

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


- WHEREAS, the Tribal Council, pursuant to a prior resolution, directed the Tribal Attorney to draft an amendment to Ordinance No. 129 which provides for the exclusion and removal of non-members from tribal land, and
- WHEREAS, said amendment is necessary because the Area Office of the Bureau of Indian Affairs rejected part of the ordinance because it included, under the definition of "persons", federal officials on the reservation who were acting pursuant to their official duties, and
- WHEREAS, the Tribal Council concludes that federal officials who are acting arbitrarily, outside the scope of their authority, and in direct conflict of interest regarding the tribe's natural resources should not be allowed to enter the reservation and engage in surveys and studies to be ultimately used against the tribe in litigation in violation of the trustee relationship between the United States and the White Mountain Apache Tribe, and
- WHEREAS, pursuant to said direction, the Tribal Attorney has drafted a proposed amendment to the Exclusionary Ordinance which would prohibit federal officials engaged in activities on the reservation from conducting those activities when such activities are beyond the scope of their authority or constitutes a direct conflict of interest and breach of the fiduciary obligations of the U. S. Government, and
- WHEREAS, the proposed amendment to Ordinance 129 setting forth to conduct subject to the provisions of the Exclusionary Ordinance is attached and incorporated by reference hereto, and
- WHEREAS, the Tribal Council concludes that said proposed amendment will carry out the protective purposes of the Exclusionary Ordinance and should be posted for ten (10) days as required by the Tribal Constitution.
- BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that the proposed amendment to Ordinance No. 129 be immediately posted for a period of ten (10) days for public comment as required by the Tribal Constitution.

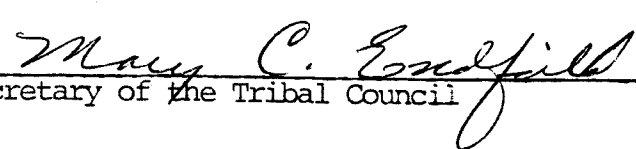
The foregoing resolution was on August 03, 1983 duly adopted by a vote of 10 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to its authority vested in Article V, Section 1 (i & q) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe June 27, 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).

RECEIVED

AUG 11 1983

FORT APACHE INDIAN
AGENCY
WHITERIVER, ARIZ


Chairman of the Tribal Council


Secretary of the Tribal Council

PROPOSED ORDINANCE OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE FORT APACHE
INDIAN RESERVATION AMENDING ORDINANCE 129
WHICH PROVIDES FOR THE EXCLUSION AND REMOVAL
OF NON MEMBERS FROM TRIBAL LAND; CLOSURE
OF THE RESERVATION BY EXECUTIVE ORDER

BE IT ENACTED BY the Tribal Council of the White Mountain Apache Tribe that Ordinance No. 129; providing for the Exclusion and Removal of non-members of the White Mountain Apache Tribe is amended as follows:

§1001 Definitions:

(b) PERSON and NON-MEMBER as used in this Ordinance means any individual, corporation, partnership, association, ~~federal, including but not limited to Department of Interior personnel who may be present on the reservation~~, state, or county government and any of their respective agencies who are not enrolled members of the White Mountain Apache Tribe, and denotes both the singular and plural wherever used.

(c) Person and non-member as used in this Ordinance also means any Federal employee of the Department of Interior or any of its contractors who are engaged in any activity on the Fort Apache Indian Reservation which is found to be —

- (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
- (b) contrary to constitutional right, power, privilege or immunity;
- (c) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
- (d) without observance of procedure required by law;
- (e) a direct conflict of interest of the Secretary of the Interior's trustee responsibilities to protect, preserve and utilize the resources of the Fort Apache Indian Reservation for the improvement of the economic well being of the White Mountain Apache Tribe.

Additions designated by underlining.

Deletions designated by ~~strike-outs~~.