

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

(Proposal for a P.L. 93-638 Contract with the Secretary of the Department of Interior for the Forestry Growth and Management Section of the Ft. Apache Agency and Authority for the BIA to extend the 1991-2000 FMP through to December 31, 2005 in order that the Tribe can respond to the Ft. Apache Agency's 2005-2014 FMP and formulate its own objectives)

WHEREAS, the United States Congress has found and declared, *inter alia*, in the National Indian Forest Resources Management Act (NIFRMA), 25 U.S.C. §3101(2) that “the United States has a trust responsibility toward Indian forest lands”; and

WHEREAS, one of the principal purposes of the NIFRMA is to “allow the Secretary of the Interior to take part in the management of Indian forest lands, with the participation of the lands’ beneficial owners, in a manner consistent with the Secretary’s trust responsibility and with the objectives of the beneficial owners,” (25 U.S.C. §3102(1)); and

WHEREAS, a “Forest Management Plan” (FMP) as defined by the NIFRMA in 25 U.S.C. §3103(5) means the “principal document, approved by the Secretary, reflecting and consistent with a tribal integrated resource management plan, which provides for the regulation of the detailed, multiple-use operation of Indian forest land by methods assuring that such lands remain in a continuously productive state while meeting the objectives of the Tribe and which shall include -- (A) standards setting forth funding and staffing requirements necessary to carry out each management plan, with a report of current forestry funding and staffing levels; and (B) standards providing quantitative criteria to evaluate performance against the objectives set forth in the plan”; and

WHEREAS, on May 27, 1992, by Resolution 05-92-151, the Tribal Council approved a FMP for the time period 1991 through 2000, and the FMP was not executed until February 3, 1993, by the Chairman of the Tribe and February 9, 1993, by the Acting Area Director for the BIA’s Phoenix Area Office; and

WHEREAS, the 1991-2000 FMP was drafted following the Tribe’s own costly and extensive independent review and analysis of the state of the forest under BIA management by the Tribe’s forestry experts, and said Tribal review commenced in 1981 as generally

chronicled in Tribal Council Resolutions 81-41, 81-223, 11-81-248, 85-01, 86-150, 05-87-173, 12-87-346, 11-90-266, 01-91-23, 01-91-25, and 11-92-66; and

WHEREAS, the foregoing numbered Resolutions, amongst others, highlighted concerns of the Tribe that the BIA's Fort Apache Agency's (Agency) FMP, in the years prior to the 1991-2000 FMP, over-cut the Tribe's forests beyond their annual growth in violation of the sustained yield mandate as the annual allowable cut (AAC) established by the BIA was 81% greater than the actual net growth of the forest; and

WHEREAS, the Agency's past determination of the AAC of the Tribe's forests was so far in excess of the forest's net growth as to cause a reduction in the AAC by the Tribal Council so that the AAC would not exceed growth; and

WHEREAS, the Tribe documented throughout the 1980's the egregious forest management practices of the Agency and sought to control and reverse the Agency's past over-cutting practices by approving a ten-year FMP for 1991 to 2000 with the management objective of restoring the economic value of the Tribe's forests on a sustained yield basis; and

WHEREAS, the Tribal Council has reasonable cause to believe that the commercial value of the Tribe's forests have continued to decline as a result of the Agency's inadequate and mismanaged thinning practices, the over-cutting of large trees, inaccurate growth data, and mismanagement of prescribed burning; and

WHEREAS, the Tribal Council, in the fall of 2001, requested a full accounting of whether or not the 1991-2000 FMP achieved the objectives outlined in said Plan, but to date has never received a report from the Agency as to whether or not the 1991-2000 FMP objectives were achieved; and

WHEREAS, the Agency prepared an environmental assessment ("EA") for a FMP for the time period 2001-2010, before completing an undated forest inventory or a FMP whereas it is customary to first update forest inventory data, to analyze whether the management objectives of the prior 1991-2000 FMP were achieved, and then to present a draft FMP with alternatives for the Tribal Council to review, before preparing an environmental assessment for a ; and

WHEREAS, throughout the environmental assessment drafting period (2001-2004), the Tribal Council and its Tribal Forestry Department, legal department, and consultants have submitted a comprehensive list of concerns to be addressed by the Agency, but its concerns have not been satisfactorily explained or responded to; and

