Resolution No. 10-2001-270

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

**WHEREAS,** the Lower Cibecue Lutheran Mission, originally constructed in 1911 and restored in 1998, stands as a testament to both the strength and resilience of the Cibecue community and the historical importance of the Lutheran influence on the White Mountain Apache Tribe; and

**WHEREAS,** by order of Resolution 04-87-101 the Tribal Council of the White Mountain Apache Tribe concurred in the view that the Mission "should be maintained as a tribal historical landmark;" and

**WHEREAS,** by order of Resolution 06-96-131 the Tribal Council of the White Mountain Apache Tribe recognized and endorsed Cibecue community support for the preservation of the Mission and the Mission's architecturally distinctive and historically significant existence and persistence; and

**WHEREAS,** the U.S. National Park Service maintains the National Register of Historic Places as a listing of all historic properties significant in national and regional history; and

**WHEREAS,** the Cibecue Lutheran Mission has been found by the White Mountain Apache Tribe Historic Preservation Officer to be eligible for listing on the National Register of Historic Places.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes and endorses the Historic Preservation Officer to complete and submit to the Keeper of the National Register a nomination for the Lower Cibecue Lutheran Mission.

The foregoing resolution was on October 5, 2001 duly adopted by a vote of EIGHT 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), (g), (h), (i), (j), (k), (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).

Frank J. Enfield Jr.
**ACTING** Chairman of the Tribal Council

Cynthia Harvey-Burnette
Secretary of the Tribal Council

# WHITE MOUNTAIN APACHE TRIBE HISTORIC PRESERVATION OFFICE INTERIM SURVEY / CONSULTATION & FEE POLICY

October 4, 2001

**Mission of the White Mountain Apache Heritage Program.** *To assert White Mountain Apache sovereignty, self-governance, and self-determination through the protection, use, and perpetuation of the cultural and historical heritage of the White Mountain Apache People and the Fort Apache Indian Reservation.*

***WMAT HPO AUTHORITY & PURPOSES***

Operating within the Tribe's Heritage Program and under the authority of various resolutions of the White Mountain Apache Tribal Council and Section 101(d) of the National Historic Preservation Act (NHPA), the Historic Preservation Office (HPO) contributes to the protection, use, and perpetuation of the cultural and historical heritage of the White Mountain Apache people through programs, services, and projects that
(1) Employ Apache principles, values, and persons to manage heritage resources;
(2) Record, assess, and conserve heritage sites and objects located within and adjacent to both current Tribal lands and Apache Aboriginal Territory;
(3) Safeguard Apache interests in and promote Apache responsibility for heritage resources;
(4) Restore and revitalize heritage resources that the Apache community determines should be managed for ongoing and future uses;
(5) Establish partnerships with diverse educational, governmental, and private entities to create opportunities for Apache participation in all aspects of Apache Heritage management.

***PLANNING AND COMPLIANCE REQUIREMENTS FOR PROJECT PROPONENTS***

Within the boundaries of the Fort Apache Indian Reservation, the White Mountain Apache Tribe Project and Plan Review process (TPPR), the National Environmental Policy Act (NEPA), the Native American Graves Protection and Repatriation Act (NAGPRA), and NHPA require that all project proponents consider the effects that the project may have on heritage resources. Heritage resources include places, objects, and traditions significant in White Mountain Apache history and culture, including sacred sites and objects, graves and funerary items, plants, ruins and archaeological resources, fossils and paleontological localities, caves and springs, and other places and items designated by the Tribal Council or Cultural Advisory Board.

Beyond the boundaries of the Fort Apache Indian Reservation but within the Aboriginal Territory of the White Mountain Apache Tribe, NEPA, NHPA, and trust responsibility require Federal agencies to consult with WMAT regarding the effects their projects may have on historic properties (i.e., any prehistoric or historic district, site, building, structure, traditional cultural place, or object included in, or eligible for inclusion in the National Register of Historic Places). Regulations implementing Section 106 of NHPA state that "Consultation with an Indian tribe must recognize the government-to-government relationship between the Federal Government and Indian tribes. The agency official shall consult with representatives designated or identified by the tribal government... Consultation with Indian tribes... should be conducted in a manner sensitive to the concerns and needs of the Indian tribe {36 C.F.R. 800.2 (c) (2) (ii) (C)}."

