

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

WHEREAS, the Tribal Council of the White Mountain Apache Tribe requested a meeting with the Phoenix Area Office Director, James Stevens, in Phoenix, for December 6, 1985; and

WHEREAS, eight members of the Tribal Council attended said meeting, which was also attended by the Tribal Attorney, Robert C. Brauchli, Special Water Rights Counsel, William H. Veeder, and Administrative Assistant to the Chairman, Charles O'Hara; and

WHEREAS, James A. Stevens attended said meeting on December 6, 1985 and was accompanied by Walter Mills, Deputy Director of the Phoenix Area Office, and William H. Swan, Solicitor of the Phoenix Area Office; and

WHEREAS, the Tribal Council requested said meeting for the purpose of obtaining an explanation and justification from the Phoenix Area Office Director, James H. Stevens, in respect to the grossly, illegal and totally immoral ongoing acts itemized below, which are in the process of being consummated by Donald P. Hodel, Secretary, by and through his subordinates in the Bureau of Indian Affairs, and through his attorney, the Attorney General of the United States of America, through its Department of Justice as follows:

1. the enlargement of Roosevelt Dam and Reservoir on the Salt River which has its source on the White Mountain Apache Tribe's Fort Apache Indian Reservation;

2. the filing by James H. Stevens, Area Director BIA, subordinate of Donald P. Hodel, on November 29, 1985, of an illegal statement of water claim in the Arizona State Water Adjudication W-1 Proceedings, purportedly on behalf of the White Mountain Apache Tribe which intentionally:

- (a) abandons annually 200,000 acre feet of Salt River water to which the White Mountain Apache Tribe is legally entitled;

- (b) omits any claim for the rights of the use of water for the congressionally

appropriated Miner Flat Dam, the construction of which is underway by the White Mountain Apache Tribe;

3. Hodel's 1985 Fort Apache Indian Reservation Forestry Management Plan which represents the consummation of a long term secretarial policy to destroy the White Mountain Apache Tribe's reservation and to enhance the flow of Salt River water away from the Tribe's reservation by:

(a) completing the ongoing destruction of the growing capacity of the White Mountain Apache tribal forests;

(b) completing the ongoing destruction of the quality of the timber produced in the White Mountain Apache Tribal Forests;

(c) consummating the destruction of the White Mountain Apache Tribe's forest by Hodel fully complements Hodel's ongoing destruction of the Tribe's grazing lands; and

WHEREAS, the Tribal Council specifically requested an explanation from Phoenix Area Office Director, James H. Stevens, why he filed a claim which abandoned approximately 200,000 acre feet of water and over 20,000 irrigable acres of land on the Fort Apache Indian Reservation; and

WHEREAS, the filing made by James H. Stevens over the expressed opposition of the White Mountain Apache Tribe also abandons approximately 25,000 acre feet of water representing the impoundment of the Miner Flat Dam, exaggerates the evaporation loss on the Fort Apache Indian Reservation, and declares a water duty for future lands not presently under irrigation of less than one-half of the water duty for historic lands even though some of the future lands and historic lands are within the same acreage; and

WHEREAS, the Tribal Council regards the filing by the Department of Justice, signed by Area Director James H. Stevens, as wholly lacking in any factual basis and constitutes an admission against the interests of the White Mountain Apache Tribe to the Tribe's irreparable injury and further brings into sharp focus the confiscatory interests of the

Secretary of the Interior and Bureau of Indian Affairs which has subverted the water rights of the White Mountain Apache Tribe since the inception of the Salt River Reclamation Project; and

WHEREAS, the Tribal Council, during its meeting with James H. Stevens, was advised by Solicitor William A. Swan and Area Director Stevens that the Tribal Council and its representatives could meet informally at a future date with the HKM Soil Engineering firm which prepared the amended water rights claim filed by the Department of Justice, in order to examine the underlying basis for said claim; and

WHEREAS, the Tribal Council requested that the HKM representatives who prepared the amended water rights claim, signed by James H. Stevens, submit to deposition under oath so that the Tribe could be properly advised of the factual basis of the Statement of Water Rights Claims filed by the Department of Justice, over the objection of the Tribe, in the Maricopa County Superior Court W-1 Proceedings; and