WHEREAS, a forest inventory was finally delivered by the Agency to the Tribe in 2003, but said forest inventory and other trend analysis data provided by BIA does not provide an analysis by “management unit”, as was done previously, but is based on “strata”, thereby rendering incomplete and suspect, the Agency’s harvest versus net growth calculations and residual stand volumes, and it is therefore impossible to precisely determine from the data received, how or if the forest management objectives in the 1991-2000 FMP were achieved; and

WHEREAS, Tribal Chairman Dallas Massey, Sr., in letters dated November 7, 2001, and July 8, 2003, to the Agency’s Superintendent, specifically identified the Tribe’s concerns and comments about the draft EA and those concerns remain unanswered; and

WHEREAS, on December 2, 2004, the Tribe received from the Agency a document entitled, “2005-2014 Forest Management Plan”, and related documents consisting of the FMP and Environmental Assessment, FMP maps, a 1995 Forest Inventory Analysis, a Wildlife Management Plan and the WMP Environmental Assessment; and

WHEREAS, the Tribal Council was informed by the Agency on or about December 16, 2004, that it needed the Tribe’s approval of the 2005-2014 FMP by Resolution no later than December 31, 2004, otherwise Federal forestry funding would be terminated; and

WHEREAS, Tribal Chairman Dallas Massey, in his response to the Agency by letter dated December 28, 2004, provided compelling reasons why it was impossible for the Tribal Council to take action on the Agency’s Forest Management Plan that it had never been consulted on, or had participated in, and which did not address any Tribal management objectives, and in support thereof attached the following, all of which are incorporated by reference in this Resolution and attached as Appendix “A” hereto:

(1) Resolution 10-2001-274, requesting the BIA to address certain Tribal Council concerns about the draft environmental assessment for the then unknown and non-existent FMP, and to prepare a report as to the extent to which the 1991-2000 FMP’s economic and forest management goals had been actualized and achieved;

(2) Resolution 01-2003-06, which requested that the BIA fund an independent forest economist to evaluate the Tribe’s forest resources and which also authorized the BIA an additional 12 months to complete the Forest and Woodland Management Plan EA, and Forest and Woodland Plan until December 31, 2004; and

(3) Resolution, 06-2003-176, which states that Tribal staff comments had not been incorporated into the Draft Environmental Assessment for the nonexistent FMP nor

had other key elements identified by prior Council Resolutions and communications;
and

WHEREAS, the Tribal Council of the White Mountain Apache Tribe, in addition to powers vested in the Tribe by virtue of its inherent sovereignty and by existing law, has the duty and authority under Article IV, Section 1(f) of its Tribal Constitution to protect and preserve the wildlife, plant life, forests, natural resources, and water rights of the Tribe, and pursuant to Article IV, Section 1(i), to manage the economic affairs of the Tribe, including its timber and sawmills; and

WHEREAS, the Tribal Council concludes that its Trustee, the Secretary of the Interior, must be requested to conduct an independent review of the Agency's proposed 2005-2014 FMP and to investigate the Agency's overall Forest Management practices and policies since 1991, and that the independent review be done by the Tribe pursuant to the Self-Determination Act (P.L. 93-638. 25 U.S.C. §450 et seq.), as the Tribal Council has no way of assessing the integrity of the Agency's proposed FMP or the underlying data upon which it is purportedly based, and further, that the Agency's characterization of the 2005-2014 FMP as a "joint plan" is false; and

WHEREAS, the Agency, by insisting that the Tribe approve the FMP, is requiring the Tribe to accept the integrity of its forest inventory and trend analysis without the benefit of an independent assessment, and that the Tribe ignore its long standing concerns about whether or not the forest management goals of the 1991-2000 FMP were ever achieved; and

WHEREAS, it has become apparent during the more than three year EA drafting process by the Agency for its December 2004 FMP and communications from the Agency to the Tribe, that the Agency has not been guided in its preparation of a FMP by the management objectives outlined in the NIFRMA, 25 U.S.C. Section 3104(b), but has been guided by a legal strategy to characterize the 2005-2014 FMP as a "joint product" of the Tribe and the Agency in order to insulate itself from any possible Tribal claims for breaches of trust arising out of its past forest management practices or due to its failure to accurately report whether or not it achieved the forest management objectives outlined in the 1991-2000 FMP, as well as from future breach of trust damage claims that might arise from the implementation of the proposed 2005-2014 FMP.

