

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

- WHEREAS, the White Mountain Apache Tribe has now pending the case of White Mountain Apache Tribe v. United States of America in the United States Claims Court, Docket No. 22-H, in which it seeks monetary damages against the United States of America for the intentional mismanagement of the Tribe's natural resources, including its invaluable reserved rights to the use of water in the Salt River and its tributaries, the irreparable and continuing damage to the Tribe's forests due to overcutting mandated by the Bureau of Indian Affairs, and the destruction of its once fine rangelands due to the Bureau of Indian Affairs' permitting the entry upon the Fort Apache Indian Reservation of thousands of head of non-Indian livestock which overgrazed the lands resulting in ever-increasing erosion which, if not arrested, will literally wash away the Tribe's Fort Apache Indian Reservation; and
- WHEREAS, there is included in Docket No. 22-H not only the destructive results of mismanagement of Tribe's natural resources, but also there are accounting aspects in that litigation pertaining to misappropriation and nonaccountability of the United States of America Trustee in regard to millions of dollars involving IMPL and IIM accounts and other Tribal accounts as well as Congressional appropriations; and
- WHEREAS, the United States of America Trustee, while purporting to render an accounting for both Tribal income and disbursements, admits that its record-keeping in regard to Tribe's funds and the disbursement of them is so shockingly inadequate that there can be no real accounting due to the deplorable condition of the records as "maintained" by the Trustee; and
- WHEREAS, the failure by the United States Trustee properly to maintain records of both the Tribe's receipts and disbursements can best be described as tragic miscarriage of justice and has been summarized by the Court, in the presence of Chairman Lupe and Councilman Hinton at the November 7, 1990 Status Hearing, as follows:

You are never going to have a certain [judicial] determination of an accounting simply because of the problem with old and scattered and inadequate records. It is not going to happen.

The Court has been urging for a period of three years that the accounting claims be settled. A settlement has to be in gross because neither side [the Tribe has no obligation in regard to the accounting] is ever going to know with the degree of refinement exactly what is involved. A settlement would be a ballpark figure on both sides that was honed down.

and

WHEREAS, there has never been made, as part of the accounting, the destruction of the Tribe's capital assets, its reserved rights to the use of water, the destruction both as to quality and quantity of Tribe's ponderosa forests, and the destruction of the Tribe's grazing lands; and

WHEREAS, the interest factor is of immense importance due to the protracted period involved and the total failure of the Trustee to account either for receipts or disbursements which immensely complicates a determination of a reasonable basis for settlement as mandated by the Court when read on the background of the Court's mandate that the "ballpark figure" must be "honed down"; and

WHEREAS, the Tribal Council, in the closing years of the Twentieth Century in assessing the strenuous urging by the Court that the Tribe settle its accounting claim, must maintain in the forefront of its consideration the fact that the White Mountain Apache Tribe entered into a covenant with Vincent Colyer, the representative of the United States Trustee, to maintain the peace and to reside upon a designated reservation in return for the solemn commitment that the Trustee would provide food, clothing, and all the other necessities of life if the Tribe would accept the drastic change in its way of life and that the commitment would continue until the Tribe had become self-sufficient; and

WHEREAS, the Colyer covenant was consistently breached by the Trustee United States by a total failure to provide food, clothing, and other necessities of life but rather the Trustee embarked upon a plan of genocide for the White Mountain Apache Tribe by suppressing all economic development, by seizing or destroying the Tribe's natural resources, and maintaining the Tribe and its members in a state of abject poverty which, if not immediately corrected, will in the ultimate terminate the Tribe's culture, tradition, and status as a sovereign, independent people as guaranteed by the Trustee United States; and

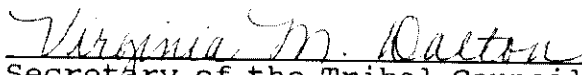
WHEREAS, the Tribal Council must necessarily except from any proposed settlement its valid claim to title to 16,000 acres of land along its Northern Boundary which are part of the Fort Apache Reservation pursuant to the express language of the September 1, 2 1972, Stipulated Findings and Final Judgment in Docket No. 22-D of the Claims Court, which expressly provides that the boundary of the Reservation will be as described in the Executive Orders of November 9, 1871 and December 14, 1872, as those documents relate to the Northern boundary of Tribe's Reservation; and

WHEREAS, the Tribal Council authorizes and directs Special Counsel William H. Veeder to negotiate a settlement with the United States of America for a sum in the amount of \$100,000,000 which, upon receipt, will extinguish all of Tribe's mismanagement claims now pending against the United States of America in Docket No. 22-H which would include the income received by the United States from the harvest of timber, grazing fees, and other income derived from those 16,000 acres of land trespassed upon by the United States Forest Service which has been illegally occupying those lands for a protracted period of time.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes and directs Special Counsel, William H. Veeder, to negotiate a settlement of Docket 22-H, now pending before the United States Claims Court, settling with the United States of America any and all claims now pending before the Court for a sum not less than \$100,000,000 provided, however, that title to the 16,000 acres wrongfully excluded from the Fort Apache Indian Reservation will be recognized by the United States of America as residing in the Tribe pursuant to the Executive Orders establishing the Reservation and the September 12, 1972 Stipulated and Final Judgment entered into by the Tribe in settling Docket No. 22-D in the United States Claims Court.

