



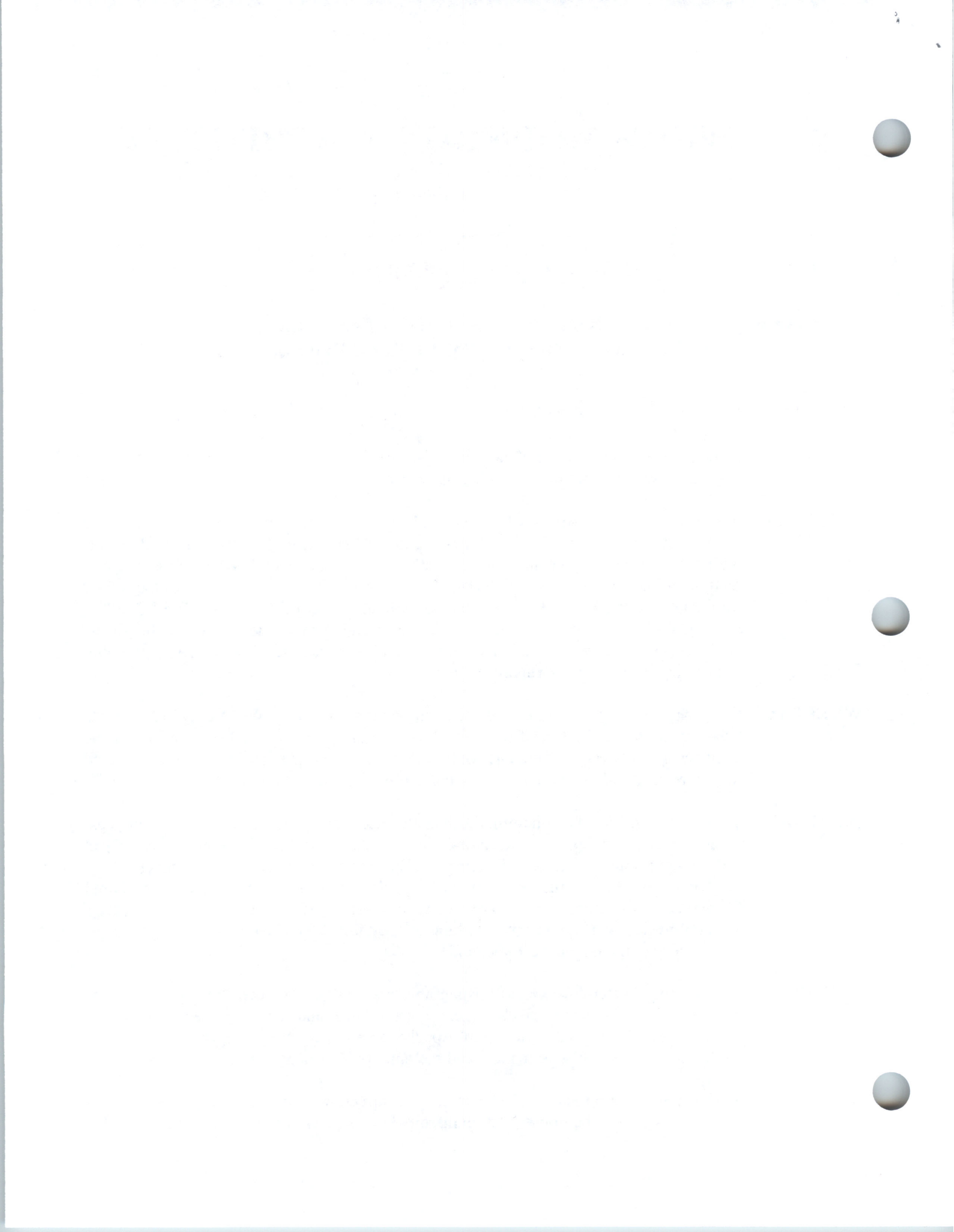
WHITE MOUNTAIN APACHE TRIBE

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

Resolution No. 07-2012-104

(Non-application of Tribal Employment Rights Fees to Engineering Design Work and Field Exploration for the WMAT Rural Drinking Water System)

