



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

(Authorizing effort to modernize Chapter Six of the Tribal Code and to the Tribal Utility Authority Plan of Operation)

WHEREAS, pursuant to Article IV, Section 1(a) of the Constitution of the White Mountain Apache Tribe, *inter alia*, the Tribal Council has the authority to represent the Tribe and act in all matters that concern the welfare of the Tribe; and

WHEREAS, the Tribal Utility Authority (TUA) is undergoing a major modernization in terms of upgrading water delivery services and in its billing and collections procedures in order to support the tremendous cost of upgrading to an essential surface water diversion and water treatment plant that will replace the failing aquifer now supplying the Miner Flat well field; and

WHEREAS, chapter Six of the White Mountain Apache Tribal Code sets forth the governing documents and legal framework for the TUA, including the Tribal Utility Plan of Operation; and

WHEREAS, several specific points of clarification concerning TUA billing rates and collections procedures are required to protect the interests of both TUA and its customers, to maintain the Tribe's sovereign immunity as necessary to safeguard its water rights, and to fulfill the Tribe's obligations to achieve a self-sustaining condition for the TUA, including, but not limited to:

- 1) Formalization of a policy on water billing for elder tribal members;
- 2) Updating of conditions and notification requirements for service disconnections;
- 3) Modernization of the customer appeals process for billing or other disputes related to water service;
- 4) Establishment of a "Terms and Conditions" distribution policy for new TUA members;
- 5) Clarification of TUA right to access, and customer obligation to provide access, to TUA-owned water distribution and metering systems;
- 6) Establishment of customer requirement to notify TUA of intention to vacate property;
- 7) Specification of acceptable conditions for water service disconnection with notice and without notice;
- 8) Updates related to TUA accounting and business operations; and
- 9) Reconciliation of Tribal Code Chapter 6 and TUA Plan of Operation.

WHEREAS, these improvements to Chapter Six of the Tribal Code and the TUA Plan of Operation are designed to ensure that the TUA can successfully meet its legal obligation to provide safe drinking water to the White Mountain Apache people far into the future even in the face

Resolution No. 05-2009-153

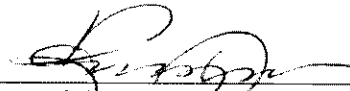
of rapidly increasing costs associated with treatment and delivery of said water while maintaining safe working conditions for its employees; and

WHEREAS, both Chapter Six (6) of the Tribal Code and the Tribal Utility Plan of Operation need to be brought up to date to reflect current conditions within the TUA and its water service area; and

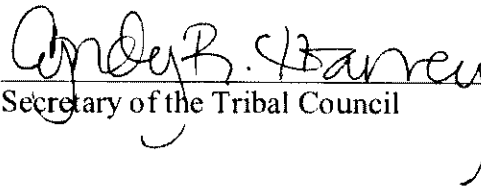
WHEREAS, article XV § 2, (“Ordinances and Resolutions”) of the White Mountain Apache Tribal Constitution requires that all proposed ordinances of the Tribal Council be posted for public inspection in each district at least 10 days prior to any final action by the Council.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs the TUA, Tribal Attorney’s Office, the TUA consultant, Dr. Laurel Lacher, and as necessary, the Tribe’s water rights counsel, to confer and draft appropriate revisions to Chapter Six (6) of the Tribal Utility Code and the Tribal Utility Plan of Operation for Tribal Council review and action within thirty (30) days of the date of this resolution.

The foregoing resolution was on May 19, 2009, duly adopted by a vote of SIX 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), (r), (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