BE IT RESOLVED by the Council of the White Mountain Apache Tribe that:

- (1) The Tribal Council respectfully proposes to contract with the Secretary of the Interior, in her capacity as the Tribe's Trustee of its Forest Resources, for the planning

component of the Forestry Growth and Management Section of the Agency, pursuant to a P.L. 93-638 (25 U.S.C. §450 et seq.) contract

- (2) The Council believes that the function of Forestry Growth and Management should include that ability to fund an independent review of the BIA's proposed 2005-2014 FMP and EA and determine whether or not the Tribe's forest management objectives requested to be incorporated into the 1991-2000 FMP were achieved.
- (3) The Tribal Council hereby authorizes the Tribal Chairman, and in his absence, the Vice-Chairman, to petition the Secretary of the Interior for an independent review of the Forest Management Plans and the Forest Management policies and practices of the Fort Apache Agency since 1991, so that the Tribe can properly be advised of the true nature and value of its forest resource to enable it to make informed decisions for appropriate forest management objectives that will sustain and recover the value of its commercial timber stand as well as other uses of its forest resources in the years to come, imperative for the Tribe's continued growth, self-determination, and homeland preservation.

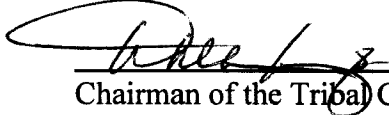
BE IT FURTHER RESOLVED by the Council of the White Mountain Apache Tribe that:

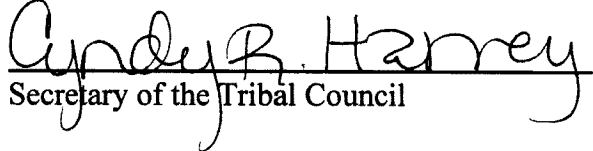
- (1) The Tribe cannot approve or disapprove, the BIA's 2005-2014 FMP and accompanying documents, without first obtaining an independent review of said Plan, and that said review can be accomplished within a reasonable period of time which the Tribe estimates will be no longer than December 31, 2005, far less than the four years that the Agency has taken to present its proposed FMP, but which will entail a considerable effort and expense for the Tribe to complete; and
- (2) In the absence of the Tribe's approval or disapproval of the BIA's 2005-2014 FMP, the BIA is authorized to extend the 1991-2000 FMP through to December 31, 2005, in order that the Tribe can respond to the 2005-2014 FMP and formulate its own objectives; and
- (3) In the interim, the Tribal Council respectfully requests that the basic forest management functions currently administered by the Agency continue, including, but not limited to, timber sales, forestry, fire management, paid wood permits and fuels management.

The foregoing resolution was on MARCH 7, 2005, 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), (c), (f), (h), (i), (j), (k), (s), (t), and (u) of the Constitution of the Tribe,

Resolution No. 03-2005-52

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).


Chairman of the Tribal Council


Secretary of the Tribal Council



White Mountain Apache Tribe
EXECUTIVE OFFICE OF THE CHAIRMAN

Dallas Massey, Sr., Chairman

December 28, 2004

Allen Anspach, Superintendent
Bureau of Indian Affairs
Fort Apache Agency
P. O. Box 560
Whiteriver, AZ 85941

Re: *Forest Management Plan*

Dear Mr. Anspach:

On December 2, 2004, I received a document entitled, "2005-2014 Forest Management Plan" (the "FMP"), and related documents consisting of the FMP Environmental Assessment ("FMP EA"), FMP Maps, a 1995 Forest Inventory Analysis, a Wildfire Management Plan ("WMP") and the WMP Environmental Assessment. Subsequently, on December 16, 2004, officials from the Bureau of Indian Affairs, Ft. Apache Agency, discussed and presented the FMP before the Tribal Council. The Tribal Council was informed by the Agency that it needed the Tribe's approval of the FMP by resolution no later than December 31, 2004, otherwise funding will be terminated. As you may know, the Tribal Council discussed the FMP yesterday, and it was decided that we can neither approve or disapprove the FMP for two reasons. First, contrary to the assertions by your staff, the FMP is *not* a joint plan as it is solely the plan of the Agency and not the Tribe. Second, given the fact that the FMP was received only on December 2, 2004, and contains a total of 364 pages, it is impossible to complete a meaningful review by the Agency's deadline of December 31, 2004, given the voluminous document and the holiday season.

