

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF APACHE**

THE HONORABLE MICHAEL C. NELSON, PRESIDING JUDGE

IN CHAMBERS

()

IN OPEN COURT

(X)

THE HONORABLE EDWARD L. DAWSON
Visiting Judge

SUE HALL, Clerk

By: C. Morrow, Deputy

IN RE THE GENERAL
ADJUDICATION OF ALL RIGHTS TO
USE WATER IN THE LITTLE
COLORADO RIVER SYSTEM AND
SOURCE

DATE: August 10, 2000

TIME: 9:55 a.m.

STATUS CONFERENCE

CIVIL NO. 6417

DESCRIPTIVE SUMMARY:	Status Conference held in the Apache County Superior Courtroom, St. Johns, Arizona.
NUMBER OF PAGES:	Minute Entry -5; Report -3; Resolution - 6 Total: 14 pages
DATE OF FILING:	August 25, 2000

MINUTE ENTRY

This is the date and time set for a Status Conference in Civil No. 6417.

Courtroom Reporter: Susan Humphrey.

The Court welcomes those in attendance for the Status Conference.

APPEARANCES

The Court calls for appearances and they include the following: Mr. David A. Brown, representing various claimants; Mr. Johnnie D. Francis, representing the Navajo Nation Department of Water Resources; Mr. Scott McElroy and Mr. Stanley Pollack, representing the Navajo Nation; Mr. Robert C. Brauchli, representing the White Mountain Apache Tribe; Mr. John B. Weldon Jr., Ms. Brenda Burman, Mr. Frederic Beeson, and Mr. David C. Roberts, representing Salt River Project; Mr. John Cawley, Department of the Interior/Bureau of Indian Affairs; Mr. Harry R. Sachse, Mr. Jim Glaze, and Mr. James Meggesto representing the Hopi Tribe; Mr. Lauren J. Caster, representing Abitibi Consolidated, the Arizona Water Company, Santa Fe Pacific Railroad Company and the Burlington Northern Santa Fe Railroad Company; Mr. Skip Hellerud and Mr. David M. Call, representing Abitibi Consolidated Sales Corporation; Mr. Pete Shumway, representing LCR counties; Mr. Ted Smith, representing San Juan Southern Paiute Tribe; Mr.

Mitchel D. Platt, representing various claimants; Ms. Alexandra Arboleda and Mr. Rich Burtell, representing the Arizona Department of Water Resources; Ms. Lee Storey, representing the City of Flagstaff; Mr. William Staudenmaier, representing Arizona Public Service, Phelps Dodge and Aztec Land and Cattle Company; Mr. Eugene Kaye, Mr. Lyman W. Polacca, Mr. Danny Honanu, Mr. Todd Honyaoma, Mr. Owen Numkewa, Jr., and Ms. Esther Talayumptewa, representing the Hopi Tribe; Ms. Mary Grier and Mr. Graham Clark, representing the Arizona Attorney General's Office; Mr. Tom Shedden, representing Arizona State Agencies; Mr. William Darling, representing Cameron Trading Post and Atkinson Trading Company; Mr. Richard Bertholf and Mr. Robert Hoffman, representing Southern California Edison; Mr. Jim Boles and Mr. Bill Barris, representing the City of Winslow; Mr. Andrew F. Walch, representing the National Park Service, Forest Service and Bureau of Land Management; Mr. Charles Jakosa, U. S. Department of Justice; Mr. Samuel Gollis, Mr. Wilford Elurer, Sr., and Mr. Malcolm Bowskatz, representing the Pueblo of Zuni; and several other individuals who did not sign the attendance sheet and whose names were unintelligible to the clerk.

Also in attendance: Special Master John E. Thorson; Ms. Kathy Dolge, assistant to the Special Master; Judge Michael C. Nelson, Presiding Judge of Apache County Superior Court and Settlement Judge in the Little Colorado Stream Adjudication.

The Court references the letter received from Senator Jon Kyl that has previously been copied and sent to the Court-approved Mailing List. The Court is willing to honor Senator Kyl's request, allowing one more legislative session to determine if additional funding is feasible.

REPORTS

The Court calls for comments from Ms. Alexandra Arboleda, Arizona Department of Water Resources.

Ms. Arboleda presents suggestions and comments regarding the continued preparation of final HSR reports, including the revision and updating of historic uses, hydrological analysis, an assessment of arable lands, and water duties. Ms. Arboleda further suggests beginning with the Hopi Tribe HSR.

