Resolution No: <u>01-2012-09</u>



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

## ( Certification of Three Additional Candidates for the February 1 Primary Election )

WHEREAS, on December 28, 2011, in *Resolution No. 12-2011-241*, the Tribal Council certified candidates for the upcoming 2012 Tribal election; and

WHEREAS, after the Tribal Council action, three individuals, Kay Lewis, Rubert Lupe, and Noreen Aday, brought challenges in the Tribal Court, contending that they also should have been certified by the Tribal Council; and

WHEREAS, the Tribal Election Commission was ordered to appear and defend against the claims brought by the three contestants in the Tribal Court; and

WHEREAS, on January 13, 2012, despite advice to the contrary, the Tribal Court issued orders from the bench to the Election Commission that the three petitioners be placed on the ballot for the upcoming election; and

WHEREAS, only the Tribal Council has the authority under the Tribal Constitution and the Tribal Election Code to certify candidates to be placed on the ballot; and

WHEREAS, the Tribal Election Commission has, therefore, submitted a letter to the Council requesting immediate review and action concerning certification of Kay Lewis, Rubert Lupe, and Noreen Aday; and

WHEREAS, due to the urgency of preparing ballots for the February 1 primary election, the Tribal Council further finds that the certification request needs to be considered and made outside of its regularly scheduled meeting and may be voted on no later than 5:00 P.M. on January 19, 2012, in order to meet the deadline to print in time for the February 1st Primary as required by the Election Code; 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 member 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 certifies following individuals to be added as candidates in the 2012 Tribal Election and for that purpose directs that their names be added to the ballots for the February 1 Primary Election:

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1. District I, Kay A. Lewis

- 2. District II, Rubert Lupe, Sr.
- 3. District IV, Noreen K. Aday

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that the three individuals named above are to be placed on the ballot in addition to those individuals previously certified by *Resolution No. 12-2011-241*, which Resolution shall remain in force and unaffected by this Resolution.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that given the urgency of the request described herein, this Resolution may be voted upon prior to January 19, 2012, at 5:00 P.M. as follows: (a) by signature of a member of the Tribal Council, including the Chairman of the Tribal Council and the Vice-Chairman of the Tribal Council, where a signature indicates a vote for this Resolution, (b) the Tribal Council Secretary shall attempt to obtain signatures for members of the Tribal Council personally, (c) no signature shall mean that the respective Tribal Council member is against this Resolution, (d) 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 Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on \_\_\_\_\_\_ duly adopted by a vote of \_\_\_\_\_ for and against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority 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

Mariddie J. Craig, Secretary of the Tribal Council

Marelle Jean 01/19/2012 5:10 your

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No initiated the da	y of 2011.	proval of Tribal Council Resolution Presented Personally by Tribal Council Secretary (TGO)
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Ronnie Lupe	Date Signed	TCS Initials
Tribal Chairman	Date Signed	
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Timothy Hinton Sr.	01-19-2	TCS Initials
Vice Chairman	Date Signed	
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Arnold Beach, Sr.	Date Signed	TCS Initials
District I Council Member	Date Signed	O
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Gregg Henry		TCS Initials
District I Council Member	Date Signed	0
Habet dipenty	11-19-1	
Rubert Lupe Sr.	0/-/9-/1 Date Signed	TCS Initials
District II Council Member	Date Signed	
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Clinton Kessay Jr.	Date Signed	TCS Initials
District II Council Member	Date Signed	U
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Alvin DeClay, Sr.	01-17-12	TCS Initials
District III Council Member	Date Signed	
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ariddie J. Craig, Tribal Council Secretary	117/2019	7.
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## WHITE MOUNTAIN APACHE TRIBE LEGAL DEPARTMENT

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Fred Soto
Assistant Tribal Attorney
FredSoto@wmat.us

Dear Tribal Council Member:

Attached is a walk-through resolution that requires your immediate attention. This resolution is being circulated on behalf of the Election Commission. The Election Commission prepared this walk-through under protest to comply with Judge Reagan Armstrong's Order requiring that the Commission certify three candidates in addition to those already approved by the Tribal Council in Resolution No. 12-2011-241. The Election Commission must know whether this walk-through resolution passes or does not pass by 5:00 p.m. on January 19, 2012 so that they can print ballots in time for the primary election.

If this walk-through resolution does not pass the Election Commission will be required to certify the candidates that were approved by the Tribal Council in *Resolution No 12-2011-241*.

As you know, prior to the January 13, 2012 hearing on the certification of candidates, I submitted a motion to the Tribal Court urging Judge Armstrong against issuing a hearing on the basis that *Resolution No. 12-2011-241* governs, among other reasons.

The Election Code makes clear that the Election Commission is the ultimate authority on all issues pertaining to the Election and its judgment may not be substituted by that of the Tribal Court or any other extension of the White Mountain Apache Tribe, including the Tribal Council. Election Commissioners are duly appointed officers of the Tribe that are responsible for preserving and upholding the impartiality and integrity of the election process. To divert from the process as set forth in the Election Code will not only serve to violate Tribal Law, but will ensure that Primary and General Election results are not certified pursuant to the Election Code. In this scenario, a situation is created under which the validity of the Election may be questioned or challenged by the public.

Respectfully,

Richard J. Palmer, Jr. Tribal Attorney

cc: file