WHEREAS, during the meeting Solicitor William H. Swan advised the Tribal Council that he did not have the authority to submit HKM to a deposition and that formal notice would have to be given in the U.S. District Court and that only the Department of Justice Attorney, Steven Carroll, could give such permission; and

WHEREAS, a vigorous discussion arose between the Tribe's legal representatives in respect to the requested depositions of HKM whereupon Area Director, James H. Stevens, declared that he was walking out of the meeting; and

WHEREAS, James H. Stevens, Solicitor William H. Swan, and Deputy Director, Walter Mills, then left the meeting without explaining the basis for the "water claim" or to make HKM Consultants available to state under oath the basis of the claim; and

WHEREAS, the Tribal Council, at great expense, travelled to Phoenix for the purpose of discussing and resolving the foregoing issues; and

WHEREAS, after Area Director James H. Stevens, Deputy Director Walter Mills, and Solicitor William A. Swan walked out of the meeting, the Tribe's Special Counsel for Water Rights, William H. Veeder, contacted Steven Carroll of the Department of Justice, on December 6, 1985, by telephone and requested on behalf of the Tribal Council that he make available for deposition those employees of HKM who were responsible for the preparation of the Water Rights Claim filed by the Department of Justice in the Maricopa County Superior Court W-1 Proceedings; and

WHEREAS, Steven Carroll refused to submit or make available those HKM employees for such a deposition; and

WHEREAS, the Tribal Council condemns the walk-out of its trustee representatives, James H. Stevens, Walter Mills and Solicitor William H. Swan as an affront and insult to the Tribal Council and further condemns the refusal of the Department of Justice and the BIA to submit HKM employees to a deposition, thereby confirming to the Tribal Council that the HKM prepared water claim cannot be substantiated and that it constitutes a fraudulent and deceitful filing on the part of the Department of Justice which will result in a confiscation of the Tribe's life sustaining rights to the Salt River and its tributaries, thereby sacrificing tribal rights to said water which it has enjoyed from time immemorial, for the sole benefit of the Salt River Reclamation Project and other downstream water users.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby condemns the actions and conduct of Area Director, James H. Stevens, Walter Mills, and Solicitor William H. Swan whereby they walked out of the meeting requested by the Tribal Council to determine the underlying factual basis for the purported water rights claim filed by James H. Stevens in the Maricopa County Superior Court.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby condemns the refusal of Solicitor William H. Swan and Department of Justice Attorney, Steven Carroll, to arrange for the taking of depositions of the HKM personnel responsible for the research and preparation of the

"water claims" purportedly filed on behalf of the White Mountain Apache Tribe in the Maricopa County Superior Court.


BE IT FURTHER RESOLVED by the Tribal Council that it requests that the Central Office of the Bureau of Indian Affairs direct the Department of Justice and Phoenix Area Office of the Bureau of Indian Affairs to require the HKM personnel responsible for the preparation of the Tribe's purported water rights claim be made available for depositions to determine the factual basis of said claim on or before December 18, 1985, or as soon thereafter as arrangements can be made.

BE IT FURTHER RESOLVED by the Tribal Council that it objects to the filing by James H. Stevens of the obviously contradictory and fraudulent water claims filing prepared by the Department of Justice.

BE IT FURTHER RESOLVED by the Tribal Council that the fraudulent filing, walk-out and refusal of the Department of Justice and Bureau of Indian Affairs to make available for deposition those responsible for the preparation of the purported tribal water claim in the Maricopa County Superior Court W-1 Proceeding, constitutes a breach by the trustee United States of its fiduciary duty to the White Mountain Apache Tribe and further draws into sharp focus the irreconcilable conflict of interest within the Department of Justice and the Department of Interior in the forced representation upon the White Mountain Apache Tribe by these Departments.

The foregoing resolution was on December 6, 1985, duly adopted by a vote of 8 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 (a, f, i, h, & u) of the Amended Constitution and Bylaws 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

ACTING 
Secretary of the Tribal Council

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FORT APACHE INDIAN
AGENCY
WHITERIVER, ARIZ.