Upon the Court's inquiry, Ms. Arboleda estimates that each report would require approximately two (2) years and advises that the reports could not be done simultaneously. This would amount to an estimated time of approximately six years for three preliminary HSR reports. Ms. Arboleda submits the REPORT RE: SCOPE OF INDIAN LANDS HSR to the Court which is filed this date.

Mr. Scott McElroy, representing the Navajo Nation, responds to the remarks made by Ms. Arboleda. Mr. McElroy suggests that the parties be allowed time to comment on the report (referenced above.) Mr. McElroy further suggests that the hydrology issues be addressed first, with guidance from the Court, stating that hydrology and the availability of water is an issue which affects all of the tribes.

The Court agrees that all parties will have the opportunity to comment on the report filed by the Arizona Department of Water Resources.

Mr. Harry Sachse, representing the Hopi Tribe, concurs with the Court regarding the letter from Senator Kyl. Mr. Sachse advises that the Hopi Tribe is in agreement with many of the statements made by Mr. McElroy. Mr. Sachse suggest that the hydrology reports on connecting reservations be done at one time, since it would be difficult to do one without the other. Mr. Sachse further expresses his agreement regarding the hydrologic and historic uses issues previously proposed.

Mr. Charles Jakosa, representing the U.S. Department of Justice, advises that the United States has made its decision to share some of the litigation information with the Arizona Department of Water Resources. This includes photographs dating from the 1930s and well and hydrology information may be shared as well. Mr. Jakosa agrees with Mr. McElroy and Mr. Sachse that it is in the best interest of all parties to have the hydrology reports done first. Mr. Jakosa reports that the United States will be amending the claim regarding ground water use by the White Mountain Apache Tribe. Mr. Jakosa references constraints in United States funding, states that the January 31, 2001 deadline is impossible, and requests that more time be granted. Mr. Jakosa concludes his remarks by thanking Special Master John E. Thorson and Mary Grier, from the Arizona Attorney General's office, for their services in this adjudication.

Mr. John B. Weldon, Jr., representing Salt River Project, states the need to resolve the issue regarding the White Mountain Apache Tribe. Mr. Weldon references the Gila River Adjudication and requests that the Court provide a phased structure for litigation including disclosure of documents. Mr. Weldon requests clarification on the January 31, 2001, deadline. Mr. Weldon agrees that the comment period on the DWR report is a fine idea. Mr. Weldon urges the Court to review the original HSRs, commenting that this issue could also be addressed during the comment period.

Mr. Dave Brown, on behalf of the City of Winslow, agrees with statements in the letter from Senator Kyl. Mr. Brown opposes a proposal to determine the effect of an old decree involving the City of Winslow.

Mr. Andrew Walch, representing the United States National Park Service, addresses the Court and reports on draft copies of water right abstracts prepared by the National Park Service. Copies of the draft abstracts are available to other parties, and Mr. Walch advises that he is preparing a memorandum recommending the federal government's approval of settlement. Mr. Walch states that informal comments on the abstracts may be submitted to him or to Peter Fahmy, Department of the Interior, by September 8, 2000.

Mary Grier, representing the Arizona Attorney General's office, references the status of negotiations with the United States. Ms. Grier states that substantial progress has been made, but expresses concerns about two comments made by Mr. Walch:

1. The possibility of two-party agreements being decreed without consideration by other parties.
2. Abstracts concerning federal claims which involve legal issues yet to be resolved.

Ms. Grier references a pending petition in the Arizona Supreme Court for an order specifying the approval process and requests that the state be given a chance to work out issues. Ms. Grier concludes her remarks by stating that Mr. Graham Clark will be taking over for her.

Mr. Robert C. Brauchli, representing the White Mountain Apache Tribe, addresses the Court and agrees with Mr. Weldon's comments. Mr. Brauchli requests the opportunity to amend the Tribe's motion to dismiss before the Court and to include additional data.

The Court inquires about the time frame for filing an amended motion to dismiss.

Mr. Brauchli estimates a time of sixty (60) working days, but would like to have access to well data in the Pinetop-Lakeside area and requests a Court order for obtaining this data.

The Court advises that more time would be needed if new data is included in an amended motion. The Court agrees to set up timelines for proceeding on the motion to dismiss.

