

WHITE MOUNTAIN APACHE TRIBE

A Sovereign Nation Exercising Self-Governance Over the Fort Apache Indian Reservation

Resolution No. <u>07-2012-102</u>

(Authorizing School Bus Stop at Hon-Dah Ski Shop)

WHEREAS, the Tribal Council of the White Mountain Apache Tribe ("Tribe") is entrusted by the Tribe's

Constitution to act in all matters that concern the welfare of the Tribe, to manage all economic affairs and enterprises of the Tribe, and to regulate subordinate organizations for economic and

other purposes; and

WHEREAS, the Tribal Council has been asked to consider a proposed school bus stop at the Hon-Dah Ski

Shop parking lot; and

WHEREAS, the Tribal Council finds it in the best interest of the Tribal youth in education to have

access to a bus stop by the Hon-Dah Ski Shop.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes a school bus stop at the Hon-Dah Ski Shop for the benefit and convenience of Apache youth in education.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances or Federal Laws, this Resolution shall be declared null and void and have no legal effect.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Acting Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution. In the event that the Chairman fails to delegate signatory authority to an Acting Chairman, the Vice-Chairman may sign.

The foregoing resolution was on <u>JULY 11, 2012</u> duly adopted by a vote of <u>EIGHT</u> for and <u>ZERO</u> against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (k), (s), (t) and (u) of the Tribal Constitution, 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

Mariddie J. Craig, Secretary

Date

11-30-12



ARIZONA DEPARTMENT OF TRANSPORTATION

INTERMODAL TRANSPORTATION DIVISION

Highway Encroachment Permit Application (Application for Permission to Use State Highway Right-of-Way)

FOR ADOT USE ADOT Agreement Number:	ECS JPA Other
PERMIT NUMBER: ROUTE:	MILEPOST:
ADOT PROJECT NUMBER:ADO	T ENGINEERING STATION:
Name of Encroachment Owner:	Name of Authorized Agent / Applicant (<i>If other than the Encroachment Owner</i>):
White Mountain Apache Tribe	Navajo County Public Works
Mailing Address of Owner:	Mailing Address:
P.O. Box 700	100 E Code Talkers Drive
City:	City:
Whiteriver, AZ 85941 State: Zip:	Holbrook State: Zip:
AZ 85941	State: Zip: AZ 85901
Phone:	Phone:
(928) 338-2530	(928) 524-4100
E-mail address:	Legal Relationship to Owner:
vernonpalmer@wmat.us	Contractor Sub Contractor Authorized Employee
Name of Local Point of Contact:	Engineer Attorney Other:
Vernon Palmer	
Phone Number for Local Point of Contact:	E-mail Address:
(928) 338-2530	Bill.Bess@navjaocountyaz.gov
City (in or near) Pinetop, AZ Side of Highw	ay: NSSEW (check one)
Highway Route # 260 Approximately 2640 Feet	N S E W (check one) of Milepost #_357
Encroachment Owner's Project # or Property Parcel #: NC-BRSD080	812 Project Duration: 4-days
Description of the proposed work or activity in the right-of-way: Nava	ajo County will construct an AC milling surface for a
Blue Ridge School District Bus Stop. The area shall be 20' x 120' and will be	constructed by excavating approximately 10" of existing ground, placing 6"
of AB and 4" millings. The construction area will start North of Bear Stre	et along the easterly edge of the existing Hon-Dah Ski Shop
pavement.	
See Attached	Sketch
The Encroachment Owner will be the Permittee. By signing Agent acknowledge that the information given and statement of his/her knowledge. The Encroachment Owner agrees as the Responsibilities as described on page 2 of the application Permittee agrees to the requirements described in the percomply with ADOT's requirements as set out in the permittangular application and final supporting documentation approved by TAKE PLACE INSIDE THE RIGHT OF WAY WITHOUT AN APPROXIMATION AND APPROXIMATION APPRO	nts made in this application are true and correct to the best be Permittee to accept the following General Obligations and an. By accepting an approved encroachment permit, the mit, to be responsible for all permit requirements, and to An approved permit consists of but is not limited to this ADOT, and any requirements set by ADOT. NO WORK SHALL
Ronnie Lupe, Chairman	
Encroachment Owner (Print Name and Sign)	Date
Authorized Agent or Applicant: If other than the Encroachment Owner (Pr.	(int Name and Class) S-9-12
FOR ADO PERMIT TO USE STATE HI	
This application is approved as a permit and a permit is issued to the Permittee	e. Construction is authorized only for the period indicated below.
Authorized ADOT Name and Signature	Authorized ADOT Name and Signature
Issue Date Permit work to be completed by:	
ADOT ENCROACHMENT PERMIT APPLICATION, REVISED September 2011	Page 1 of 2

