



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Authorizing and Approving Initiation, Negotiation and Execution of a New Pub. L. 93-638 Contract Between the Bureau of Reclamation and the White Mountain Apache Tribe to Complete the 30% Design and EIS for the Rural Water System)

- WHEREAS,** the White Mountain Apache Tribe (WMAT) presently has a Pub. L. 93-638 contract known as BOR Cooperative Agreement No. R11AV32054, with the Bureau of Reclamation (BOR or Reclamation), to carry out the planning, engineering, design, and completion of an Environmental Impact Statement (EIS), for the "Miner Flat Project" also known as the Rural Water System (RWS), as that Project is defined in the Rural Water System Loan Authorization Act ("WMAT Loan Authorization Act") (Pub. L. 110-390, 122 Stat. 4191) and in the White Mountain Apache Water Rights Quantification Act of 2010 (Pub. L. 111-291, Title III, 124 Stat. 3073); and
- WHEREAS,** the WMAT Loan Authorization Act, pursuant to a Pub. L. 93-638 contract and Cooperative Agreement between the WMAT and the BOR, has funded work relating to the planning, engineering, design, and the EIS for the past 5 years, but will expire on September 30, 2018, before the required 30% design and the EIS for the RWS have been completed; and
- WHEREAS,** the White Mountain Apache Water Rights Quantification Act of 2010 requires that the 30% design and the EIS be completed and submitted to the Secretary of the Interior for approval by the Secretary in the form of a published Record of Decision before construction of the RWS can proceed; and
- WHEREAS,** due to certain unexpected increases in the cost of planning, engineering, and design of the Miner Flat Dam Project, specifically, the dam site, the funds remaining and available to the WMAT in the WMAT Loan Authorization Act which has been funding the current 638 contract and Cooperative Agreement are inadequate for the WMAT to complete the work necessary for issuance of a Record of Decision by the Secretary; and
- WHEREAS,** Reclamation is willing to negotiate a new 638 contract with the WMAT with an effective date of October 1, 2018, to allow the WMAT to complete the 30% design and the EIS for the RWS, and said 638 contract would authorize the WMAT to administer the new 638 contract and to enter into contracts with nontribal private engineering and other consultants to complete the requirements necessary for the Secretary of the Interior to issue a Record of Decision allowing construction of the RWS to proceed; and
- WHEREAS,** Reclamation has advised the WMAT that funding for the new 638 contract and Cooperative Agreement will come from a combination of remaining loan authorization funds in the current 638 contract, Reclamation funds unrelated to the Loan Authorization Act, and potentially Tribal funds; and
- WHEREAS,** Reclamation requests that the authorizing Tribal Council resolution to enter into a new 638 contract to complete the 30% design and the EIS for the RWS designate a Project Manager and a

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Finance Point of Contact to carry out their respective administrative responsibilities in the new 638 contract; and

WHEREAS, Brando Pusher, Professional Engineer, has worked as the RWS Project Engineer for the past six years and the current Project Manager, Cheryl Pailzote, recommends to the Council that Mr. Pusher become the WMAT's designated tribal representative and Project Manager for the new 638 contract and Cooperative Agreement, and further recommends that Sandy Thompson be designated as the WMAT's financial representative for the new 638 contract; and

WHEREAS, the WMAT's Water Rights Team recommends to the Tribal Council, and the Tribal Council concurs with the Team's recommendation, that it is in the best interests of the White Mountain Apache Tribe to enter into a new cooperative agreement with the Bureau of Reclamation to complete the design and Environmental Impact Statement for the RWS, said Cooperative Agreement to be governed by Pub. L. 93-638, otherwise known as the Indian Self-Determination Act and regulations adopted by the Secretary pursuant thereto.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the WMAT Water Rights Team in conjunction with the WMAT Attorney General and the office of the Tribal Chairwoman, to negotiate and enter into a new cooperative agreement and 638 contract with the Bureau of Reclamation pursuant to Pub. L. 93-638, to commence October 1, 2018, or as soon thereafter as a 638 contract and Cooperative Agreement can be negotiated and agreed to by the WMAT and the Bureau of Reclamation.


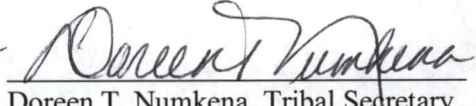
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby appoints Brando Pusher as the WMAT's representative and Project Manager for the RWS; and that Sandy Thompson is hereby appointed to be the WMAT's financial representative for the new 638 contract and Cooperative Agreement with the Bureau of Reclamation.

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 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.

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 the Chairwoman, or in her 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 **SEPTEMBER 12, 2018** duly adopted by a vote of **ELEVEN** for, **ZERO** against, and **ZERO** abstentions 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).

 9/24/18  9/25/2018
Gwendena Lee-Gatewood, Chairwoman Date Doreen T. Numkena, Tribal Secretary Date