

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

(Cease and Desist All Prescribed Burning)

WHEREAS, the Tribal Council adopted Resolution No. 10-2004-247 on October 7, 2004 expressing its concerns about the method and manner by which the Fort Apache Agency's forestry program was conducting fire use, specifically prescribed burning on the Tribe's lands and said Resolution has been duly signed by the Tribal Chairman and attested to by the Tribal Council Secretary; and

WHEREAS, the Tribal Council concludes that it is in the best interests of the White Mountain Apache Tribe that Resolution No. 10-2004-247 be clarified as set forth in this Resolution, which incorporates and restates the substance and purpose of Resolution No. 10-2004-247, but which also includes those matters discussed and agreed to by the Tribal Council on October 7, 2004; and

WHEREAS, the devastating Rodeo-Chediski Fire of June/July 2002 ripped through three major watersheds, consumed 191,000 acres of commercial timber and 84,000 acres of woodland on the Fort Apache Indian Reservation, homeland of the White Mountain Apache Tribe; and

WHEREAS, the Rodeo Fire was allegedly started, according to a July 15, 2002 report prepared by the Interagency Burned Area Emergency Response Team, (Interagency Report) by an arson ignition in Day School Wash, northeast of the town of Cibecue, in the morning of June 18, 2002, and by the end of the day June 19, 2002, the fire had reached a size of nearly 50,000 acres; and

WHEREAS, according to the same Interagency Report, on June 20, 2002, at approximately 0830 hours, the Chediski Fire was started on the slopes above Chediski Farms allegedly from an escaped signal fire, and by the end of the day, the Chediski Fire had grown to over 2,000 acres and the Rodeo Fire had grown to over 100,000 acres; and

WHEREAS, according to the Interagency Report, the two fires continued to spread north to the Mogollon Rim and burned into the communities of Pinedale, Linden, and Clay Springs, and by June 26, the two fires had merged to become known as the Rodeo-Chediski Fire; and

WHEREAS, the Interagency Report states that the merged fire continued to spread to nearly 455,000 acres in size before it was declared contained on July 7, 2002, and of the

Resolution No. 11-2004-265

total burn area, approximately 276,000 acres occurred on the Fort Apache Indian Reservation; and

WHEREAS, the Tribal Council of the White Mountain Apache Tribe has the constitutional responsibility, as the governing body of the Tribe, to fully review the response to these two fires by the Tribe's Trustee, the United States, by and through its principal agent, the Bureau of Indian Affairs at the Fort Apache Agency, which has an ongoing trust obligation to manage and protect the Tribe's forest trust resources; and

WHEREAS, the Tribal Council wishes to review dispatch records of the National Forests adjacent to the Fort Apache Indian Reservation and those of the Bureau of Indian Affairs Fort Apache Agency beginning on or about June 18, 2002, through July 7, 2002, including any National Forest and Fort Apache Agency memoranda to date of this Resolution pertaining to said dispatches in order to properly review the Agency's responses to the two fires and to determine what response actions may need to be changed; if any, in the event of future fires, and to adequately plan for coordination and fire fighting assistance from the National Forests adjacent to the Fort Apache Indian Reservation, the State of Arizona, and border towns near Reservation boundaries; and

WHEREAS, the Tribal Council concludes that an official request should be made to the Superintendent of the Fort Apache Agency for the aforescribed National Forest and Fort Apache Agency dispatch records pertaining to the Rodeo and Chediski fires; and

WHEREAS, the White Mountain Apache Tribe has endorsed land management plans that set the direction for the management of Tribal lands, goals and objectives; and

WHEREAS, the management philosophies described in those plans are based on sound scientific knowledge, silvicultural principles and Apache culture; and

WHEREAS, fire use, including prescribed fires by the BIA's Fort Apache Agency on Tribal lands has raised serious concerns with Tribal members, Tribal leaders and staff due to the damages resulting from several of the burns; and

WHEREAS, a letter from the Tribal Chairman requesting an After Action Review of the prescribed burning incidents was sent to the Superintendent of the Fort Apache Agency on September 16, 2004, and an Action Review Panel appointed pursuant thereto has submitted and presented a written report to the Tribal Council this date on the Largo Mountain and Corduroy Prescribed Burns, hereinafter "After Action Review" (AAR), that details Finding/Recommendations, Best Management Practices, High Reliability Organizations, Recognition, and Contacts; and