GENERAL OBLIGATIONS AND RESPONSIBLITIES

THE PERMITTEE SHALL:

- 1. Assume all legal liability and financial responsibility for the encroachment activity for the duration of the encroachment, including indemnify, defend, and save harmless ADOT and the State of Arizona and any of it's agents, directors, officers, employees from and against any and all claims, demands, suits, actions, proceedings, loss, costs, damages of every kind, or expenses, including court costs, reasonable attorney's fees and/or litigation expenses, and costs of claim processing and investigation, arising out of bodily injury or death of any person, or tangible or intangible property damage, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts, or omissions of the Permittee, any of its directors, officers, agents, employees, or volunteers, or its contractor or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the contractor's failure to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Permittee agrees to provide ADOT with a certificate(s) of insurance consistent with the requirements stated in the ADOT Permit Insurance Matrix. Permittee is also obligated to provide certificates for its contractor(s), if any. The required insurance shall be kept in force by the permittee and its contractors for the term of the permit and shall not expire, be cancelled or materially changed to affect coverage available to the State without thirty (30) days written notice to the State. Automobile and worker's compensation coverage requirements are dependent upon the use of employees and autos for the encroachment activity. Please refer to the Matrix to determine requirements for coverage, limits, language and other insurance related items specific to each permit. Contractor's certificates shall include all subcontractors assureds under its policies, or Contractor shall collect from each of its subcontractors a certificate that meets or exceeds the requirements for a Contractor as outlined in the Matrix. Contractor agrees to maintain and make available to ADOT all subcontractors' certificates upon demand. ADOT reserves the right to require an increase or allow a decrease in insurance limits or coverage based on the risks and financial exposure arising out of the event or activity proposed in the permit application. The Encroachment Permit is issued upon the expressed condition that ADOT and The State of Arizona does not protect or insure against loss of personal property or improvements owned by Permittee. Permittee waives the right to claim damages from ADOT and the State of Arizona for any damage resulting to said property in the event that property is damaged or destroyed by fire or any other perils that is not the direct result of negligence by ADOT or the State of Arizona.
- 2. Comply with Environmental Laws.
 - A. Environmental Laws refers collectively to any and all federal, state, or local statute, law, ordinance, code, rule, regulation, permit, order, or decree regulating, relating to, or imposing liability or standards of conduct on a person discharging, releasing or threatening to discharge or release or causing the discharge or release of any hazardous or solid waste or any hazardous substance, pollutant, contaminant, water, wastewater or storm water, and specifically includes, but is not limited to: The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act; the Comprehensive Environmental Response, Compensation and Liability Act, as amended; the Toxic Substances Control Act; the Clean Water Act (CWA); the Clean Air Act; the Occupational Safety and Health Act; the Arizona Water Quality Act Revolving Fund Act, the Arizona Hazardous Waste Management Act, any applicable National Pollutant Discharge Elimination System (NPDES) or Arizona Pollution Discharge Elimination System (AZPDES) permit, any applicable CWA Section 404 permit, or any local pretreatment or environmental nuisance ordinance.
 - B. Specifically agree that in the course of performing any activity for which this Permit is necessary:
 - i. To comply with any and all Environmental Laws;
 - ii. To ensure that no activity under this Permit shall cause ADOT to be in violation of any Environmental Laws;
 - iii. That if the Permittee fails or refuses to comply with any Environmental Laws, or causes ADOT to be in violation of any Environmental Laws, ADOT may at its sole and unreviewable discretion, (1) revoke this Permit; (2) require the Permittee to undertake corrective or remedial action to address any release or threatened release or discharge of the hazardous substance, pollutant or contaminant, water, wastewater or storm water; and (3) expressiv consents to entry of injunctive relief to enforce any listed remedies.
 - iv. To indemnify ADOT for any losses, damages, expenses, penalties, liabilities or claims of any nature whatsoever suffered by or asserted against ADOT as a direct or indirect result of the disposal, escape, seepage, leakage, spillage, discharge, emission, or release of any hazardous waste, solid waste, hazardous substance, pollutant or contaminant, water, wastewater or storm water and losses, damages, expenses, penalties, liabilities and claims asserted or arising under the Environmental Laws, or for ADOT's costs in undertaking corrective action pursuant to an order of or settlement with a duly authorized regulatory agency or injured third party or for any penalties associated with Permittee's activities;
- 3. Be responsible for any repair or maintenance work and repair any aspect or condition of the encroachment that causes danger or hazard to the traveling public, for the duration of the encroachment and must perform such work under the appropriate encroachment permit authorization;
- Comply with ADOT's traffic control standards with an ADOT approved traffic control plan;
- 5. Obtain written approval from the abutting property owner (and/or underlying fee owner where ADOT owns its right of way by easement) if the encroachment encroaches on abutting property owned by someone other than the permittee (and/or on underlying fee land owned by someone other than the permittee where ADOT owns its right of way by easement). In any case and at the Department's discretion; ADOT may require written approval from the abutting property owner prior to issuance of the encroachment permit.
- 6. ADOT reserves the right to require the permittee to perform any repairs necessary to the encroachment throughout the life of the encroachment;
- 7. Remove the encroachment and restore the right-of-way to its original or better condition if ADOT cancels the encroachment permit, and terminates all rights under the permit, or if the project terminates for any reason beyond ADOT's control;
- 8. Reimburse ADOT for costs incurred or deposit with ADOT money necessary to cover all costs incurred for activities related to the encroachment, such as inspections, restoring the right-of-way to its original or better condition, removing the encroachment, or repair encroachment to originally permitted condition and comply with ADOT's bond policy as applicable;
- 9. Notify a new owner to apply for an encroachment permit, as required by Arizona Administrative Rule R17-3-502(D);
- 10. Apply for a new encroachment permit if the use of the permitted encroachment or the use of adjoining property changes;
- 11. Keep a copy of the encroachment permit at the work site or site of encroachment activity;
- 12. Construct the encroachment according to attached Specifications, Standards and the plans approved by ADOT as part of the final permit; any changes shall be approved by ADOT prior to implementation;
- 13. Obtain all required permits from other government agencies or political subdivisions;
- 14. Remove any defective materials, or materials that fail to pass ADOT's final inspection, and replace with materials ADOT specifies.
- 15. Have the right to a hearing as prescribed in Arizona Administrative Code, R17-3-509 if the permit application is denied;
- 16. Understand that once issued, the permit is revocable and subject to modification or abrogation by ADOT at any time, without prejudice.