Regardless of whether a project is proposed for WMAT Lands or Aboriginal Territory, sacred sites, cultural landscapes, and traditional cultural properties significant to Apaches require full consideration in planning and compliance processes. TPPR and NHPA require project proponents to consult the tribal or state HPO on (1) project scoping and area of potential effect (APE), (2) identification and evaluation of heritage resources within the APE, and (3) assessment of project effects on heritage resources and the resolution of adverse effects. Fundamental to the identification of the full range of heritage resources is an effort to obtain information on places and objects having religious and cultural significance known and understood only by Apache elders and cultural practitioners. Project proponents often require information regarding the location

and significance of individual heritage sites (especially sacred sites and traditional cultural properties), and often seek this information from the HPO.

*HPO OPERATING SUPPORT & FEES FOR SERVICES*

HPO receives programmatic grant and contract support only for (1) consulting with federal agencies concerning on-reservation agency undertakings; (2) assisting with Bureau of Indian Affairs and Indian Health Service project planning and compliance. All other HPO operations are supported by project-specific grants. The HPO receives neither a budget allocation from the White Mountain Apache Tribe nor funds to provide compliance assistance to agencies other than BIA and IHS. Accordingly, HPO seeks payment for all other efforts, including BIA and IHS projects requiring detailed review by elders and cultural specialists.

The WMAT HPO receives a small Federal funding allocation to conduct consultations with Federal agencies for Federal projects located on the Fort Apache Reservation. ***No programmatic funding is provided for HPO to assist with NHPA or TPRR processes, with off-reservation projects, or with the identification of historic properties***. HPO is available to assist project proponents in these areas ***on a fee-for-service basis***. HPO assistance often emphasizes the identification and evaluation of heritage resources, and may include consultation meetings, interviews with elders and cultural specialists, field visits, inventory surveys, earth disturbance monitoring, and documentary research. Proponents may choose not to hire HPO to provide such services. This choice, however, does not diminish the proponent's legal obligations to (1) identify historic properties, (2) evaluate their National Register eligibility, (3) assess the effects of the proposed project on the historic properties, and (4) consult with the WMAT HPO or the Arizona State HPO (for off-reservation projects) at each step. The project proponent retains full and exclusive responsibility for making a "reasonable and good faith effort" as these steps are taken.

**HPO Reimbursement Fees for On-Reservation Projects (and Off-Reservation Inadvertent Discoveries): $50 Dispatch Fee (per project per day), Plus $25 / Hour (per person).**

**HPO Reimbursement Fees for Off-Reservation Projects: $100 Dispatch Fee (per project per day), Plus $50 / Hour (per person), Plus Expenses (mileage, per diem, lodging, and supplies, as necessary and appropriate).**

Special Exception: HPO may be available to provide services in support of tribally endorsed projects unable to pay these fees. Project proponents must demonstrate the community benefits of the proposed work, TPPR approval, and financial hardship (i.e., project budget does not include funds for planning and compliance).

*DISCOVERY OF HERITAGE RESOURCES DURING PROJECT IMPLEMENTATION*

NHPA, TPPR, and NAGPRA require project proponents to be alert for indications of undocumented heritage resources during construction or project implementation and to suspend all work in the vicinity of discovered heritage resources pending HPO consultation.

*HPO SCHEDULING REQUIREMENTS, CONFIDENTIALITY, AND POLICY ON NON-RESPONSE*

All project proponents (including IHS and BIA) should involve HPO early in planning proposed projects. **HPO requires at least (10) working days to schedule inventory surveys or other assistance.** Proponents should allow at least 15 working days for HPO to respond to consultation letters.

White Mountain Apache heritage resources and all information pertaining thereto is the exclusive property of the White Mountain Apache Tribe. ***The THPO provides information only to Tribal and agency staff members having a project-specific need to know.***

**HPO is under no requirement to respond to letters or other communications relating to off-reservation projects. Agencies or project proponents MAY NOT interpret the absence of an HPO response as an indication that the HPO or Tribe has no concerns or endorses a particular project.**