Without question, your staff has made an effort toward consultation and participation pursuant to the National Indian Forest Resources Management Act. However, at the Council meeting of December 16, 2004, the FMP was described by your staff as a "joint" plan or effort. Indeed, both the FMP and the FMP EA have covers containing the Great Seal of the White Mountain Apache Tribe and the U.S. Department of Interior seal. In the first chapter of the FMP, the second objective of the FMP is to "[c]ontinue cooperative natural resource planning and monitoring through the *joint* Bureau/Tribal Planning Team." *FMP*, at 8 (Emphasis supplied). Although the word "Team" is not defined in the FMP, a document entitled, FMP EA Overview,

identifies it as consisting of "BIA and Tribal Specialist (sic) [who] conducted the environmental analysis." The FMP EA also provides a "list of preparers", an "interdisciplinary team" and "people who helped", who consist of the Tribe's staff and a Council member. *FMP EA*, at 93. No such interdisciplinary team exists; at one time it did, but the former Superintendent disbanded it.

The use of the term "joint" mischaracterizes the level of input the Tribe has had on the management of our forests, and goes well beyond the federal requirement of consultation and participation for the FMP. Neither the Tribe nor its staff can be considered authors or joint managers. Nor can the Tribe consent to or approve of an FMP that it only recently received. While the Tribe and its resource managers have commented and participated in the review of the FMP EA in April through June, 2004, there has been no comment and review provided to the Agency by any of the Tribe's staff regarding the FMP. No meaningful review could possibly be undertaken within the Agency's deadline. Nor has there been sufficient time to evaluate whether the FMP EA received at the same time incorporates all of the comments and concerns expressed by the Tribe's staff last Spring. The Agency's deadline simply does not allow for active consultation and participation by the Tribe on the most recent drafts, as required by federal law. 25 CFR 163.3; 25 U.S.C. § 3104(b)(2).

Furthermore, the Tribe has repeatedly identified concerns that have not been addressed. See White Mountain Apache Tribal Council Resolution ("WMATCR") Nos. 10-2001-274, 01-2003-06, and 06-2003-176, as attached. By WMATCR No. 10-2001-274, the Tribal Council requested that the BIA prepare a report detailing whether the prior ten year FMP's economic and forest management goals were actualized. To date, the Tribe has received no such report.

By WMATCR No. 01-2003-06, the Tribal Council requested that the BIA conduct an economic analysis of the Tribe's forest resources, the forest products industry and its potential. In response to this request, BIA Superintendent Ben Nuvamsa wrote to me on February 19, 2003, stating that an economic analysis was not necessary to complete the FMP EA and that, in fact, the EA contained an economic analysis for each alternative projected into the future. An independent forest economist did not evaluate the findings in either the EA or the FMP, as requested by the Tribal Council, and it is the Tribal Council's position that an independent economic analysis is absolutely essential for the FMP itself. While a modeling system was utilized by the Agency, using data collected from CFI plots, no economist was involved to evaluate those results and other factors. It also remains unclear whether the CFR plots are in fact a representative sample.

Allen Anspach, Superintendent
Forest Management Plan
December 28, 2004
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Lastly, WMATCR No. 06-2003-176 requests that the Agency "fully address the written concerns and comments" of the Tribe's staff regarding the FMP EA. However, to date, the only response of the Agency was a new draft of the FMP EA received on December 2, 2004, with the FMP. Merely submitting a new draft by itself does not fully address concerns and comments previously made by the Tribe's staff.

Finally, according to Agency staff, without approval of the FMP by December 31st, federal funding and jobs will be threatened. Oddly enough, the deadline stands in the middle of the federal fiscal year which runs from October 1 through September 30. Any attempt at cutting funds and jobs in the middle of the fiscal year may be a breach of the Secretary's trust obligation to the Tribe. Moreover, NFIRMA does not require approval, only participation and consultation. In the event that the Agency seeks to terminate funds due to an absence of the Tribe's approval of the FMP, it is our intention to appeal such a decision.

It is my hope that the Agency meet its trust obligation to the Tribe by instituting effective management of our forest and natural resources. Our staff will complete a review of the FMP and related documents in the near future, and it is also my hope that the Agency will fully address any comments it receives, as well as all of the issues presented by the Resolutions discussed above.