- 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 White Mountain Apache Tribe entered into Self-Determination (638) Construction Cooperative Agreement Number R11AV32054 ("Agreement") on September 29, 2011, with the Bureau of Reclamation, as authorized by the Rural Water System Loan Authorization Act (Public Law 110-390, 122 Stat. 4191), as amended by the White Mountain Apache Tribe Water Rights Quantification Act of 2010 ("Act"), PL 11-291, and said 638 contract provides federal funding in the form of a loan to the Tribe for the engineering and design of the miner flat dam, water treatment plant, pipeline, pumping stations and reservoirs ("Drinking Water Project"); and
- WHEREAS,** the Drinking Water Project is the cornerstone of the WMAT Water Rights Quantification Act 2010, and the federal loan from the Bureau of Reclamation for the engineering and design of the Drinking Water Project will be paid back from mandated federal money authorized in the Act when the Act becomes enforceable; and
- WHEREAS,** in order for the Act become enforceable, the Secretary of the Interior must, amongst other requirements, approve the engineering and design for the Drinking Water Project and an Environmental Impact Statement ("EIS") for the Project thereby underscoring the vital importance that the engineering design firms working for the Tribal Government not be unnecessarily burdened or interfered with in the completion of their essential design work in any way as long as they fulfill their contractual obligations to the White Mountain Apache Tribe; and
- WHEREAS,** the Drinking Water Project is indispensable and essential to the development of the White Mountain Apache Tribe's priceless water rights and for the protection of future generations of the White Mountain Apache people, as without a reliable and safe drinking water supply, a permanent and sustainable Homeland is not possible; and
- WHEREAS,** prior to the selection and final execution of contracts with the three engineering firms for the design of the miner flat dam, pipeline, and water treatment plant for the



Drinking Water Project, a question arose as to the application of WMAT Labor Code, including employment rights fees, to the work to be performed by the engineering firms selected by the Tribe; and

WHEREAS, the Office of the Tribal Attorney issued a formal Legal Opinion on April 9, 2012, which concluded that the engineering design contracts described in this resolution were not construction contracts to perform work within the reservation, and therefore the employment rights fee of 5% of the total amount of the engineering design contracts would not apply. Further, that it was not anticipated that the engineering firms selected to do the design work would come within the definition of construction or non-construction work which would require payment of an employment rights fee pursuant to the WMAT Labor Code; and

