which has resulted in health concerns that when combined with the Tribe's limited ground water resources, compel the Tribe's need to develop and use safe and adequate surface waters within the Reservation; and

WHEREAS, the Tribe recently applied for and was awarded 75% grant, 25% loan from Rural Development (total \$4.99 million) to supplement funds from the Indian Health Service and the Environmental Protection Agency to construct a small diversion structure on the North Fork of the White River and a small water treatment plant to replace the failing Miner Flat Well Field; and

WHEREAS, the afore-described North Fork Diversion Project as it is known will not be completed for at least two (2) years, and when completed will only replace the failing Miner Flat Well Field which currently provides drinking water for 80% of the reservation residents, and will not be able to meet the peak domestic, municipal, and industrial water needs of the White Mountain Apache Tribe within the next five (5) to seven (7) years; and

WHEREAS, the Indian Health Service and the Tribe have taken steps to alleviate a lack of water in one reservation community by constructing a 10 mile pipeline to provide water from the Miner Flat Well Field for that community, but such emergency measures are totally dependent on water delivery from the rapidly decreasing Miner Flat Well Field which cannot be sustained and which the North Fork Diversion Project will only temporarily alleviate until population growth and need exceed the Project's water delivery capacity; and

WHEREAS, the existing water delivery infrastructure developed by the Indian Health Service, the Bureau of Indian Affairs, and the White Mountain Apache Tribe, while limited in capacity, can be made more dependable if a 6,000 acre foot capacity water storage facility was constructed on the North Fork of the White River and the existing water

delivery infrastructure could then be expanded in capacity to meet future reservation needs; and

WHEREAS, the Tribe received funding from Congress in 1981 to investigate the feasibility of constructing a dam structure on the North Fork of the White River and said project became known as the Miner Flat Dam Project; and

WHEREAS, the Tribe has completed geotechnical investigations and a Project Extension Report (PER) for the Miner Flat Dam Project outlining the costs and benefits of constructing a rolled concrete dam on the North Fork of the White River to provide domestic, municipal, and industrial water to the White Mountain Apache people and reservation residents and said proposed Miner Flat Dam storage facility will not only provide a reliable and safe drinking water supply for the reservation, but will cost at least \$27 million less than unreliable and unproven sources of ground water for the same purposes; and

WHEREAS, there is an urgent and compelling need for a drinking water storage supply project on the North Fork of the White River that will and can: (1) improve the health and aesthetic quality of reservation drinking water; (2) result in continuous, measurable, and significant water quality benefits for the people (no arsenic contamination); (3) address the reservation's imminently urgent drinking water supply needs; (4) help meet applicable water quality standards and requirements established by EPA and the Tribe through the treatment as a state program with EPA; (5) be cost effective; (6) expandable and connect to pre-existing infrastructure; (7) have a positive effect on the reservation resident's public health and safety; (8) provide environmental benefits, including source water protection; (9) help lay the foundation for an integrated resource management plan; (10) enhance water management flexibility by providing for Tribal control to manage its water supplies under varying water supply conditions; and (11) promote long term protection of water supplies both on and off reservation by preserving stream flows; and

WHEREAS, there is a viable water supply in the North Fork of the White River for the proposed Miner Flat Dam water storage facility and the Tribe's aboriginal and otherwise reserved water use rights are vastly greater than needed to supply the Project as the Miner Flat Dam storage capacity represents 5% or less of the Tribe's total water use claim prepared by the United States as well as the water use claim independently prepared by the Tribe; and

WHEREAS, the Miner Flat Dam Project will also partially address Tribal and Congressional goals of Tribal economic self-sufficiency and help fulfill the purpose of the Fort Apache Indian Reservation as a permanent homeland for the White Mountain Apache people; and

WHEREAS, the Tribe is unable to fund construction of the Miner Flat Dam and water delivery system due to its low *per capita* income, low median household income, poverty rate, inability to raise tax revenues or assess fees, recently suffered the economic loss of 220,000 acres of prime commercial timber land as a result of the Rodeo-Chedeski fire in 2002, and because of certain historical factors that have inhibited economic development within the Tribe's lands; and

WHEREAS, a previous request by the White Mountain Apache Tribe for federal funding assistance for the Miner Flat Dam Storage Facility was not pursued by the Arizona Congressional Delegation because the Tribe had not settled its aboriginal and otherwise reserved water use rights and claims to the Salt River and its tributaries and to the Little Colorado River or its tributaries; and