Sincerely,



Dallas Massey, Jr.
Chairman

Enclosures

cc: Wayne Nordwall, Director, Western Regional Office, BIA
John Philbin, Western Regional Forester, BIA
WMAT Council Members
Paul DeClay, WMAT, Tribal Forestry
A.B. Ritchie, WMAT, Tribal Attorney

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

- WHEREAS, the forest lands of the White Mountain Apache Tribe are among its most valuable resources and if properly managed on a sustained yield basis is a perpetually renewable and manageable resource which provides economic benefits, including income, employment, subsistence, and financial stability, and provides natural benefits, including ecological, cultural, and esthetic values; and
- WHEREAS, the United States has a trust responsibility in respect to Indian forest lands; and
- WHEREAS, the National Indian Forest Resource Management Act allows the Secretary of the Interior to take part in the management of Indian forest lands, with the participation of Tribes as beneficial owners in a manner consistent with the Secretary's trust responsibility to manage the forest on a sustained yield basis, consistent with the objectives of the Tribe; and
- WHEREAS, forest resources as used in the National Indian Forest Resource Management Act means all of the benefits derived from Indian forest lands, including forest products, soil productivity, water, fisheries, wild life, recreation, and esthetic or other traditional values of Indian forest lands; and
- WHEREAS, the Bureau of Indian Affairs has submitted a draft Environmental Assessment for consideration by the Tribal Council as part of a yet-to-be presented ten year Forest Management Plan [FMP] for the Tribe's forest; and
- WHEREAS, said Environmental Assessment is being presented to the Tribal Council for consideration of various FMP alternatives discussed therein prior to submitting a draft Forest Management Plan; and
- WHEREAS, the Tribal Council is advised that the Tribal water rights team has made a preliminary review of the Environmental Assessment and its review raises issues and concerns which need clarification and further explanation by the BIA so that the Tribal Council's participation and decision making in respect to the proposed FMP is meaningful, appropriately identifies the goals of the Tribal Council in the FMP, and satisfies the fiduciary standards of the Secretary in its role as Trustee; and
- WHEREAS, the Tribal Council has also raised certain concerns in respect to whether the Forest Management Plan goals for forest growth, forest condition, Tribal economy, and environmental values on a sustained yield basis for the previously ten years have been actualized, and whether the proposed Forest Management Plan provides for adequate protection of springs, and for the protection of other culturally valued resources within the forests, road construction such as location, closure, new construction, protection of water quality in riparian areas, livestock as a cultural

value and economic benefits in accordance with maintaining the Tribe's forest lands in a continuously productive state; and

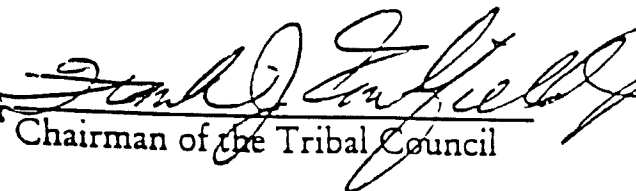
WHEREAS, some of the preliminary concerns, observations and issues identified by the Tribal water rights team and the Tribal Council have been collected and distributed to members of the Tribal Council this date; and

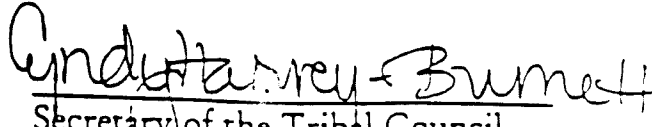
WHEREAS, the Tribal Council concludes that the BIA and any other author of the Environmental Assessment for the proposed ten year Forest Management Plan should be directed to address the Council's issues and concerns by further investigations and meetings with Tribal water rights team, the Tribal Council and appropriate Tribal departments such as Tribal GIS, Tribal Cultural Center, Tribal Wildlife and Outdoor Recreation Division, Tribal Environmental Planning, Tribal Agricultural and Livestock and that BIA clarify and provide documentation respecting the issues and concerns identified by the Tribal Council.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby requests that the Bureau of Indian Affairs address the issues and concerns of the Tribal Council, its consultants and various departments and divisions, in respect to the draft Environmental Assessment for the yet to be presented Forest Management Plan, a preliminary list of which has been distributed to the Tribal Council this date but which will be revised for delivery to the BIA by the Tribe's consultants and legal counsel.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby requests that the Bureau of Indian Affairs prepare a report as to the extent to which the prior ten year Forest Management Plan's economic and forest management goals have been actualized and achieved not only in table form, and by appropriate and detailed analysis but in a comprehensive narrative with appropriate references to documentation.

