



WHITE MOUNTAIN APACHE TRIBE
A Sovereign Tribal Nation

**(Urging the US Fish and Wildlife to Exclude Critical Habitat Designation for the
Narrow-Headed Snake and Northern Mexican Garter Snake on the FAIR)**

WHEREAS, The Constitution of the White Mountain Apache Tribe (“Tribe”) of the Fort Apache Indian Reservation (“Constitution”) provides in Article IV, Section 1(f), that the Tribal Council (“Council”) shall exercise the power “To protect and preserve the wildlife, plant life, forests, natural resources and water rights of the Tribe, and to regulate hunting and fishing on the reservation; and

WHEREAS, The Tribe manages wildlife on its Homeland in accordance with Apache cultural respect for wildlife and biological science and has engaged in cooperative projects for many decades with the State of Arizona and the US Fish and Wildlife Service on a government-to-government basis in furtherance of mutual conservation goals relating to fish, wildlife, plant life, forests, and natural resources; and

WHEREAS, Pursuant to the Statement of Relationship between the White Mountain Apache Tribe signed by the Tribe and the Director of the US Fish and Wildlife Service on December 6, 1994, the Joint Secretarial Order No. 3206, signed by the Secretary of Interior and the Secretary of Commerce on June 5, 1997, confirmed the unique government-to-government relationship between the White Mountain Apache Tribe and the United States; that said Secretarial Order recognized the paramount importance of tribal self-governance, tribal sovereign authority to manage and control Indian lands, that Indian lands are not federal public lands, or part of the public domain; and further, that the government-to-government relationship should focus on cooperative assistance, consultation, sharing of information, and the creation of government-to-government partnerships to promote healthy ecosystems; and

WHEREAS, The Tribal Chairwoman of the White Mountain Apache Tribe has received a letter from the US Fish and Wildlife Service on the proposed listing of Critical Habitat for the Northern Mexican Garter Snake and the Narrow-Headed Garter Snake, as more fully described in the Federal Register Notice of the Proposed Rule, dated April 28, 2020, Vol. 85, No. 82/pp 23608-23668; and

WHEREAS, The US Fish and Wildlife Service is considering the exclusion of White Mountain Apache Tribal lands from the proposed Critical Habitat designation, specifically, in the Black River sub-basin (Bear Wallow Creek), Reservation Creek, and Canyon Creek, and in addition to factors favoring such exclusion, specifically makes reference to the WMAT’s Native Fish Management Plan and Water Quality Ordinance (F.R. at 23638), both of which directly benefit the conservation and protection of the Narrow Headed Garter Snake; and

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WHEREAS, The White Mountain Apache Tribe has been in the forefront of wildlife conservation and wildlife management having been instrumental in bringing back from near extinction, the Apache trout, and having adopted best management practices for other listed and endangered species within the Apache Homeland, and by adoption of a Water Quality Protection Ordinance in 1999 to “ promote the health of Tribal waters and the people, plants and wildlife that depend on them through holistic management and sustainable use”; and

WHEREAS, the White Mountain Apache Tribe, with technical assistance from the US Fish and Wildlife Service, adopted a Native Fish Management Plan in 2014, that not only includes the federally endangered Loach Minnow, threatened Apache Trout, and four other native fish species currently found within the Tribe’s lands, but also identifies other Tribal regulations and management efforts that are beneficial to the Loach Minnow and would also confer benefits to the Garter snakes on lands being proposed for critical habitat protection, some of which lies within the White Mountain Apache Homeland; and

WHEREAS, Federal common law recognizes the inherent sovereignty of the White Mountain Apache Tribe to control its tribal lands, and the Tribe has in place best management practices and ordinances that will provide greater protection for the Garter snakes than the proposed designation of critical habitat within the Apache Homeland; and

WHEREAS, the White Mountain Apache Tribe will submit comments on the proposed designation of critical habitat recommending that lands within the Apache Homeland be excluded from being designated as critical habitat for the Garter snakes as such designation will not provide any greater protection for the Garter snakes than can be provided by the White Mountain Apache Tribe’s comprehensive best management practices for forestry and riparian areas, its Native Fish Management Plan, Water Quality Protection Ordinance, and overall holistic management of wildlife and natural resources within the Apache Homeland.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that for reasons embodied in this Resolution, the Statement of Relationship between the White Mountain Apache Tribe signed by the Tribe and the Director of the US Fish and Wildlife Service on December 6, 1994, the subsequent Joint Secretarial Order 3206 issued June 5, 1997, the Federal common law pertaining to the government to government relationship of the United States to Sovereign Indian nations, and other Executive Orders, Secretarial Orders and Policies relating to the trust relationship between the United States and the Indian Tribes, it hereby urges the US Fish and Wildlife Service to exclude lands within the Apache Homeland from being designated as critical habitat for the Garter snakes, as such designation will not provide any greater protection for the Garter snakes than will be provided by the White Mountain Apache Tribe’s comprehensive best management practices for forestry and riparian areas, its Native Fish Management Plan, Water Quality Protection Ordinance, and overall holistic management of wildlife and natural resources within its Homeland.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes and directs the White Mountain Apache Tribe Game and Fish Director to submit timely comments in support of this Resolution to the US Fish and Wildlife Service.

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BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Tribal Chairwoman, and in her absence, the Vice Chairman, are hereby authorized and directed to carry out and otherwise enforce the purposes of this Resolution and to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on JUNE 02, 2020 duly adopted by a vote of ELEVEN for, ZERO against, and ZERO abstentions by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it under the enumerated powers listed in Article IV, Section 1 of the WMAT Constitution, so ratified on September 30, 1993, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).

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|  | <u>6/3/2020</u> |  | <u>6/3/2020</u> |
| Gwendena Lee-Gatewood, Chairwoman | Date | Doreen T. Numkena, Tribal Secretary | Date |