ADOT Permits Insurance Matrix

TYPE OF INSURANCE COVERAGE AND ENDORSEMENTS OR LANGUAGE REQUIRED IN THE CERTIFICATE OF INSURANCE*	ENCROACHMENT PERMIT MINIMUM LIMITS OF INSURANCE**	FILM / SPECIAL EVENT PERMIT MINIMUM LIMITS OF INSURANCE**		
Commercial General Liability (1) (Occurrence Form) General Aggregate Bodily Injury/Property Damage Products/Completed Ops. Personal/Adv. Injury XCU**** Fire Legal	2,000,000 1,000,000 1,000,000 1,000,000 1,000,000	5,000,000 5,000,000 1,000,000 1,000,000 1,000,000 50,000		
Business Auto-Any Auto (2)	1,000,000	1,000,000		
Workers' Compensation (3) Employers Liability	1,000,000	1,000,000		
Additional Insured (4) General Liability Auto Liability	Yes Yes	Yes Yes		
Waiver of Subrogation (5) General Liability Workers' Compensation Auto Liability	Yes Yes Yes	Yes Yes Yes		
Primary Endorsement (6)	Yes	Yes		

Yes = coverage / language required.

*** Any excess insurance policies provided to meet the minimum limits shall be "following form" coverage.

- ADOT reserves the right to require an increase or allow a decrease in insurance limits or coverage based on the
 risks and financial exposure arising out of the event or activity proposed in the permit application or contract.
 Any excess insurance policies provided to meet the minimum limits shall be "following form" coverage. Additional
 insured shall be covered to the full limits of liability purchased by the permittee or contractor, even if those limits
 of liability are in excess of those required by this permit.
- Auto Liability is combined single limit (CSL) coverage required if the permit applicant or contractor will own, lease hire or borrow a vehicle. An EXCEPTION applies if volunteers drive personally owned vehicles (which must by law be insured).
- Workers compensation coverage is required for special events if any paid members of the insured's organization
 will be acting in the course or scope of employment for purposes of the event. If the event is staffed only by
 volunteers, this coverage can be waived.
- 4. The policy shall be endorsed to include the following additional insured language and the language must be shown on the certificate of insurance: "The State of Arizona and it's departments, agencies, boards, commissions, universities and its officers, officials, agents and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the permittee or contractor."
- Policy shall contain a waiver of subrogation (applicable to all lines of coverage) in favor of the State of Arizona, its dependents, agencies, boards, commissions, universities and its officers, officials, agents and employees for losses arising from work performed by or on behalf of the Permittee/Contractor.
- 6. The permittee's or contractor's insurance coverage shall be primary with respect to all other available sources.

Updated SEPTEMBER 2010

^{*} Self-insurance will be evaluated by ADOT Risk Management and may or may not be approved. Approval of self-insurance will depend upon a number of factors including, but not limited to, the financial solvency of the subject company and its insurance fund and an evaluation of its ability to pay claims. A letter of Self-insurance will be required.