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), (c), (f), (g), (i), (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

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

WHEREAS, Indian forest land management activities undertaken by the Secretary of the Interior through the Bureau of Indian Affairs must be designed to achieve the following objectives pursuant to the National Indian Forest Resources Management Act, 25 U.S.C. § 3104:

- (1) the development, maintenance, and enhancement of Indian forest land in a perpetually productive state in accordance with the principles of sustained yield and with the standards and objectives set forth in Forest Management Plans by providing effective management and protection through the application of sound *silvicultural and economic principles* to –
 - (A) the harvesting of forest products,
 - (B) forestation,
 - (C) timber stand improvement, and
 - (D) other forestry practices;
- (2) the regulation of Indian forest lands through the development and implementation, with the full and active consultation and participation of the appropriate Indian tribe, of Forest Management Plans which are supported by written Tribal objectives and forest and marketing programs;
- (3) the regulation of Indian forest lands in a manner that will ensure the use of good method and order in harvesting so as to make possible, on a sustained yield basis, continuous productivity in a perpetual forest business;
- (4) the development of Indian forest lands and associated value-added industries by Indians and Indian tribes to promote self-sustaining communities, so that Indians may receive from their Indian forest lands not only stumpage value, but also the benefit of all the labor and profit that such Indian forest land is capable of yielding;
- (5) the retention of Indian forest land in its natural state when an Indian tribe determines that the recreational, cultural, aesthetic, or traditional values of the Indian forest land represents the highest and best use of the land;
- (6) the management and protection of the forest resources to retain the beneficial effects to Indian forest lands of regulating water run-off and minimizing soil erosion; and
- (7) the maintenance and improvement of timber productivity, grazing, wildlife, fisheries, recreation, aesthetic, cultural and other traditional values; and

WHEREAS, currently the Bureau of Indian Affairs, Fort Apache Agency, is developing a ten year Forest and Woodland Management Plan ("Plan") and Environmental Assessment ("EA") for said Plan for the Fort Apache Indian Reservation; and

- WHEREAS, development of a Forest and Woodland Management Plan EA is a trust responsibility of the United States in regards to Indian forest lands, as Congress has declared that forest lands of Indians are among their most valuable resources, are a perpetually renewable and natural resource, provide economic benefits, including income, employment and subsistence and provide natural benefits, including ecological, cultural and aesthetic values for Indians and Indian Tribes (25 U.S.C. § 3101, "Findings"); and
- WHEREAS, authorization by the Secretary of the Interior to take part in the management of Indian forest lands requires the participation of the lands' beneficial owners, in this instance, the White Mountain Apache Tribe, in a manner consistent with the Secretary's trust responsibility and with the objectives of the White Mountain Apache Tribe as the beneficial owners of its forest lands; and
- WHEREAS, to that end, the Tribal Council of the White Mountain Apache Tribe has been briefed in regards to the ongoing development of the BIA's draft Environmental Assessment and preferred alternatives therein and concludes that an economic analysis is needed in the EA to identify the relative costs of the various alternatives described in the draft EA and the ensuing net benefit from each alternative for the Tribe; and that for each alternative, said economic analysis of costs and revenues must address, but not be limited to, timber harvesting, timber processing and manufacturing, timber stand improvement, timber harvest mitigation costs, alternative value-added industries and products, a breakdown of diameter class of forest inventory and an evaluation of the Q factor in respect to the past management plan and proposed draft alternatives; and
- WHEREAS, the Tribe's staff, as identified below in Attachment A, will require timely information from the Bureau of Indian Affairs including, but not limited to, a breakdown of the forest inventory from 1968 through 1995 with display for each two inch diameter class and species, the residual volume, growth, mortality, harvest, and basal area arranged by management unit and strata; and, further, to include experimental growth study plots established by BIA (i.e. HonDah growth and other growth study plots), Q factor analysis, including proposals for ideal stand composition by diameter class, future cutting cycles, future cutting volumes, and maximum tree size for all proposed draft EA alternatives; and
- WHEREAS, the Tribal Council concludes that an independent, qualified forest economist should be retained by 638 contract to complete the foregoing economic analysis in order to fulfill the management objectives of the National Indian Forest Resources Management Act set forth in 25 U.S.C. § 3104(b); and
- WHEREAS, in order for the Tribal Council to make the best decision for the White Mountain Apache Tribe in respect to preferred alternatives for the Forest and Woodland Management Plan, it is necessary to obtain from the BIA, a full and complete analysis of an EA alternative representing continuation of the Tribe's current Forest and Woodland Management Plan for 1991 - 2000 to the same level of detail and scope as other primary EA alternatives; and
- WHEREAS, the Tribal Council wishes to clarify the participatory role of its natural, cultural, and legal resources staff in the EA process; it hereby directs and authorizes said staffs'

