

*11/28/94*

Resolution No. 11-94-335

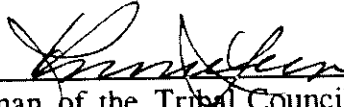
**RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION**


- WHEREAS,** the Tribal Council of the White Mountain Apache Tribe considers the preservation and protection of its tribal homelands to be among its highest obligations and responsibilities; and
- WHEREAS,** the economy of the White Mountain Apache Tribe is dependent on the judicious use and management of the natural resources of tribal lands; and
- WHEREAS,** there have been apparent conflicts between the White Mountain Apache Tribe and the United States Fish and Wildlife Service (USFWS) regarding the Tribe's exercise of its sovereignty over the use and management of tribal natural resources and the Service's perception of its legal mandates under the Endangered Species Act; and
- WHEREAS,** the Tribe and the Service have a common interest in promoting healthy ecosystems; and
- WHEREAS,** the Tribal Chairman initiated a meeting on July 22, 1994 with the Director of USFWS, Ms. Mollie Beattie, to discuss the establishment of government-to-government relations on endangered species issues; and
- WHEREAS,** that meeting and subsequent meetings of Tribal and USFWS staff assigned by the Chairman and the Director, respectively, has resulted in the development of the attached Statement of Relationship (Statement), between the White Mountain Apache Tribe and the U.S. Fish and Wildlife Service, incorporated by reference herein; and
- WHEREAS,** said Statement recognizes the Tribe's aboriginal rights, sovereign authority, and institutional capacity to self-manage the lands within the Fort Apache Indian Reservation as the self-sustaining homeland of the White Mountain Apache Tribe; and
- WHEREAS,** both the Tribe and the Service agree and recognize that this Statement and any process established by it does not preempt or modify the respective rights and responsibilities of either entity.

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**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the Statement of Relationship attached and incorporated by reference herein, and authorizes Tribal Chairman Ronnie Lupe to sign the Statement on behalf of the Tribe.

The foregoing resolution was on November 02, 1994, duly adopted by a vote of nine for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (b), (c), (f), (g), (h), (i), (s), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

  
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Chairman of the Tribal Council

  
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Secretary of the Tribal Council

**STATEMENT**  
of the Relationship between the  
**WHITE MOUNTAIN APACHE TRIBE**  
and the  
**US FISH AND WILDLIFE SERVICE**

**PURPOSE**

Tribal sovereignty and Service legal mandates, as applied by the Service, have appeared to conflict in the past, but both the Tribe and the Service believe that a working relationship that reconciles the two within a bilateral government-to-government framework will reduce the potential for future conflicts.

**I. GUIDING PRECEPTS**

- The Tribe and the Service have a common interest in promoting healthy ecosystems.
- The Service recognizes the Tribe's aboriginal rights, sovereign authority, and institutional capacity to self-manage the lands and resources within the Fort Apache Indian Reservation as the self-sustaining homeland of the White Mountain Apache people.
- The Service's technical expertise in fish, wildlife, and plants establishes it as a significant resource for the Tribe's management of the ecosystems and associated sensitive species of the Reservation.
- The Service has a trust responsibility and is required to consult with the Tribe, as articulated in Order No. 3175 by the Secretary of the Interior, regarding any of its activities that may affect the Tribe's trust resources and the sustained yield of those resources. Such activities will support the Tribe's self-determination and economic self-sufficiency.
- The Tribe and the Service acknowledge that delays in communication as well as unclear lines of communication have led to problems in the past. The Tribe and the Service agree that clarification of this issue through implementation of the concepts

contained in this statement will ensure early two-way interactions and will lead to productive resolution of issues of mutual concern.

- The Tribe and the Service agree and recognize that this statement and any process established by it do not preempt or modify the respective rights and responsibilities of either entity.

## **II. TRIBAL MANAGEMENT**

- The Tribe is continuing to institutionalize internal processes for planning, review, regulation, and enforcement to ensure that economic activity on its reservation is consistent with traditional Apache values for living in balance with the natural world.
- The Tribe will complete integrated resource management plans on a watershed basis that promote tribal goals, including sustained yield. These plans will direct the assessment, management, and restoration of ecosystems in accordance with tribal values. Other tribal resource management plans must conform to the conservation guidelines and practices established in the integrated resource management plans.
- In the interim, the Tribe is preparing an Ecosystem Management Plan that addresses sensitive species, based on existing knowledge, active conservation practices, and current management plans. The plan will be continuously enhanced with new information obtained from ongoing surveys, habitat assessments, and other planning processes.

## **III. COMMUNICATION**

- The government-to-government relationship requires working with the White Mountain Apache Tribal Government and its resource management authorities, including the sharing of technical staffs and information, to address issues of mutual interest and common concern. Both the Tribe and the Service recognize, however, that release of tribal proprietary, commercial, and confidential information may be restricted by either the Tribe or the Service.
- While the Tribe and the Service encourage open, informal discussion to facilitate proactive, cooperative efforts; formal communications follow the outline in Table 1. Mutual agreement on communications with outside parties will promote the innovative and creative process that the Tribe and the Service have agreed to pursue.
- The Service and the Tribe acknowledge that the Tribe manages access to and is responsible for the safeguarding of information on tribal ecosystems, flora, and fauna

(including federally endangered, threatened and candidate species). The Tribe will establish protocols for the safekeeping and dissemination of such information.