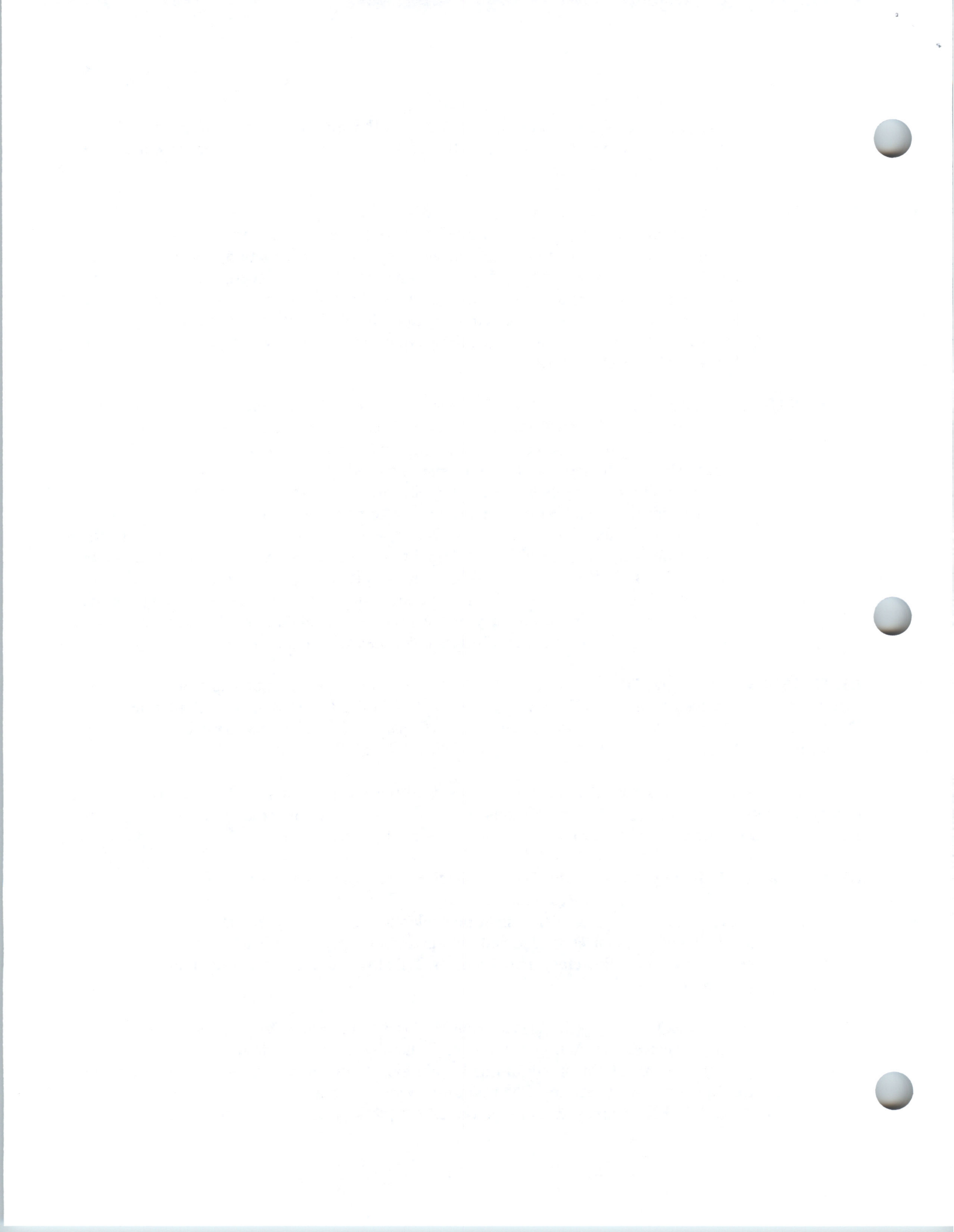
WHEREAS, the Tribal Council of the White Mountain Apache Tribe concludes after hearing a presentation from Water Resources Director Cheryl Pailzote that it would be in the best interest of the White Mountain Apache Tribe and its people, to make it clear to all tribal departments, including the Tribal Employment Rights Office, that the Tribal Labor Code's employment rights fees are not applicable to the White Mountain Apache Tribal Government, its operations, departments or enterprises, and that no attempt should be made by the Tribal Labor Relations Department to collect any such fees from the engineering firms contracted by the Tribal Government to design the Drinking Water Project for the WMAT; further, that this prohibition against collecting such fees includes collection of any fees for field exploration work performed by the engineering design firms and their staff as they or the Tribal Government may deem necessary for the engineering design firms to fulfill their contractual obligations to the Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that a copy of this resolution be delivered forthwith to the Tribal Labor Relations Department, the Department of Tribal Water Resources, the Legal Department, and other Tribal Government Departments and Enterprises as recommended by the WMAT Legal Department.

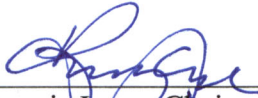
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

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. This Resolution shall not be subject to Judicial Interpretation, only the Tribal Attorney, with the assistance of the Tribal Council Secretary, may opine on Tribal Council intent and the meaning of the language as used herein.

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 provided that the Tribal Secretary and a Tribal Attorney attest to the veracity of the subject matter of this Resolution.



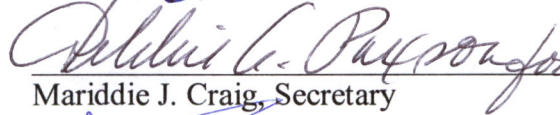
The foregoing resolution was on JULY 11, 2012 duly adopted by a vote of EIGHT for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (i), (j), (l), (s), (t) and (u) of the Tribal Constitution, ratified by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

7-16-12

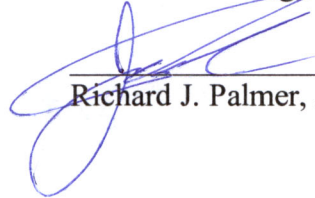
Date



Mariddie J. Craig, Secretary

7-16-12

Date



Richard J. Palmer, Jr., Attorney

7/16/12

Date