participation according to each staff member's area of professional expertise, but that said staff participation shall not include making a recommendation to the BIA of a preferred alternative as that is the trust responsibility of the BIA to make and for the Tribal Council to subsequently approve or disapprove after submission by BIA; and

WHEREAS, in order to allow adequate time to complete the required economic analysis described herein, additional time must be allocated to complete the EA, and therefore the Tribal Council recommends an extension of up to twelve months for BIA to concurrently complete the Forest and Woodland Management Plan EA and the Forest and Woodland Management Plan.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby requests that the BIA - Fort Apache Agency locate and set aside a budget sufficient to retain by 638 contract, an independent forest economist to conduct an economic analysis of the Tribe's forest resources and forest products industry and potential as described herein, with the final scope of work for said forest economist to be approved by the Tribal Council with the assistance of Tribal consultants and advisors.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes BIA an extension of twelve months to complete the Forest and Woodland Management Plan EA and Forest and Woodland Management Plan for the White Mountain Apache Tribe.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby identifies in Attachment A, attached hereto and incorporated by reference herein, the Tribal resources and legal staff it has assigned and authorized to participate in the EA process through meetings with the Bureau of Indian Affairs and to receive information generated by the EA drafting process.

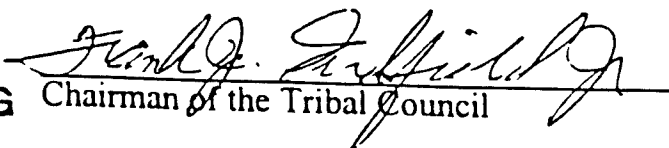
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that participation by and providing of technical assistance by the Tribe's natural resource, cultural and legal staff to BIA does not constitute an endorsement of any particular preferred alternative set forth in the Forest and Woodland Management Plan EA as said technical assistance by the Tribe's advisors and consultants is to provide the Bureau of Indian Affairs with essential information needed by the Bureau of Indian Affairs to prepare and make recommendations to the Tribal Council of the Bureau's preferred alternative in the Forest and Woodland Management Plan EA, which the Tribal Council, as the governing body of the beneficial owners of the trust corpus, i.e. the forest lands, will determine to be in the best interests of the White Mountain Apache Tribe.


BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that in order to insure that there is no issue as to receipt by Tribal staff of notice of BIA meetings on the Draft Forest and Woodland Management Plan EA; it respectfully requests that Superintendent Ben Nuvamsa provide timely written and faxed notice of such meetings to the Tribal Chairman, with faxed copies to Tribal Attorney, George Hesse, and Tribal Forest Manager.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Tribal Chairman, or in his absence the Vice Chairman, is authorized to take whatever action is necessary in order to implement the Tribal Council's directives in this resolution.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs the Tribal Chairman, or in his absence the Vice Chairman, to distribute a copy of this resolution to the Superintendent of the Fort Apache Indian Agency with a request that it be distributed to each member of the BIA Forest and Woodland Management EA team; further, that a copy be distributed by the Legal Department to each Tribal resource staff person identified in Attachment A of this resolution.

The foregoing resolution was on January 08, 2003 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), (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).