^{**} Insurance is to be placed with duly licensed or approved non-admitted insurer in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the permittee or contractor from potential insurer insolvency.

^{****}XCU=Explosion, Collapse and Underground Damage. This term is used in Business Liability Insurance to indicate that certain types of construction work involve these hazards.

Example of Insurance Certificate for Encroachment Permit

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THIS CERTIFICATE IS ISSUED AS A MAYTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES SELON. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSUREIR(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.										
NEPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ins) must be endorsed. If SUBROGATION is WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate dose not confer rights to the certificate holder in iteu of such endorsement(s).										
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Artzone Department of Transportation (Address of permit office)			SHOULD ANY OF THE ASOVE DESCRIBED POLICES SE CANCELLED SEFORE THE EDYNATION DATE THEREOF, NOTICE WILL SE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS							
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Attachment "A"

Archaeological Clearance Notification

Cultural survey specifications and responsibilities:

In accordance with the Arizona State Historic Preservation Act, ADOT must consider the effects of its actions, including the issuance of permits, on historic properties. It is the Permittee's responsibility to obtain documents indicating that the proposed permit would not affect historic properties or, if it would affect such properties, to provide documentation attesting to the mitigation of those effects, prior to beginning excavation work within ADOT Rights of Ways. Such documentation may include concurrence on the effect from the State Historic Preservation Office or a data recovery plan approved by the .Arizona State Museum (in the case of mitigative data recovery).

Archaeological Features:

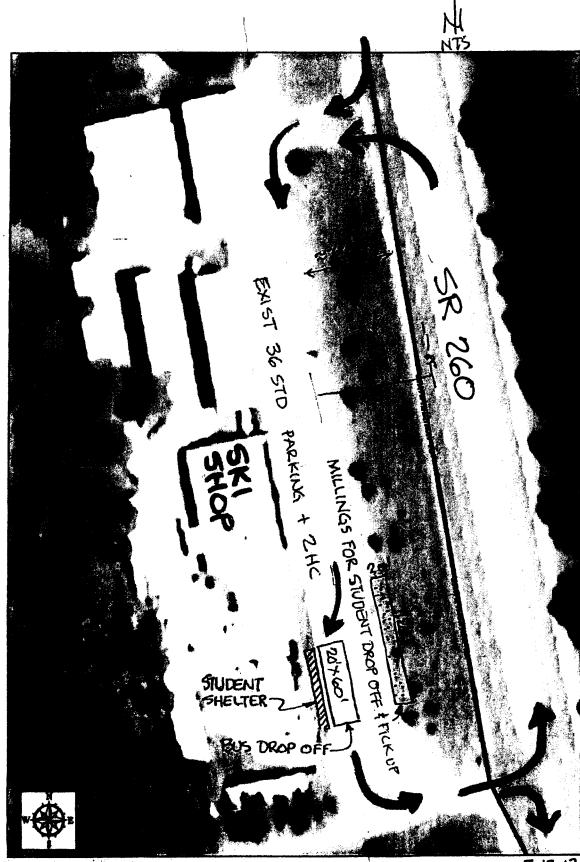
The attention of the Permittee is directed to the Arizona Revised Statutes §41-841 through 846 and §41-861 through 865, Violation of A.R.S §41-841 through 845 is a Class 2 misdemeanor, Violation of A.R.S. §41-861 through 865 can be classified as either a Class 1 misdemeanor or a Class 5 felony.

Section 6(a) of the Federal Archaeological Resources Protection Act of 1979 specifies that no person may excavate, remove, damage or otherwise alter or deface any archaeological resource located on public (Federal) lands or Indian lands unless such activity is pursuant to a permit issued under Section 4 of the Act. Violations of this act are considered a felony, and are punishable by fine and imprisonment.

Although the permittee will be responsible to make every effort prior to construction to identify all cultural resources in a permit area, previously unidentified archaeological materials could be found during the construction of the permit. When historic or archaeological features are encountered or discovered during any activity related to construction of the permit, the permittee shall stop work immediately at that location, and shall take all reasonable steps to secure the preservation of those features.

The permittee shall immediately contact ADOT's Historic Preservation Team, listed below and the ADOT District Permits Office that issued the permit and make arrangements for the proper treatment of such resources. The permittee shall not resume work until he/she is so directed by the Arizona Department of Transportation.

Environmental Planning Group
Linda Davis, Historic Preservation Team Leader
1611 W. Jackson St EM02
Phoenix, AZ 85003
Telephone 602-712-8636 (voice)
602-712-3066 (FAX)
Idavis2@azdot.gov



NOTE: BUS DROP OFF ELIMINATES
G STD PARKING SPACES

5-17-12 REV 8-3-12

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