



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(WMAT Land Operations Davis Dam Construction Project – Change Order: Draining Hawley Lake)

- 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,** the Safety of Dams Program (SOD) under the White Mountain Apache Tribe's Land Operations Department provides for the protection of life and property downstream of high and significant hazard classified dams by improving the overall structural integrity of these dams; and
- WHEREAS,** the Public Law 93-638, Subpart J, Construction Contract No. A11AV00230, which is authorized by Tribal Council Resolution No. 03-2011-63, identifies specific engineering practices to be completed at Davis Dam including: 1) installation of a new HDPE siphon system to allow reservoir evacuation, 2) installation of a toe drain and seepage monitoring system, 3) installation of a sand filter blanket on the downstream face, and 4) locating and addressing an existing abandoned 24-inch corrugated metal pipe (CMP) used for dewatering purposes during the original dam construction; and
- WHEREAS,** on September 30, 2014, during the course of completing the construction work, the CMP was located and discovered to not have been properly abandoned; subsequently a presentation to the Tribal Council was made on October 8, 2014 by technical representatives from the Bureau of Reclamation (BOR), the Bureau of Indian Affairs' (BIA) construction management contractor – GEI, and the Land Operations Department, regarding the discovery of the CMP, including recommendations on how to proceed; and
- WHEREAS,** the Hawley Lake recreation area is considered by many to be the highest value recreational environment on the Fort Apache Indian Reservation with a full range of services including a retail store with a small café, a 11-unit motel, 61 cabin rentals, RV campgrounds, and approximately 150 campsites; and
- WHEREAS,** Davis Dam was constructed in 1958 and the reservoir, known as Hawley Lake, impounds approximately 4,700 acre-feet of water, and the original plan prepared by the BOR was to lower the reservoir 12 feet from the normal water elevation (spillway elevation 8,192 feet) to 8,180 which would allow approximately 2,000 acre-feet of water to remain in Hawley Lake during the aforementioned construction activities at the Dam; and

Resolution No. 10-2014-157

WHEREAS, the technical representatives explained that to properly abandon the CMP would require draining the entire lake to expose the upstream end of the CMP, and grout it with cement from the downstream end; and

WHEREAS, the Tribal Council of the White Mountain Apache Tribe finds that addressing the SOD identified deficiencies and improving the overall structural integrity of Davis Dam is of paramount importance and will help further public safety objectives and the enhancement of the Tribe's natural resources; and

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the recommendation to drain the entire lake to an estimated elevation of 8,149 feet to properly abandon the 24-inch CMP with grout.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby provides conditional approval to proceed on an emergency basis, but requires that Land Operations, with the assistance of the BIA, amend the Tribal and Federal environmental compliance documents to evaluate the impacts of this project to the physical environment, including socio-economic impacts to the recreation and fisheries of Hawley Lake.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby requires all Tribal Departments to document the affects expected by this work, including monetary losses to their program(s).

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby requests that Land Operations, with the assistance of the BIA, review and consider the impacts caused by this change order to drain the lake entirely and provide reasonable compensation and/or mitigation, as allowed by Federal Law (Public Law 103-302) and Regulations.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby requires the WMAT Land Operations Department, the BOR, and the BIA and its sub-contractors to work closely with the U.S. Fish and Wildlife Service to ensure the pumping drawdown and dewatering activities do not adversely affect the Alchesay National Fish Hatchery stock by establishing threshold limits for turbidity, dissolved oxygen, maximum flow, and others water quality criteria.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby mandates all Tribal department managers and directors to assist with all things necessary to carry-out the drawdown and dewatering of Hawley Lake to properly abandon the CMP.

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, or any material facts concerning the issues presented are later found to be false, this Resolution shall be deemed null and void and have no legal effect.

Resolution No. 10-2014-157

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 **OCTOBER 8, 2014** duly adopted by a vote of **EIGHT** for, **ZERO** against, and **ONE** abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it under the enumerated powers listed in Article IV, Section 1 of the WMAT Constitution, so ratified on September 30, 1993, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).

 _____ Ronnie Lupe, Tribal Chairman	<u>11/6/14</u> Date	 _____ Doreen T. Numkena, Tribal Secretary	<u>11-7-2014</u> Date
--	------------------------	--	--------------------------