Mr. William Staudenmaier, representing Arizona Public Service, Phelps Dodge and Aztec Land and Cattle Company, agrees with Mr. McElroy in his request for comment time and references the point made by Ms. Grier regarding the pending petition in the Supreme Court. Mr. Staudenmaier further references likely issues that will be raised regarding the White Mountain Apache Tribe, which must be addressed.

Ms. Lee Storey, representing the City of Flagstaff, concurs with the comments of Mr. Staudenmaier, and states she is also awaiting the adoption of procedural rule by the Supreme Court.

Mr. Lauren Caster, representing Abitibi Consolidated *et al.*, inquires about the resolution of the White Mountain Apache Tribal Council presented by Mr. Brauchli, and believes it should be made available to all parties.

The Court agrees to have a copy of the resolution attached to this minute entry for distribution.

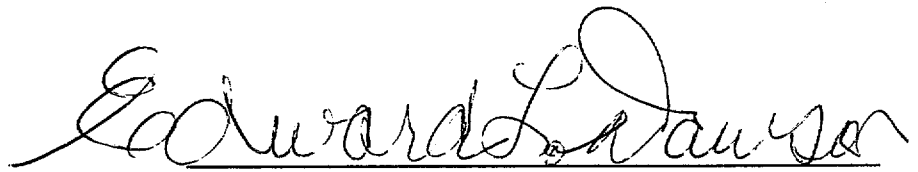
Judge Nelson requests a short meeting with the settlement committee immediately following this hearing.

10:55 a.m. Hearing is adjourned.

LATER IN CHAMBERS

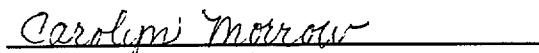
1. The Department's Report Re Scope of Indian Lands HSR (August 10, 2000) is attached to this Minute Entry and thereby served upon the Court-approved mailing list. Claimants in this adjudication may file and serve comments on the Department's report on or before **Monday, September 11, 2000.**
2. The disclosure date of January 31, 2001, previously set by the Court in its Minute Entry of January 28, 2000, is **VACATED**. New disclosure dates will be announced after the Court reviews the comments on ADWR's report on preparing the HSRs for tribal lands. The United States' Motion for Reconsideration and Stay or Proceedings, filed April 24, 2000, is **DENIED** as moot.

3. The White Mountain Apache Tribe's Motion to Dismiss (July 3, 1996) is referred to Special Master John E. Thorson. The Special Master will consider any requests to amend the motion to dismiss, motions concerning standing, motions for discovery, and the merits of the motion to dismiss and, thereafter, report his determinations to the Court.
4. The next status conference will be held at 1:00 p.m. on Thursday, February 22, 2001, in Apache County Superior Court.


EDWARD L. DAWSON
JUDGE OF THE SUPERIOR COURT

The original of the foregoing filed with the Superior Court Clerk of Apache County.

On this 25th day of August, 2000, a copy of the foregoing is mailed to those parties who appear on the Court-approved mailing list for Civil No. 6417 dated June 16, 2000.


Carolyn Morrow, Deputy

Copy: Senator Jon Kyl

AUG 10 2000

AT 10:30 O'Clock A. M.

C. Morrow, DEPUTY

1 Michael J. Pearce (No. 006467)
2 Alexandra M. Arboleda (No. 016673)
3 ARIZONA DEPARTMENT OF WATER RESOURCES
4 500 North Third Street
5 Phoenix, Arizona 85004
6 Telephone: (602) 417-2420
7 Facsimile: (602) 417-2415

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF APACHE**

10 **In Re the General Adjudication of All) Civil No. 6417**
11 **Rights to Use Water in the Little Colorado)**
12 **River System and Source.) Report Re: Scope of Indian Lands HSR**
13)
14)
15)

16 DESCRIPTIVE SUMMARY: The Arizona Department of Water Resources submits its
17 report outlining the recommended scope of the Indian Lands Hydrographic Survey
18 Report(s).

