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

- WHEREAS**, the White Mountain Apache Tribe, on July 3, 1996, by special appearance without submitting to the jurisdiction of the Superior Court, filed a Motion to Dismiss For Want of Jurisdiction, the Gila River and Little Colorado River General Stream Adjudications ongoing in the Maricopa County Superior Court and Apache County Superior Court, respectively; and
- WHEREAS**, the Tribe's Motion to Dismiss, in addition to contesting McCarran Amendment jurisdiction, sharply criticized the Trustee United States for failure to assert in those State Court proceedings, the Tribe's aboriginal rights to non-appropriable groundwater from the transbasin Coconino and Pinetop-Lakeside Aquifers, the source of the perennial base flow of the Tribe's rivers, streams and springs in the Salt River Basin, and for the constricted claim the United States had previously filed for the Tribe's water entitlement; and
- WHEREAS**, the Tribe has verified not less than 600 pumpers in the transbasin Coconino and Pinetop-Lakeside aquifers within the Little Colorado River basin (LCR) whose pumping will diminish over time, the base flow of springs and streams within the remainder of the Tribe's aboriginal lands, the present day Fort Apache Indian Reservation; and
- WHEREAS**, the Tribe's Motion to Dismiss challenged the jurisdiction of the State Court proceedings under the McCarran Amendment due to their failure to include non-appropriable groundwater from the transbasin Coconino and Pinetop-Lakeside Aquifers and for their failure to include as parties, groundwater pumpers within the LCR Basin whose pumping of transbasin groundwater would diminish over time, the base flow of the Tribe's springs and rivers in the Salt River Basin; and
- WHEREAS**, on November 19, 1999, the Arizona Supreme Court issued its opinion on Issues 4 and 5 in the Gila River General Stream Adjudication, holding inter alia, that federal reserved rights extend to groundwater; and
- WHEREAS**, the White Mountain Apache Tribe's rights to the beneficial use of water from the transbasin Coconino and Pinetop-Lakeside aquifers are not judicially created or derived from the federal government, but are reserved to the Tribe by virtue of the Tribe's unbroken and unextinguished chain of aboriginal title and are vested property rights with a time immemorial priority date; and

WHEREAS, the White Mountain Apache Tribe declares that any applicable federal reserved water rights are in addition to and do not diminish or truncate the Tribe's fully vested aboriginal rights to water and the full beneficial use thereof to pursue "the arts of civilization" within its aboriginal Homeland; and

WHEREAS, on August 10, 2000, during a pretrial hearing in the Apache County Superior Court, the United States declared in its capacity as Trustee for the Tribe, its intention to amend the water rights claims previously filed on behalf of the Tribe, to assert the Tribe's vested, aboriginal, senior, and reserved rights to the transbasin Coconino Aquifer because of its investigation that pumping in the transbasin Coconino and Pinetop-Lakeside Aquifers by groundwater pumpers in the Little Colorado River Basin would diminish over time, the base flow of the Tribe's springs and streams in the Salt River and Gila River Basin on the Tribe's reservation; and

WHEREAS, subsequently, on or about October 4, 2000, the United States, in its capacity as Trustee for the White Mountain Apache Tribe, filed an amended claim for the Tribe in both the Gila River and Little Colorado River General Stream Adjudications, which effectively asserted the Tribe's vested, senior, aboriginal and reserved rights to the transbasin Coconino and Pinetop-Lakeside aquifers; and

WHEREAS, the amended claim of the United States substantially satisfies the McCarran Amendment concerns the Tribe raised in its July 3, 1996 Motion to Dismiss, but does not resolve or address ongoing and critical concerns of the Tribe respecting the constricted nature of the claims previously filed on behalf of the Tribe by the United States or the presentation of the full measure of the Tribe's water rights in the Little Colorado River and Gila River General Stream Adjudications.

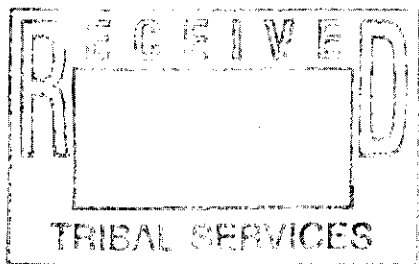
BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes and directs attorneys for the Tribe to withdraw the Tribe's July 3, 1996 Motion to Dismiss, provided that legal counsel for the Tribe's water rights continue to monitor the Little Colorado River and Gila River General Stream Adjudications to insure that Little Colorado River Basin groundwater pumpers of non-appropriable groundwater from the transbasin Coconino and Pinetop-Lakeside Aquifers are joined as parties in both adjudications, and that any Court asserting jurisdiction under the McCarran Amendment be legally capable of issuing a final comprehensive and enforceable decree that adjudicates all rights of users and claimants to the transbasin Coconino and Pinetop-Lakeside Aquifers in accordance with the doctrine of res judicata.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it will continue to review the processes of both adjudications and will make determinations with respect to its intervention as a party or commencement of other appropriate measures to insure that its vested, aboriginal and reserved rights to the transbasin Coconino and Pinetop-Lakeside Aquifers, the source of the base flow of its springs and rivers, are protected against confiscation or impairment of any kind.

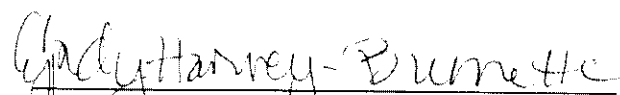
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it extends appreciation to the United States for its commendable decision as Trustee for the Tribe, to amend its water rights claims for the Tribe in both the Gila River and Little Colorado River General Stream Adjudications to include the Tribe's vested, aboriginal and other reserved rights to the transbasin Coconino and Pinetop-Lakeside Aquifers, an indispensable prerequisite for the Tribe's decision to withdraw its Motion to Dismiss For Want Of Jurisdiction under the McCarran Amendment (43 U.S.C. §666) and for the protection of the Tribe's rights in the water resources of the Little Colorado River and Salt River Basin.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it directs attorneys and representatives for the Tribe to continue efforts with the Trustee United States to correct and remedy the constricted nature of the claims filed on behalf of the Tribe by the Trustee United States in the Little Colorado River and Gila River General Stream Adjudications and to address the other water rights related issues outlined in Tribal Council Resolution 07-2000-200, incorporated by reference herein.

The foregoing resolution was on October 10, 2000 duly adopted by a vote of SIX 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), (c), (f), (g), (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).




Chairman of the Tribal Council


Secretary of the Tribal Council