



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

**Supporting FATCO's Turnaround and Collaborating with BIA to Expedite Tonto
Timber Sale)**

- WHEREAS,** pursuant to Article IV, Section 1(a) and 1(s) 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,** on October 21, 2009, the Fort Apache Timber Company's (FATCO) Board of Directors and Management, several members of the Tribal Council, Forestry, and Legal Department met with the Fort Apache Agency of the Bureau of Indian Affairs (BIA, Bureau) on issues affecting the Tribe and regarding FATCO's Turnaround phase of its business strategy and operational plan; and
- WHEREAS,** the Tribal Council, in August, *see Resolution No. 08-2009-276*, put the BIA on notice that FATCO would remain operational, despite concerns it may shut down, and the Council addressed FATCO's need for the Tonto South Timber Sale approval, so that it may harvest economically viable lumber to combat an extremely volatile commodities market during a weakened economy; and
- WHEREAS,** the BIA was concerned that too many open Sales could lead to economic waste or devastation of the Tribe's natural resources, despite the fact that this was the protocol in the past to allow for harvesting of anticipated timber volumes and to work around logistical problems, such as weather; and
- WHEREAS,** Charles E. Peone, Jr., Acting Director of FATCO, discussed his plan and explained why concerns expressed in a letter to the Chairman dated October 21, 2009 over "high grading" were misguided and unfounded, given the BIA's prescription and marking practice, that if not adhered to, would be considered a direct violation of federal law and contrary to the general practice adhered to by both the Agency's BIA Forestry Division and FATCO operations; and
- WHEREAS,** after further consideration and understanding of FATCO's business plan and the Tribe's concerns over the Tonto Timber Sale's delay (without notice to the Tribe) that was previously scheduled for April under the proposed annual Three Year Plan, in accordance with its own planning system, the Fort Apache Bureau's Superintendent, Nona Tuchawena, made an executive decision to focus additional resources to ensure that the Bureau acts as swiftly as possible to finalize an overdue Environmental Assessment that is required to complete the Sale; and
- WHEREAS,** the Tribe, in hopes of improved government to government relations, understands that the Fort Apache Agency has struggled with funding issues and loss of key personnel, however, the Tribe also wishes to encourage the Bureau to act and replace the loss of such key personnel (particularly, the Environmental Position that is responsible for completion of such packages for approval) so that the Tribe does not suffer as a result of federal inactivity or oversights; and
- WHEREAS,** the Bureau expressed its understanding of the Tribe's position and promised to reorganize and dedicate additional staff to ensure that the Tonto Timber Sale be completed in a timely manner, while urging the Tribe to expedite its Hydrological Assessment to prevent further delay; and

Resolution No. 10-2009-349

- WHEREAS,** after further investigation, on October 22, 2009, members of the Finance and Budget Committee, several members of the Tribal Council, Legal Department and FATCO gathered to discuss the issues raised and found that the Hydrological Assessment had been previously completed and submitted during the first week of October and dated in September; and
- WHEREAS,** as a result of the findings and meetings of this third week of October, it is the Tribe's and FATCO's finding and expectation that the Environmental Assessment should be completed no later than November 1, 2009, so that thirty days may be allowed for public comment on the approval of such Timber Sales or alternatively, that because of the manner in which this project has been mismanaged by the Bureau, that certain categorical exclusions be examined to expedite the process while preserving and protecting the natural resource base in question; and
- WHEREAS,** the Tribal Council further finds that FATCO's need to begin its logging operations in Tonto South should be timely considered because the winter and snow season bring about unpredictability and may prevent FATCO from harvesting timber for its winter deck, which would force a shutdown of the plant and a potential loss of millions of dollars in lost revenue and employment; and
- WHEREAS,** the Tribal Council further finds that the Tribe should work closely with the BIA on this matter so that FATCO, and the natural resources that are key to the Tribe's long-term survival, are properly managed and the BIA shall include an internal review of their work and schedule process; and
- WHEREAS,** the Tribal Council further finds that should the BIA fail to act in good faith, the Council shall reconvene to determine what actions, if any, should be taken to ensure that the Bureau of Indian Affairs remains true to its Trust and Fiduciary responsibility to the White Mountain Apache Tribe, including, but not limited to, an explicit schedule of tasks, staff assignments (including lead project officer) and dates for such completion to the Tribe's satisfaction; and
- WHEREAS,** given the seasonal timing, severe delay in completing the environmental assessment and approval of the sale, and the overall urgency of this request and its impact on FATCO and the Tribe, the Tribal Council further finds that this needs to be considered and made an expressed priority outside of its regularly scheduled meeting; and
- WHEREAS,** the Tribal Council further finds that: (1) this Resolution may be voted upon by signature of a member of the Tribal Council where a signature indicates a vote for this Resolution, (2) the Tribal Council Secretary should attempt to obtain signatures for members of the Tribal Council personally, (3) no signature would mean that the respective Tribal Council members is against this Resolution, (4) the Tribal Council Secretary should wait no longer than a reasonable period of time to obtain a vote by signature or by no signature and so indicate that this Resolution was presented to the respective member of the Tribal Council for a vote.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby urges the Fort Apache Agency of the Bureau of Indian Affairs to follow through on its promise to expedite and complete the environmental assessment, including a work schedule of remaining tasks, staff assignments, resource utilization that may be needed, and a reporting mechanism to keep the Tribe informed of progress due to the fact that time is of the essence and completion of the assessment should be completed no later than November 1, 2009, in order to have public comment available through November and FATCO operations underway by December 1, 2009.

