



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Approving Preliminary Budget Allocating \$2 Million of Tribal Funds for a Viability Assessment, Environmental Impact Statement, and Other Requirements to Obtain a Record of Decision for the Rural Water System Project)

- WHEREAS,** The Constitution of the White Mountain Apache Tribe of the Fort Apache Indian Reservation provides, at Article IV, Section 1(h) that the Tribal Council (“Council”) shall exercise the power “To regulate the uses and disposition of tribal property”; and
- WHEREAS,** The White Mountain Apache Tribe (“Tribe”) continues to work closely with the Bureau of Reclamation (“Reclamation”), to carry out the planning, engineering, design and NEPA requirements for the Miner Flat Project 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
- WHEREAS,** The Tribe and Reclamation have been cooperating to implement the White Mountain Apache Tribe Water Rights Quantification Act of 2010, (Pub. L. 111-291, Title III, 124 Stat, 3073) (the “Act”), specifically, in regards to the planning, engineering and design of, and National Environmental Policy Act (“NEPA”) compliance for, the White Mountain Apache Tribe Rural Water System Project (“RWS Project”), to support a Record of Decision (“ROD”) by the Secretary of the Interior for construction of the RWS Project, which includes a Miner Flat Dam and Reservoir, a treatment plant, and a 55-mile pipeline from the diversion point below the dam to the community of Cibecue and those communities in between; and
- WHEREAS,** The Act provides that if the Secretary of the Interior is unable to publish a statement of findings by April 30, 2021 the Act is repealed; and
- WHEREAS,** The design of the Miner Flat Dam and Reservoir is the final component of the RWS to progress to a 30% design level, and must be sufficiently completed in order for the Environmental Impact Statement (“EIS”) required by NEPA to go forward; and
- WHEREAS,** On April 23, 2019, the Council adopted Resolution No. 04-2019-68, authorizing Brando Pusher, PE, RWS Project Manager, and the Tribe’s Attorney General, and their respecting legal and technical consultants, to negotiate a contract with the engineering firm of HDR Inc., to become Engineer of Record (“EOR”), to complete the 30% design for the Miner Flat Dam and Reservoir, and to otherwise satisfy environmental requirements in order to obtain a ROD from the Secretary of the Interior to enable construction of the RWS Project; and

- WHEREAS,** As described in Resolution No. 04-2019-68, additional costs have been incurred by the Tribe to investigate the Miner Flat Dam site to the point that the WMAT Loan Authorization Act funds have been exhausted; and Reclamation and the Tribe have sought funding from other sources, including the Tribe's own funds, and funding from Reclamation's Native American Program to offset these costs; and
- WHEREAS,** The Tribe has contributed substantial Tribal funds to date, and must continue to do so, in order for the RWS Project to obtain the ROD before the Enforceability Deadline of the Act; and
- WHEREAS,** Brando Pusher, PE, Project Manager for the RWS Project, has prepared and presented to the Council, this day, a preliminary budget to engage HDR Inc., other consultants and contractors, in order to complete the "Viability Assessment", as necessary, to achieve the Reclamation-identified component of 30% design for the Miner Flat Dam; and
- WHEREAS,** Based upon Mr. Pusher's discussions with Reclamation, HDR Inc. and the Tribe's technical EIS consultants, including the Consulting Review Board ("CRB"), in the preparation of the Scope of Work ("SOW") for HDR Inc. to complete the "Viability Assessment" for the Dam Site, the best and most recent estimate to complete the component of 30% design is approximately \$3.65 million, and Tribal funds in the amount of \$2 million will be required to be set aside by the Council in addition to the \$3 million already set-aside. Mr. Pusher demonstrated in his presentation that there will also be a need for funds for additional tasks beyond the "Viability Assessment" to complete the 30% design and the EIS. Those funding needs will be determined following completion of the "Viability Assessment"; and
- WHEREAS,** The Council understands the critical importance that completion of the RWS Project will be for the future generations of the Tribe and therefore concludes that sufficient Tribal funds should be set aside in a separate account for the sole and exclusive use of completing the 30% design and EIS for the RWS Project, and agrees with Mr. Pusher's recommendation for funding to complete the "Viability Assessment", a critical task towards obtaining the ROD, and re-initiate the EIS for a total of \$5 million to be set aside for said purposes.

NOW THEREFORE, BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that the sum of \$2 million of White Mountain Apache Tribal funds, from the Tribe's carbon credit fund, be added to the \$3 million already set aside in a separate account to advance the 30% design for the Miner Flat Dam and Reservoir, for the RWS Project.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Tribal Treasurer and the Grants and Contracts Department are hereby directed to immediately transfer the funds authorized and directed by this Resolution into a special account for the RWS Project and to

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confirm establishment of said separate account with Brando Pusher, P.E., RWS Project Manager, and the Tribe's Attorney General.

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.

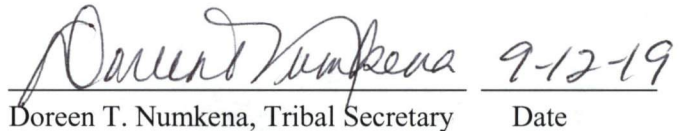
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

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 AUGUST 22, 2019 duly adopted by a vote of TEN 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).


Gwendena Lee-Gatewood, Chairwoman

9-12-19
Date


Doreen T. Numkena, Tribal Secretary

9-12-19
Date