WHEREAS, in response thereto, the Tribe requested the Secretary of the Interior in January 2004, to appoint a Federal Negotiating Team to assist the Tribe in the quantification, negotiation, and settlement of its aboriginal and reserved water use claims which was granted by the Secretary; and

WHEREAS, the White Mountain Apache Tribe has continued its commitment, in goodfaith, to meet regularly with the Federal Negotiation Team and to exchange information with the Federal Team regarding the Tribe's water use claims, and to meet with state parties, most notably the Salt River Project and Phoenix Valley cities regarding the Tribe's water use claims and the potential impact of the Tribe's reserved water use claims on those entities; and

WHEREAS, the United States, in its capacity of Trustee for the White Mountain Apache Tribe, has filed a water use claim in both the Little Colorado River and Gila River General Stream Adjudications and said claim approximates the water use claim independently prepared by the White Mountain Apache Tribe and its consultants; and

WHEREAS, construction of the Miner Flat Dam on the North Fork of the White River, a tributary of the Salt River, would result in negligible depletion downstream in the Phoenix Valley of the water supply in Roosevelt Reservoir, and storage and any depletion in the Salt River System from the delivery of water therefrom for domestic, municipal, and industrial purposes represents a fraction (less than 5%) of the water use claim prepared by the White Mountain Apache Tribe or the claim filed for the Tribe by the United States, as trustee for the Tribe, in the Gila River General Stream Adjudication; and

WHEREAS, construction of the Miner Flat Dam Storage Facility cannot await final quantification of the Tribe's time immemorial, aboriginal and otherwise reserved water use rights and claims of the White Mountain Apache Tribe in the Salt River System as the Tribe currently has an urgent and compelling need for water for domestic, municipal,

and industrial use and purposes which can become a part of, but cannot await a final water rights quantification; and

WHEREAS, the health, safety, and well being of the White Mountain Apache people will be in peril without construction of Miner Flat Dam within the next seven (7) years as water shortages are already being experienced and will continue until there is a permanent storage facility constructed on the North Fork of the White River for the Tribe's domestic, municipal, and industrial water needs and requirements; and

WHEREAS, time is of the essence to obtain funding for the Miner Flat Dam Project because of the imminent drinking water shortages that the Tribe and reservation residents have experienced and will continue to endure unless a storage facility is constructed on the North Fork of the White River; and

WHEREAS, the Tribe's domestic, municipal, and industrial water needs ought not be held hostage to on-going , good faith efforts by the Tribe to quantify and settle its aboriginal and otherwise reserved water use rights as that process could take several years and the Tribe's ability to negotiate a dignified and equitable settlement of its time immemorial water use rights would be jeopardized and unfairly dictated by an imminent drinking water shortage crisis; and

WHEREAS, the Tribal Council concludes that the Tribe's Trustee, the United States, by and through its principal agent, the Secretary of the Interior, must be requested to support the Tribe's request for Congressional funding for Miner Flat Dam as its construction is imperative for the continued survival of the White Mountain Apache Tribe and the viability of the Tribe's Fort Apache Indian Reservation as a permanent homeland for the White Mountain Apache people.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the Tribal Chairman, and in his absence, the Tribal Vice-Chairwoman, to petition the Arizona Congressional Delegation and Congress generally, with such assistance as necessary or required by the Tribe's Water Rights Team, for funding in the amount of \$113,236,000 dollars to build the Miner Flat Dam Water Storage Facility on the North Fork of the White River and infrastructure for drinking water as set forth in the attached proposed authorization entitled "White Mountain Apache Rural Water System Act of 2007", incorporated by reference herein.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby requests its trustee, the United States of America, by and through its principal agent, the Secretary of the Interior, to support the Tribe's Congressional funding request as set forth in this resolution and in the proposed White Mountain Apache Rural Water System Act of 2007, attached hereto and incorporated by reference herein , with water requirements for the project to be reflected in the Tribe's final water rights quantification, but without prejudice to broader water use claims of the United States and the Tribe for the Tribe.

Resolution No. 01-2007-21

The foregoing resolution was on **January 24, 2007**, duly adopted by a vote of **NINE** 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)(c)(f)(g)(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 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