The foregoing resolution was on JANUARY 24, 1991 duly adopted by a vote of EIGHT for and ONE 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

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FORT APACHE INDIAN AGENCY
WHITERIVER, ARIZONA

Actions for Consideration by the White Mountain Apache Tribal Council that are needed for the Improvement of Prescribed Burning on the Fort Apache Indian Reservation.

1. The Five Year Burn Plan needs to state--
 - A. Who prepared it.
 - B. What is to be done.
 - C. Who is to do it.
 - D. How the BIA is organized to do the work.
 - E. How the work is to be supervised.
2. Conflicting statements in the Five Year Burn Plan need to be resolved between the BIA and the Tribe.
3. Unit Burn Plans need to show--
 - A. Who approved it.
 - B. Date.
 - C. What the burning accomplished.
 - D. Acres treated.
 - E. Acres remaining to be treated.
 - F. Only the information that can be verified.
4. Post Burn Reports need to be--
 1. Submitted within two weeks after the burn block is completed.
 2. Given an independent survey and audit.
5. Tree damage tolerance levels need to be set at not more than one tenth of one percent of the total area burned.
6. Crew sizes need to be reduced to prevent on-the-job training errors and mistakes.
7. Spot weather forecasts need to be requested frequently by the BIA from the Fire Weather Forecaster in Phoenix during the fire weather season.
8. Fire weather information needs to be transmitted to the Fire Weather Forecaster in Phoenix.
9. Rain storage gauges need to be set up in the general vicinity of areas scheduled for burning.
10. Better utilization of the AFFIRMS computerized Fire Danger Rating Program needs to be made.
11. All three Remote Automated Weather Stations need to be activated, maintained and used during the fire weather season.
12. Any requests for the use of fire by the Tribal Game and Fish Department need to be submitted in writing, stating the objectives of the burning, the area that needs to be treated, and the wildlife habitat improvements that are expected. This request needs to be generated at the Natural Resources Committee meeting and the burning needs to be done with total agreement of all parties. If there is a significant area to be burned for wildlife habitat improvement, the Game and Fish Department needs to share in the costs and participate in the review of the results of the burning.

13. The Fuels Management Project needs to contact the livestock associations when burning is planned in their area, and should make an effort to preserve winter range wherever possible. They should protect the fencing wherever possible and help repair fences if there is excessive damage.
14. Precautions need to be taken to ensure that fires will not burn out of prescription. Fires must not be allowed to run upslope by employing backing fires and by burning downslopes.
15. The size of burn blocks needs to be reduced to ensure that even during the most active burning period (mid - to late afternoon) the fire will still be burning within the prescription.
16. Precommercial thinned areas need a special burning prescription which should include cold air temperature, light winds and a higher than average fine fuel moisture content.
17. Areas with light fuel loadings need to be omitted from any kind of treatment other than lopping.
18. An investigation of how material left after logging needs to be made.
19. Recognition needs to be made that the quality of performance is more important than the quantity of performance.
20. Any application of Spring burning to broaden the burn window needs to be against a black-line created in the Fall.
21. Multi-burn smoke modeling is needed whenever more than one area is burned in an airshed.
22. A re-examinations of whether consumption of 1000-hour fuels (3 to 6 inches in diameter) is necessary or not needs to be made.
23. Consideration needs to be given to fuel moisture in regard to smoke control.
24. To reduce the generation of smoke due to late evening ignition, all fires need to be ignited by 3:00 p.m.
25. Smoke related illnesses need to be recorded by hospitals and physicians.
26. Smoke impacts need to be measured directly and limited to not more than the California PM-10 and visibility standards.
27. Fewer acres and greater care needs to be taken when mixed conifer slash is burned.
28. A daily record of smoke impacts, such as visibility, in White-river and adjacent areas needs to be made on the ground and from the air.
29. Specific procedures for multiple burns in different airsheds on the Reservation needs to be developed.

30. The predominant smoke model (EPM/SASE M) needs to be used for initial screening of air quality impacts by airshed and for establishing reasonable burn size limits.
31. Smoke related information needs to be recorded in daily field burning reports.
32. More personnel need to be given smoke management training.
33. The Tribe needs to employ a Tribal member with 638 contract money who will operate monitoring equipment, monitor BIA burning performance and make post-burn evaluations.
34. The Tribe needs to obtain 638 contract funds for smoke monitoring equipment, installing the equipment and training a Tribal member to operate the equipment.
35. The Tribe needs to obtain a second opinion regarding the effects of prescribed fire on natural resources.