



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

**(Authorizing Request to Initiate 638 Process to Subcontract with
Private Industry on the Environmental, Engineering & Design for the Tribe's Rural Water
System and Designate Cheryl Pailzote as the Tribe's Representative)**

- 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,** Public Law 110-390, 12 Stat. 4191 (S. 3128) (hereinafter, "Act"), authorized a loan of \$9.8 million for the planning, design and engineering of the White Mountain Apache Rural Water System, including Miner Flat Dam, reservoir, treatment plant, pipeline and pumping stations. The planning feature of the authorization Act includes preparing the environmental impact statement; and
- WHEREAS,** Public Law 111-8, the FY2009 Appropriations Act for Energy and Water Development, appropriated \$3.2 million to secure the loan of \$9.8 million authorized by the Act, to fund the planning, design, and engineering activities by the Tribe pursuant to a cooperative agreement with the Secretary; and
- WHEREAS,** the Tribe's Water Rights Team finds that it is in the best interests of the White Mountain Apache Tribe to enter into a cooperative agreement with the Bureau of Reclamation as provided by Section 4 of the Act for the necessary activities. The cooperative agreement is to be governed by P.L. 93-638, Self-Determination Act provisions; and
- WHEREAS,** the Bureau of Reclamation has advised WMAT that two Options are available:
(1) Contract directly with BOR for part or all of the necessary activities;
(2) Subcontract with private industry to perform the necessary activities pursuant to tribal and federal procurement guidelines. In this scenario, BOR would provide oversight of all activities and serve as lead agency for the Environmental Impact Statement; and
- WHEREAS,** the BOR has proposed to be the Tribe's contractor and invited members from the Tribal Council and staff to Denver to observe the technical facilities available to the agency and the professional staff that could be assigned to the project. It was clear that the BOR has considerable experience and a high degree of confidence to do the project; and
- WHEREAS,** while the Water Rights Team is impressed with the qualifications of the Bureau of Reclamation, the Team feels that the Tribe's interests are best served by independently

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contracting with BOR oversight consistent with Option 2. This option provides the Tribe with a professional engineering firm as its advocate and maintains the BOR as a qualified federal agency to provide peer review to insure integrity of all preconstruction activities; and

WHEREAS, the BOR requires a resolution of the Tribal Council selecting Option 1 or 2 and a designation of the Tribe's representative in the project. The Attorney, consulting Hydrologist and Engineer recommend continuation of Tribal Hydrologist, Cheryl Pailzote, as the Tribe's designated representative. Accordingly, the Water Rights Team has developed this resolution for consideration by the Tribal Council; and

WHEREAS, Cheryl Pailzote has worked as the Supervisory Hydrologist since 2003; however, her scope of work has expanded to various water projects. Starting June 2010, she will be working on the Water Code and, if approved by the Tribal Council, the Miner Flat Dam Engineering & Design; and

WHEREAS, the Tribal Council has reviewed and discussed this matter thoroughly and decided that it is in the best interest of the Tribe to select Option Two, as set forth above.

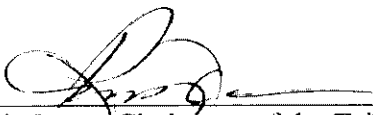
BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby selects Option Two, as follows: Subcontract with private industry to perform the necessary activities pursuant to tribal and federal procurement guidelines and allow the BOR to provide oversight of all activities and serve as lead agency for the Environmental Impact Statement.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that Cheryl Pailzote be designated as the Tribe's representative and her title be changed to Water Resources Director.

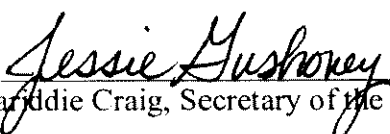
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall govern.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Vice Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on **MAY 19, 2010** duly adopted by a vote of **NINE** 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), (e), (f), (h), (i), (m), (q), (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

 **ACTING**

Maddie Craig, Secretary of the Tribal Council