ACTING Chairman of the Tribal Council


Secretary of the Tribal Council

ATTACHMENT A

FMP EA

TRIBAL ADVISORY PERSONNEL AUTHORIZED TO PARTICIPATE AND RECEIVE INFORMATION

- (1) Cynthia Dale
- (2) John Welch
- (3) Greg Vincent
- (4) Joe Harvey
- (5) Alex Puglisi
- (6) Ramone Riley
- (7) Doreen Gatewood
- (8) Laurel Lacher
- (9) Maria Classay
- (10) Chuck Peone
- (11) Wilkie Greg
- (12) Candy Lupe
- (13) Paul Declay
- (14) Jim. Pitts
- (15) Molly Pitts
- (16) Raymond Endfield
- (17) Raymus Albert
- (18) Tim Gatewood
- (19) John Caid
- (20) Brenda Begay
- (21) Cheryl Pailzote
- (22) Marilyn Endfield
- (23) Emily Hernandez
- (24) Arnold Pailzote
- (25) Emery Hoffman
- (26) Sylvia Cates
- (27) Robert Brauchli
- (28) Mike Watson
- (29) George Hesse
- (30) David Osterfeld
- (31) Jesse Palmer
- (32) Krista Beasley
- (33) Benrita Burnette
- (34) Delbin Endfield

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

- WHEREAS, the Bureau of Indian Affairs, Fort Apache Agency has been engaged in the preparation and development of the Tribe's Ten-Year Forest and Woodlands Management Plan; and
- WHEREAS, the Tribal Council of the White Mountain Apache Tribe considers development of the comprehensive Forest and Woodlands Management Plan as essential for the stewardship, management, and use of the Tribe's vast natural resource base; and
- WHEREAS, on a reoccurring basis the Tribal Council has sought status reports from the Agency on the development of the Ten-Year Plan, and in writing and through briefing meetings has identified key factors which the Plan and related documents must competently address in order to meet the requirements of the National Indian Forest Resource Management Act, and to allow the Tribe to undertake a fully informed review and make informed decisions concerning the future management goals and standards for its forest resource base; and
- WHEREAS, the Tribal Council, on January 8, 2003, adopted Resolution 01-2003-06 to further identify critical elements lacking from the draft Forest and Woodlands Management Plan Environmental Assessment and to establish a protocol for more coordinated collaborative work between Tribal and Bureau of Indian Affairs staff on development of the Plan and the Environmental Assessment; and
- WHEREAS, to date, these efforts have yet to produce the coordinated efforts necessary for development and completion of the Forest and Woodlands Management Plan and the Environmental Assessment; and
- WHEREAS, the Tribal Council on this date has held a confidential briefing with Tribal staff concerning the status of the draft Forest and Woodlands Management Plan, Environmental Assessment, dated April, 2003; and
- WHEREAS, Tribal staff advise that repeated Tribal staff requests and comments have not been incorporated into the draft nor have other key elements identified by prior Council resolution and other communications; and
- WHEREAS, in the interest of timely completion of a Plan which fulfills the standards of the National Indian Forest Resource Management Act and the Tribe's laws, regulations, and stated objectives, the Tribal Council directs that a letter be sent to the Bureau of Indian Affairs, Fort Apache Agency detailing its concerns over the Plan development process and the changes and additional needs identified for the Plan documents; and

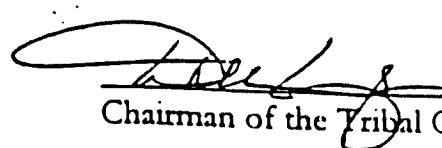
WHEREAS, Tribal Council takes this action in the expectation that prompt attention and review will be given to these concerns, and thereafter the draft Plan and Environmental Assessment will be revised, and necessary briefing documents prepared, to fully address the Tribe's concerns so that the Tribe may make an informed decision.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the Tribal Chairman with the assistance of resource staff and other Tribal advisors to finalize and submit to the Bureau of Indian Affairs, written comments and concerns, and additional information needs, as discussed this date over the April, 2003 draft Forest and Woodlands Management Plan Environmental Assessment.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Bureau of Indian Affairs, Fort Apache Agency fully address the written concerns and comments to be delivered to the Agency, and that the Agency provide an explanation to the Tribe in writing concerning any of the requests or concerns which in the Agency's view cannot be incorporated into the Ten-Year Plan or into the Environmental Assessment or accompanying briefing documents.

The foregoing resolution was on June 10, 2003 duly adopted by a vote of TEN 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), (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).

RECEIVED


Chairman of the Tribal Council


Secretary of the Tribal Council

RECEIVED

MAR 21 2005

FORT APACHE INDIAN AGENCY
WINTERSVILLE, ARIZONA