

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

- WHEREAS,** the White Mountain Apache Tribe (WMAT), acting through its Council Chairman, obtains assistance under P.L 86-121, the Indian Sanitation Facilities Act (42 U.S.C. Part 2001) and related authorities, from the U.S. Public Health Service, Indian Health Service, Office of Environmental Health & Engineering, Phoenix Area Office (IHS), to plan, design, and construct health and sanitation facilities on the Fort Apache Indian Reservation (FAIR); and
- WHEREAS,** these facilities construction projects are considered undertakings, pursuant to the regulations [36 CFR Part 800] implementing the National Historic Preservation Act (16 U.S.C. Part 470)(NHPA); and
- WHEREAS,** 36 CFR Part 800 requires the Indian Health Service to identify historic properties subject to effect by their undertakings, as defined in 36 CFR 800.4; and
- WHEREAS,** the IHS has recognized the inherent sovereign rights for the White Mountain Apache Tribe to control the identification, evaluation, and disposition of historic properties located on their tribal lands; and
- WHEREAS,** the White Mountain Apache Tribe has assumed all pertinent functions for FAIR from the Arizona State Historic Preservation Officer, pursuant to Section 101(d) of the NHPA, including responsibility for the review of Federal undertakings under Section 106 of the NHPA; and
- WHEREAS,** this review and consultation includes, but is not limited to, IHS assessment of information needs (36 CFR 800.4(a)), identification of historic properties (36 CFR 800.4(b)), and determination of effects on historic properties (36 CFR 800.5); and
- WHEREAS,** the White Mountain Apache Tribal Council has granted the Tribal Historic Preservation Officer (THPO) the authority to consult with Federal agencies on behalf of the WMAT under 36 CFR 800.3(c)(1); and
- WHEREAS,** all cultural resource investigations undertaken by IHS contractors are limited to non-excavation, non-collection inventory surveys; and
- WHEREAS,** most IHS undertakings, especially the provision of water and sanitation facilities to individual homesites, normally can be designed to avoid effects on historic properties that otherwise require numerous individual, repetitive requests for comments from THPO and result in no effect to historic properties; and

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WHEREAS, it is desirable to adjust and streamline IHS compliance with 36 CFR Part 800 through the execution of a Programmatic Agreement under the authority of §800.13; and

WHEREAS, pursuant to Section 101(d)(6)(B) of the NHPA, 36 CFR 800.3(2)(b), the American Indian Religious Freedom Act (42 U.S.C. Part 1996) (AIRFA), and Section 3(d) of the Native American Graves Protection and Repatriation Act (25 U.S.C. Part 3001) (NAGPRA), and its implementing regulations (43 CFR Part 10), the White Mountain Apache Tribe must approve and be a signatory party to this Agreement; and

WHEREAS, the BIA Western Region Office and the BIA Fort Apache Agency (BIA-FAA) share responsibility for the overall welfare of the Fort Apache Indian Reservation community, as well as for the administration of permits issued under ARPA and 43 CFR 7.5 and have, therefore, been invited to participate as a consulting parties to concur to this Agreement; and

WHEREAS, the White Mountain Apache Tribe Chairman requires Tribal Council authorization to enter into agreements on behalf of the White Mountain Apache Tribe; and

WHEREAS, execution of the WMAT-IHS-BIA *Programmatic Agreement on the Fort Apache Indian Reservation* will increase the efficiency of IHS compliance with NHPA.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that Dr. John R. Welch, THPO, is authorized to work in collaboration with the IHS, the BIA, and the Tribal Attorney to produce a finalized Programmatic Agreement.

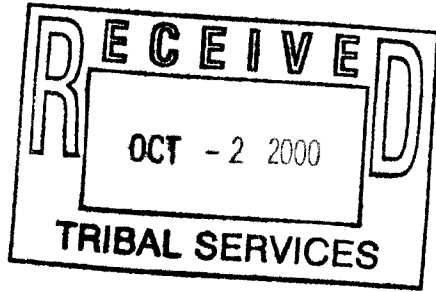
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the THPO is duly authorized to conduct and/or regulate all efforts to identify and evaluate historic properties or other heritage resources on FAIR.

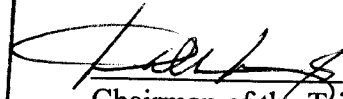
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the THPO is duly authorized to permit and grant access to competent consultants seeking access to FAIR for the purpose of conducting non-disturbance, non-collection historic property identification surveys in support of projects duly authorized or endorsed by the WMAT Council.

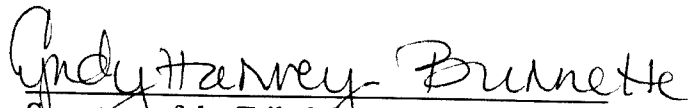
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the WMAT Chairman is duly authorized to sign and finalize the Programmatic Agreement on behalf of the White Mountain Apache Tribe.

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The foregoing resolution was on September 21, 2000 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), (h), (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).




Chairman of the Tribal Council


Secretary of the Tribal Council