Resolution No. 11-2004-265

WHEREAS, the AAR Team strongly recommended an overall program review of the Ft. Apache Agency Prescribed Fire Program after reviewing information from the BIA (Blue Book 2004), Ft. Apache Fire Management Plan, Black River Review (1999), Sawtooth Mountain Review (2003), BIA Fire Use Handbook, and the Largo Mountain and Corduroy Prescribed Fire Plans; and

WHEREAS, Tribal Council concludes that the White Mountain Apache Tribe should be compensated for damages caused by prescribed burns initiated by the Fort Apache Bureau of Indian Affairs which have gone out of control and caused damage to the Tribe's commercial timber and to archeological, sacred, and culturally protected sites on the Tribe's lands in the Forestdale (Nov. 2003) and McNary areas described herein, and in the Black River (1999) and Sawtooth Mountain (2003) prescribed burn areas; and

WHEREAS, The Tribal Council generally has concerns about negligent fire use to dispose of logging slash and thinning which has damaged hundreds of trees, elk and other wildlife habitat, in violation of pre-sale and timber sale prescriptions; and

WHEREAS, the Tribal Council, is appreciative of the AAR Team's Report and the valuable findings and recommendations therein, but the Tribal Council has the obligation as the governing body of the beneficial owners of the Forest Trust Resources, to assess, through its Tribal Forestry Department, Wildlife and Outdoor Recreation Department ("WORD"), Ft. Apache Timber Company ("FATCO") and Tribal Historic Preservation Office ("THPO"), the amount of damages, if any, for which the Bureau of Indian Affairs may be liable to the Tribe for the loss of commercial timber resources, and for damages to archeological, wildlife habitat, and cultural sites as a result of the prescribed burns identified herein and to take whatever steps are necessary to halt such practices and to bring them into compliance with timber sale requirements, Best Management Practices, the Ft. Apache Fire Management Plan, BIA Fire Use Handbook, and BIA Blue Book (2004).

NOW, THEREFORE, BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs the Fort Apache Agency to cease and desist all prescribed burning operations on the Fort Apache Indian Reservation until such time as the AAR Team report findings and recommendations are implemented.

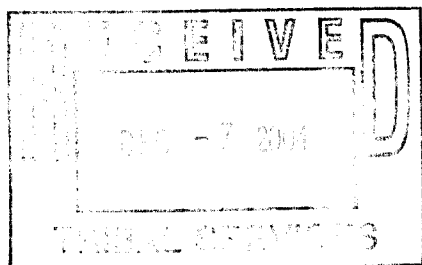
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby requests that the Superintendent of the BIA's Fort Apache Agency immediately disclose and deliver all National Forest and Agency fire dispatch records pertaining to the Rodeo-Chediski Fire for the time period June 18, 2002 through July 7, 2002, and any and all internal memoranda and e-mails pertaining to those dispatch records through the date of this Resolution.

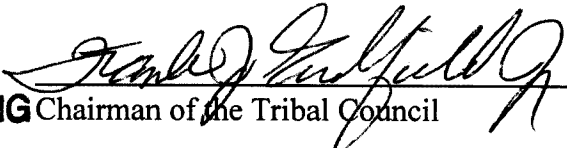
Resolution No. 11-2004-265

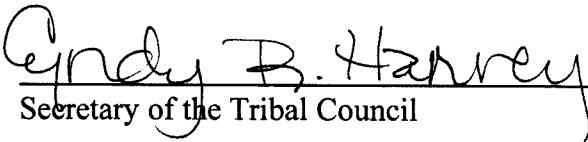
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes and directs the Tribal Forestry Department, WORD, FATCO and the THPO, to prepare, with the assistance of Special Counsel Robert C. Brauchli and Special Counsel Sylvia Cates, a damage assessment claim for the prescribed burn in the Forestdale area (Nov. 2003) and the McNary area (corduroy and largo mountain stand area), at various, scattered, slash burning sites throughout the Hon-Dah Thinning Project and Urban Interface Project areas, and for the Black River (1999) and Sawtooth Mountain (2003) burn areas, Turkey Creek, and Seven-mile prescribed burns (2001), and that Special Counsel report back to the Tribal Council their assessment of damage claims the Tribe may have against its Trustee, the United States, acting by and through its principal agent, the Fort Apache Agency of the Bureau of Indian Affairs.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes and directs Special Counsel Robert C. Brauchli and Special Counsel Sylvia Cates to pursue whatever steps are necessary to obtain copies of the National Forest's and Fort Apache Agency's dispatch records requested herein.

The foregoing resolution was on NOVEMBER 5, 2004, 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)(c)(f)(h)(i)(k)(s)(t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).




ACTING Chairman of the Tribal Council


Secretary of the Tribal Council