

RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION

Tribal Claims for Erosion and Range Destruction  
In Docket 22-H  
Now Before the U.S. Claims Court

- WHEREAS, the Indian Claims Commission Act intended to provide a means for compensation for Indian Tribes for monetary losses due to mismanagement or misconduct by agents of the United States, Trustee, and
- WHEREAS, the Congress of the United States undertook through the creation of the Indian Claims Commission to rectify wrongs committed against the American Indian Tribes giving rise to claims in law or equity, torts, or claims arising from fraud, duress, unconscionable consideration, mutual or unilateral mistake, whether in law or fact, or any ground cognizable by court of law or equity; for taking by the United States land owned or occupied by Indian Tribes and "claims based upon fair and honorable dealings that are not recognized by any existing rule of law or equity", and
- WHEREAS, more than thirty (30) years ago the White Mountain Apache Tribe entered into a contract with the firm of Weissbrodt and Weissbrodt, Washington, D. C. for purposes of recovering monetary damages to which it was entitled under the Indian Claims Commission Act, and
- WHEREAS, the White Mountain Apache Tribe depended upon the services of Weissbrodt & Weissbrodt to recover damages for the tens of thousands of head of livestock which were allowed to graze without permits and which were allowed to over-graze the once abundant natural forage on the reservation between 1871 and 1897 but that no claims have been prosecuted by the claims attorneys for the lost revenues due to that trespass by tens of thousands of head of livestock, all non-Indian owned, and
- WHEREAS, further, the intentional allowance of trespass by tens of thousands of head of cattle, sheep, horses and burros, by the United States has resulted in erosion which today is literally destroying the Fort Apache Indian Reservation, said wrong having commenced in 1871 and continuing to the present time and that proper remedial measures have not been initiated by the Secretary of the Interior to turn back the ongoing erosion damage, and

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WHEREAS, the White Mountain Apache Tribe has retained soil conservation engineers and experts to conduct research as to the cost of rehabilitation of the range and estimates now range to approximately \$100,000,000.00 and at least a decade to properly restore some of the range areas while others have been damaged beyond rehabilitation, and

WHEREAS, the White Mountain Apache Tribe depended upon its claims attorneys to prosecute claims against the United States for the mismanagement of its rangeland which resulted not only in the non-collection of lease permit fees from 1871 through 1897, but which also resulted in the wholesale destruction of literally hundreds of thousands of acres of valuable top soil thereby reducing the irrigable acreage as well as the available rangeland for cattle but that the claims attorneys, Weissbrodt & Weissbrodt, did not consider the erosion claim of merit and therefore abandoned said claim although it is inseparable from any claim for mismanagement of rangeland, and

WHEREAS, the former claims attorneys made specific reference to the protracted misconduct and mismanagement by the Secretary of the Interior of the Fort Apache Indian Reservation for the period, 1871-1897 and on that subject had this to say: "Shortly after the reservation was established, white ranchers, with their cattle, trespassed upon the grazing lands and over the years these trespasses increased. By the early 1890's, thousands of white-owned cattle were being illegally grazed upon the reservation, notwithstanding the assurance by the government that it would protect the tribal group from encroachment in the reservation. . .", and

WHEREAS, further, in regards to trespasses to which these allegations were directed, the former claims attorney made this additional statement, "The government, for a period of some 20 years, failed either to prevent the trespasses or collect any fines. It was not until 1892 that the government finally began a system for grazing permits to white ranchers and started to collect revenue from the ranchers for the privilege of grazing their livestock on the reservation. . . The evidence will show, that the government took complete control of the administration and management of the lands and resources of the reservation, commencing with the establishment [of the White Mountain Indian Reservation]. Although the government did that, nearly 20 years passed before a single penny of tribal revenue was collected by the government for the leasing or other use of the reservation, land or resources.", and

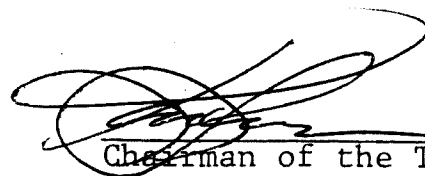
- WHEREAS, further, the claims attorneys said this, in reference to the White Mountain Apache Tribe: "The first credit of grazing permit fees to the Fort Apache IMPL fund was made during the fiscal year ended in 1899, 28 years subsequent to the creation of the reservation.", and
- WHEREAS, it appears, clearly, that no claim whatsoever was made for the White Mountain Apache Tribe for the period antecedent to June 7, 1897 by the former claims attorneys for misconduct and mismanagement by the Secretary of the Interior, and
- WHEREAS, the White Mountain Apache Tribe has appropriated over \$100,000.00 for its soil conservation engineers to complete their historical study of range mismanagement and to devise a plan for the rehabilitation of the rangeland proximately caused by the intentional and mismanagement of the grazing lands of the White Mountain Apache Tribe, and
- WHEREAS, the United States Congress in passing the Indian Claims Commission Act contemplated that even in litigation the Indian Tribes shall be dealt with fairly and honorably and that such a pledge should not go unheeded which underwrites the necessity for the White Mountain Apache Tribe to be able to complete its soil and range mismanagement study in preparation for submitting a claim against the United States government in 22-H as part and parcel of its range mismanagement claim which was only partially pursued by the former claims attorneys, Weissbrodt & Weissbrodt, and
- WHEREAS, the Tribal Council respectfully advises the U. S. Claims Court that the tribe is in no way directing its present claims attorney to change litigative strategy or change the nature of the claims but rather seeks full compensation for the destruction of its rangeland from the United States Government as is equitably due it, and
- WHEREAS, the former offer of settlement proffered by the United States Government in the amount of \$13,000,000.00 is woefully inadequate to compensate the tribe for the mismanagement of its rangeland, and
- WHEREAS, the Tribal Council places its trust in the United States Claims Court to allow it to adequately prepare its claim for erosion damage to the rangeland of the White Mountain Apache Tribe and earnestly implores the court not to prejudice the tribe's claims because of the neglect on the part of the former claims attorney to adequately prepare a soil erosion and range mismanagement claim for the tribe despite the former claims attorney's opening statement to the trial court in which he gave ample testimony as to the wholesale trespass by non-Indian owned cattle between 1871 and 1892.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby emplores the U. S. Claims Court to allow it to proceed to complete its soil and range mismanagement study which had never been adequately researched or prosecuted by the former claims attorneys, but which is an integral factor in any claim for compensation for mismanagement.

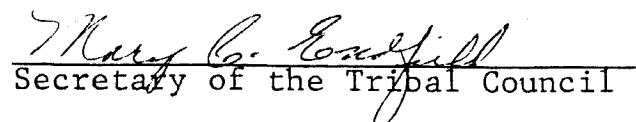
BE IT FURTHER RESOLVED by the Tribal Council that it hereby recommits Tribal funds in an amount of not less than \$100,000.00 to pursue the range mismanagement claim against the United States Government and further, advises the U. S. Claims Court that it will be willing to go to trial reference the range mismanagement claim based upon the evidence it has prepared and will have prepared within eight months of the date of this resolution.

BE IT FURTHER RESOLVED by the Tribal Council that it also advises the U. S. Claims Court that it has committed additional tribal funds for preparation of the timber mismanagement claim and fiscal accounting claim against the United States Government and that these claims are being processed expeditiously in preparation of a counter-offer to be made by the tribe to the United States Government for purposes of settling 22-H or for trial if settlement in part or in whole is not possible.

The foregoing resolution was on 04, 1983 duly adopted by a vote of 10 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (i) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe June 27, 1958 and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Chairman of the Tribal Council



Secretary of the Tribal Council