BE IT FURTHER RESOLVED by the Tribal Council that it hereby requests that the BIA be cognizant of the winter season as it pertains to FATCO's operational schedule, including the Tribe's desire to meet FATCO's December 1st start date for the Tonto South Sale, a goal that may help avert catastrophic consequences that could result from an operational shutdown and lead to a financial collapse of the Fort Apache Timber Company.

Resolution No. 10-2009-349


BE IT FURTHER RESOLVED by the Tribal Council that it hereby agrees to make this critical decision outside of its regularly scheduled meeting in order to avoid further delay, to encourage the Bureau to take action on the long overdue Environmental Assessment and to adhere to its federal trust responsibility to the Tribe and to take the responsibility to commit staff and resources under a defined work schedule including progress reports to the Tribal Council to complete the work required as identified above and as agreed upon by the parties.

BE IT FURTHER RESOLVED by the Tribal Council that (1) this Resolution may be voted upon by signature of a member of the Tribal Council where a signature indicates a vote for this Resolution, (2) the Tribal Council Secretary should attempt to obtain signatures for members of the Tribal Council personally, (3) no signature would mean that the respective Tribal Council members is against this Resolution, (4) the Tribal Council Secretary should wait no longer than a reasonable period of time to obtain a vote by signature or by no signature and so indicate that this Resolution was presented to the respective member of the Tribal Council for a vote.

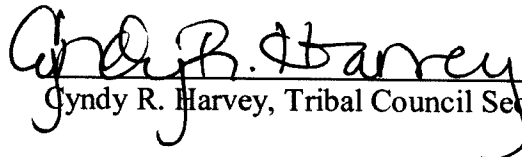
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall govern.

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 any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on October 27, 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), (b), (c), (f), (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).



Ronnie Lupe, Chairman of the Tribal Council

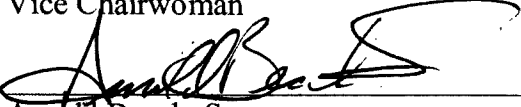




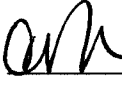
Cyndy R. Harvey, Tribal Council Secretary


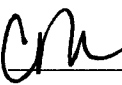
Signatures of the members of the Tribal Council represent their approval of Tribal Council Resolution No. 10-2009-349 initiated the 27th day of October 2009. Presented Personally by Tribal Council Secretary (TCS)-Indicated by Initials

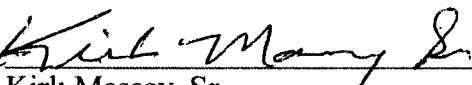
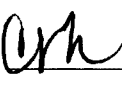
Ronnie Lupe
Tribal Chairman
Date Signed

TCS Initials

Margaret Baha-Walker
Vice Chairwoman

Arnold Beach, Sr.
District I Council Member
Date Signed
10/28/09
Date Signed
 TCS Initials

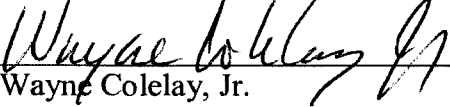
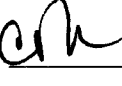
Evangeline Gatewood
District I Council Member

Victoria Brewer
District II Council Member
Date Signed
10/27/09
Date Signed
 TCS Initials


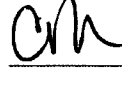
Rubert Lupe, Sr.
District II Council Member

Alvin DeClay, Sr.
District III Council Member
Date Signed
10/27/09
Date Signed
 TCS Initials

Kirk Massey, Sr.
District III Council Member

Kirk Massey, Sr.
District III Council Member
Date Signed
10/27/09
Date Signed
 TCS Initials

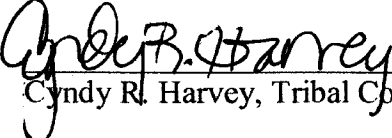
Noland Clay
District IV Council Member
Date Signed

TCS Initials

Wayne Colelay, Jr.
District IV Council Member

Wayne Colelay, Jr.
District IV Council Member
Date Signed
10-27-09
Date Signed
 TCS Initials

Reno Johnson, Sr.
District IV Council Member

Reno Johnson, Sr.
District IV Council Member
Date Signed
10-27-09
Date Signed
 TCS Initials

ATTEST:


Cyndy R. Harvey, Tribal Council Secretary
Date Signed
10.28.09
Date Signed