- Whenever the Service considers a change in the status of a species that may exist on the Reservation now or in the future, it will promptly notify the Tribe's Endangered Species Coordinator. Concurrently, the Service will indicate what scientific information it presently has, the nature of the Service's concern, and what additional information and management would render unwarranted the elevation of the species to a more protected status or would encourage the delisting of the species.
- The Service's Director of Region 2 will be the contact person for cross-regional communications on any Service activity that may affect the Tribe and tribal land management.
- The Service's primary contact point with the Tribe is the Arizona Fishery Resources Office in Pinetop, Arizona, which has decades of experience in working with the Tribe to promote healthy ecosystems, its focus on fisheries resources supports an emphasis on sensitive habitats, and it enjoys close proximity to and extensive familiarity with the Reservation.
- The Gila-Salt-Verde (GSV) Ecoregion Team provides an avenue for the Service and the Tribe to implement cooperative projects to assess and restore sensitive ecosystems in accordance with tribal goals; in particular, the restoration of degraded riparian areas and the elimination of introduced species considered detrimental by the Tribe. The Service will invite the Tribe to send representatives whenever the Team meets to discuss goal-setting or tasks for the types of ecosystems that exist on the Reservation.

#### **IV. COORDINATION**

- Upon tribal request, the Service will provide technical assistance on the maintenance of healthy ecosystems. Such assistance will normally be provided through the Gila-Salt-Verde Ecoregion Team.
- The Service and the Tribe will cooperatively develop and propose management practices based upon identified threats to sensitive species and their habitats for incorporation into the Tribal Management Plan (TMP), which consists of the portions of the Ecosystem Management Plan and integrated resource management plans which address sensitive species. This activity will initially take the form of lists of sensitive species, threats, and an assessment of commonality and severity of the threats.

- The Service will notify the Tribe upon initiation of formal or informal consultation with a Federal agency regarding tribal lands as soon as it becomes aware of a request.
- Active management and implementation of the TMP will generally serve as the basis for Reasonable and Prudent Measures and Alternatives arising from formal or informal consultations with Federal agencies.
- The Service and the Tribe will hold an annual conference on the TMP and its implementation. The conference will be held to make year-to-year changes and will include field visits and requests for future technical assistance.
- Adoption and implementation of the TMP will normally mean no additional special management considerations or protection for sensitive species will be needed.


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Director, U.S. Fish and Wildlife Service

  
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Chairman, White Mountain Apache Tribe

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Date

November 2, 1994

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Date

  
(11/2/94)  
FORT W. DAVIS, ARIZONA

**TABLE 1 MATRIX FOR COMMUNICATIONS**

ISSUE TYPE	WHITE MOUNTAIN APACHE TRIBE LEAD CONTACT*	US FISH AND WILDLIFE SERVICE LEAD CONTACT*
<b>INFORMAL DISCUSSION</b>	Any	Any
<b>SCIENTIFIC AND MANAGEMENT ISSUES</b> <ul style="list-style-type: none"> <li>• Technical assistance</li> <li>• Requests for site visits</li> <li>• Requests for biological data</li> <li>• Species / Ecosystem management plans</li> <li>• Integrated resource management plans</li> <li>• Data management protocol</li> <li>• Cooperative projects with Ecoregion Team</li> </ul>	Jon Cooley, Endangered Species Coordinator, (602) 338-4385, ext. 12	Arizona Fishery Resources Office, Pinetop, (602) 367-1953  Gila-Salt-Verde Ecoregion Team
<b>POLICY DEVELOPMENT (pre-decision)</b> <ul style="list-style-type: none"> <li>• Intergovernmental agreements</li> <li>• Coordination of working group</li> <li>• Program funding</li> </ul>	Charles O'Hara, Director of Planning and Developmental Services (602) 338-4346, ext. 213	John Rogers, Region 2 Director, (505) 766-2321
<b>LEGAL CONCERNS (pre-decision)</b> <ul style="list-style-type: none"> <li>• Potential FWS regulatory actions directly affecting the Tribe [e.g. listings, critical habitat, initiation of formal/informal consultations]</li> <li>• Potential tribal governmental actions directly affecting the Service</li> <li>• Requests for comments</li> </ul>	Charles O'Hara, Director of Planning and Developmental Services  Robert C. Brauchli, General Counsel, (602) 338-4346, ext. 410	John Rogers, Region 2 Director  Regional Solicitor
<b>FORMAL DECISIONS BY TRIBE OR FWS</b> <ul style="list-style-type: none"> <li>• Final policy decisions, regulatory actions, findings from formal/informal consultations, or enforcement actions of direct concern to the Tribe or FWS</li> </ul>	Ronnie Lupe, Tribal Chairman, (602) 338-1560	Mollie Beattie, Director, as delegated to John Rogers

\* Or successor