



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

(Approving Lofer North Timber Sale)

WHEREAS, pursuant to Article IV, Sections 1(b) and (i) of the Constitution of the White Mountain Apache Tribe, the Tribal Council has the authority to negotiate, make and perform contracts and agreements of every description, and to manage all economic affairs and enterprises of the Tribe including tribal lands, timber, sawmills and other activities; and

WHEREAS, the Superintendent of the Fort Apache Agency ("Agency"), acting on behalf of the U.S. Department of Interior, Bureau of Indian Affairs ("Bureau"), has requested that the Tribal Council approve the Bureau's proposed Agreement of for the Lofer North Timber Sale (the "Agreement" or "Sale"); and

WHEREAS, the Lofer North Timber Sale as presented in the Superintendent's proposed contract for the sale of timber, and subject to minor changes and administrative adjustments by the Approving Officer, recommends that the subject timber be sold to the Fort Apache Timber Company as described below:

<u>SPECIES</u>	<u>ESTIMATED NET VOLUME</u>	<u>RECOMMENDED RATE</u>
All Species (Timber)	22.2 MMBF	Current Approved Stumpage Valuation

WHEREAS, pursuant to the National Indian Forest Resource Management Act ("NIFRMA"), 25 U.S.C. §3101 *et seq.*, and accompanying regulations (25 CFR §163.1), the United States, as the Tribe's Trustee, acting through its principal agent, the U.S. Department of Interior, has a trust responsibility for Forest Land Management, which includes forestation, thinning, tree improvement activities, and the use of silvicultural treatments to restore or increase growth and yield to the full productive capacity of the forest; and

WHEREAS, the Bureau further represents to the Tribal Council that the Sale is based upon sound silvicultural and economic principles as required by NIFRMA and that there will not be any negative, long-term biological, economic or environmental impacts on the Tribe's saw log supply within the Lofer North Sale area; and

WHEREAS, the Bureau's proposed Agreement contains references to a "2005-2014 Forest Management Plan" or "FMP" within a section entitled, "Forest Officer's Report", implying that the Bureau's 2005-2014 FMP has been approved or not opposed by the Tribe; and

WHEREAS, pursuant to Resolution No. 03-2005-52, reaffirmed herein, the Tribe has not approved or disapproved the 2005-2014 Forest Management Plan, and accordingly by executing the Agreement or any other document related thereto, the Tribe does not accept, approve or condone the FMP; and

WHEREAS, the Lofer North Timber Sale is included in the ten year cutting budget in the 2005-2014 Forest Management Plan; and

WHEREAS, by Resolution 09-2005-258, the Tribal Council did seek action from the BIA on the following:

- a. immediately review the Bureau's Forestry Program at the Fort Apache Agency;
- b. determine whether the initial three years of the Bureau's proposed FMP provide a reasonable management regime to provide the necessary wood stock for the FATCO enterprise operation;
- c. determine whether it is necessary to provide additional manpower to complete the sales process in a timely manner;
- d. determine whether FATCO would have to increase its own logging volume harvest schedules in the remaining Sales units because there are no other sales available after the third quarter of this year;
- e. determine whether increased truck traffic in the Lofer North Timber Sale and remaining Sale areas will present safety and logistical problems within these sales units for the next two years;
- f. determine whether projected timber volumes for 2008 and 2009 may be jeopardized by lack of planning by the Bureau and the potential of weather-related conditions that may result in a temporary shutdown of the Tribe's sawmill;
- g. determine whether there will be an even flow of sawlogs to properly supply the sawmill on an economic basis, given the fact that the Sales areas contain a heavy mix of small diameter and roundwood material; and
- h. accordingly, provide a written report on the foregoing to the Tribal Council at its next regularly scheduled meeting; and

WHEREAS, the BIA Forester, John Philbin, in a letter dated October 18, 2005, considered the request null and void as the Resolution used the term "direct", yet the underlying issues remain unaddressed; and

WHEREAS, the sale contract has been prepared without a unit specific residual value appraisal, but rather the sale contract is included in the formal annual reappraisal for Stumpage Valuation for the Fort Apache Timber Company; and

WHEREAS, the Lofer North Timber Sale is part of the annual allowable cut, and the Tribal Council finds that the Sale should be approved, subject to the qualified conditions provided herein.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Lofer North Timber Sale as presented in the proposed contract for the sale of timber, and subject to minor changes and administrative adjustments by the Approving Officer, be sold to the Fort Apache Timber Company as described below:

<u>SPECIES</u>	<u>ESTIMATED NET VOLUME</u>	<u>RECOMMENDED RATE</u>
All Species (Timber)	22.2 MMBF	Current Approved Stumpage Valuation

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence the Vice-Chairwoman, is hereby authorized to execute the contract and related documents necessary to administer the sale of timber for and on behalf of the White Mountain Apache Tribe.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that deductions, not to exceed thirteen percent (13%) of the gross receipts received from the Purchase, will be accrued in the Road Suspense Account. This accrual will continue until the Road Suspense Account is funded to the extent required to provide the road construction fund reserve authorized by the Tribe.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that approval of the Lofer North Timber Sale Agreement is conditional upon the following:

1. By agreeing to the Sale, the Tribe is not undertaking or waiving any of the United States' trust responsibilities for Indian Forest Land Management as provided in NIFRMA.
2. Resolution No. 03-2005-52 is hereby reaffirmed and the Tribal Council hereby declares that by agreeing to the Sale, the Tribe does not accept, approve or condone the 2005-2014 Forest Management Plan or waive any prior objections thereto.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Bureau of Indian Affairs Regional Forester is hereby requested to:

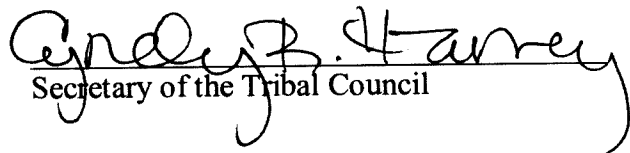
- a. immediately review the Bureau's Forestry Program at the Fort Apache Agency;

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- b. determine whether the initial three years of the Bureau's proposed FMP provide a reasonable management regime to provide the necessary wood stock for the FATCO enterprise operation;
- c. determine whether it is necessary to provide additional manpower to complete the sales process in a timely manner;
- d. determine whether FATCO would have to increase its own logging volume harvest schedules in the remaining Sales units because there are no other sales available after the third quarter of this year;
- e. determine whether increased truck traffic in the Sale areas will present safety and logistical problems within these sales units for the next two years;
- f. determine whether projected timber volumes for 2008 and 2009 may be jeopardized by lack of planning by the Bureau and the potential of weather-related conditions that may result in a temporary shutdown of the Tribe's sawmill;
- g. determine whether there will be an even flow of sawlogs to properly supply the sawmill on an economic basis, given the fact that Sales areas contain a heavy mix of small diameter and roundwood material; and
- h. accordingly, provide a written report on the foregoing to the Tribal Council at its next regularly scheduled meeting or other convenient time.

The foregoing resolution was on July 22, 2008, duly adopted by a vote of SIX for and ONE 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), (c), (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