19 NUMBER OF PAGES: 3 pages

20 DATE OF FILING: August 10, 2000

21 This Report is submitted in response to the Court's request¹ that the Arizona Department of
22 Water Resources ("Department") prepare a report regarding the appropriate scope of the Indian Lands
23 Hydrographic Survey Report ("HSR"). The Department has reviewed the comments received by the June
24 30, 2000 deadline in response to the Preliminary Indian Lands HSR, which was originally filed with the
25 Court on September 23, 1994. Many of the commenters recommended that a new Preliminary HSR or
several new Preliminary HSRs be prepared and that the HSR(s) cover a broader scope of information than
the original Preliminary HSR did. While the Department is prepared to continue with the preparation of a
Final Indian Lands HSR according to the schedule and content outlined in the Department's March 31,

¹ The Court's request was communicated by the Special Master telephonically on July 26, 2000.

1 2000 Report, the Department also sees the merits of preparing new Preliminary HSR(s) with a broader
2 scope.

3 In its role as technical advisor to the Court, the Department is authorized by statute upon request of
4 the Court to conduct a general investigation or examination of the Little Colorado River system and source,
5 to investigate or examine the facts pertaining to the claim or claims asserted by each claimant, to identify
6 the point of diversion and place of use of water rights, to identify water quantities for diversions and
7 reservoir facilities, and to take whatever steps are necessary for a proper determination of the relative rights
8 of the parties. A.R.S. § 45-256(A). In rendering this assistance, the Department must prepare a report
9 setting forth such technical information on a claim by claim basis and must either include proposed water
10 right attributes for each individual water right claim or use investigated or indicate that there is no water
11 right proposed for a claim. A.R.S. § 45-256(B). The Department's report serves as a central document
12 outlining the relative rights in a particular geographic area, to which each claimant may object and may
13 present evidence either in support or opposition.
14

15 The Department recommends that HSRs with a broader scope than the Preliminary HSR for Indian
16 Lands be prepared as long as the Department has access to each Indian Reservation to conduct field
17 investigations and obtain data. The new HSRs would include an assessment of arable lands and water
18 duties, but not an economic feasibility analysis or engineering component. This assessment would provide
19 a factual foundation for determining "Practicably Irrigable Acreage," similar to the approach that was used
20 for the Gila River Indian Reservation HSR in the Gila River General Stream Adjudication. The new HSRs
21 would also include a revision and update of all pertinent information, investigation of historic and current
22 water uses and a more detailed hydrologic analysis. The hydrologic analysis would update the Special
23 Report to the Settlement Committee entitled *Hydrology of the Little Colorado River System*, which was
24 published by the Department in October, 1989. In addition, water right attributes would be proposed for
25

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

WHEREAS, the White Mountain Apache Tribe on December 8, 1999 adopted Resolution 12-99-305, incorporated by reference herein, which requested Secretary of the Interior, Bruce Babbitt and Attorney General, Janet Reno, through their respective representatives, to meet with the White Mountain Apache Tribe to discuss the intentions of the Tribe's Trustee, the United States of America, to file an amended claim in the Little Colorado River and Gila River general stream adjudications to include the transbasin Coconino and other aquifers which are the source of the base flow of springs and rivers that arise upon, underlie, border and traverse the Fort Apache Indian Reservation, and which are present, continuous and connected both north and south of the northern boundary of the Fort Apache Indian Reservation; and

WHEREAS, Resolution 12-99-305 also requested that Secretary Babbitt and Attorney General Reno through their designees, be prepared to discuss the impacts and consequences of the Secretary's proposed reallocation of CAP water, the enlargement of Roosevelt Dam and subsequent additional contracting of Salt River water to competing users upon the use and future development by the White Mountain Apache Tribe of water resources within the Fort Apache Indian Reservation; and

WHEREAS, the White Mountain Apache Tribe further requested consultation with Secretary Babbitt and Attorney General Reno in respect to proposed settlements by selected parties to the Little Colorado River and Gila River general stream adjudications that may impact upon the Tribe's reserved water rights; and

WHEREAS, subsequent to the adoption of Resolution 12-99-305, representatives of the White Mountain Apache Tribe met on April 21, 2000 in Phoenix, Arizona, at the Western Regional Office of the Bureau of Indian Affairs with representatives of Secretary Babbitt and Attorney General Reno; and

WHEREAS, at the afore described meeting, Tribal representatives presented substantial information regarding the transbasin nature of the Coconino and Pinetop- Lakeside Aquifers that underlie the Little Colorado River and Salt River watersheds, as well as the Tribe's aboriginal and Reservation lands, and which constitute the source of the base flow and the only dependable flow as it is less subject to the vagaries of rain and snow than other water sources of the Tribe's springs and streams that

traverse the Tribe's Reservation lands; and

WHEREAS, Tribal representatives also demonstrated that the absence of the transbasin Coconino and other aquifers from the Little Colorado River and Gila River general stream adjudications would violate the jurisdictional requirements of a general stream adjudication under the McCarran amendment, as neither the Apache County nor the Maricopa County Superior Court could exercise complete personal and subject matter jurisdiction over pumping from said aquifers thereby rendering it impossible for either State Court to issue a comprehensive and enforceable decree adjudicating the rights of all claimants to the water source; and

WHEREAS, the Arizona Supreme Court has recently addressed groundwater finding that *...the trial court correctly determined that the federal reserved water rights doctrine applies not only to surface water but to groundwater...and...holders of federal reserved rights enjoy greater protection from groundwater pumping than do holders of state law rights...*; and

WHEREAS, to date, the Arizona Superior Courts have not considered the transbasin Coconino and other aquifers which constitute the base flow of the Tribe's springs and streams within the Salt River watershed and which also provide the base flow of springs and streams in the Little Colorado River basin and a source of water for numerous expanding groundwater pumpers north of the Fort Apache Indian Reservation and along its northern boundary; and

WHEREAS, in said April 21 meeting, Tribal representatives outlined and reviewed with federal officials the deficiencies in the Trustee's technical report in respect to the transbasin Coconino and other aquifers and the Trustee's conclusions respecting their contribution to the base flow of Reservation springs and streams, as well as impacts to the base flow from off Reservation groundwater pumping of the transbasin Coconino and other aquifers, and said groundwater findings and conclusions from the Trustee's technical reports, whether sound or unsound, are excluded from the United States' claim filed on behalf of the White Mountain Apache Tribe; and

WHEREAS, in the April 21 meeting, Tribal representatives explained in detail to the Departments of Interior and Justice significant differences between the practical irrigable acreage and other claims prepared by the Tribe and those prepared by the Department of Interior and filed in the State Court proceedings over the objections of the White Mountain Apache Tribe; and

WHEREAS, Tribal representatives also brought to the attention of the Departments of Interior and Justice, the response of the Bureau of Reclamation to the Tribe's comment on the Environmental Impact Statement for allocation of CAP water for Indian water

settlements, wherein the Tribe commented that assumptions used in conducting the analysis for the EIS do not, but, should account for the Trustee's (defective) claim for the White Mountain Apache Tribe's water rights in the Salt River basin; further, that the federal purpose of the EIS to reallocate CAP water to provide Indian and non-Indian water users sufficient water to overcome, at least partially, the impact of Indian reserved rights to the use of water is flawed absent proper consideration of the claim to which the Bureau of Reclamation responded in effect, that the success of the Trustee's claim for the White Mountain Apache Tribe would be so speculative that no meaningful qualification or quantification of impacts would be possible thereby denigrating the claim of the United States and underscoring the concerns of the White Mountain Apache Tribe over two decades that the United States has a defective claim and that the Bureau of Reclamation and other agencies of the United States are engaged to systematically diminish the importance of the rights to the use of water by the White Mountain Apache Tribe; and

WHEREAS, said response from the Bureau of Reclamation is contrary to and in violation of the trust obligation of the United States to protect the reserved water rights of the White Mountain Apache Tribe and demonstrates a complete disregard of the Tribe's claims to the use of water in the Salt River Basin which the Tribe has demonstrated as being 267,000 acre feet based on a practical irrigable acreage claim of 49,000 acres and municipal and industrial purposes, and for all other purposes consistent with beneficial use of water to promote the economy, health and welfare of the Tribe, as well as a disregard for the claim of the United States, albeit a defective claim; and

WHEREAS, the recent increase in the height of Roosevelt Dam, at considerable expense to the United States, has created new, dependable storage and an increase in hydropower production at Salt River Dams downstream from the Fort Apache Indian Reservation; and the Bureau of Reclamation has contracted with downstream, junior water users for the increase in dependable water supply but none of this increased capacity has been allocated with the view of offsetting the impact of future use of water by the White Mountain Apache Tribe thereby making it more difficult for the Tribe to develop its water due to the increased reliance on Salt River supplies by powerful downstream interests to which the Bureau of Reclamation is responsive, nor has any hydroelectric power or revenues derived therefrom been allocated or considered for allocation to a White Mountain Apache Tribe Water Development Fund; and

WHEREAS, the Tribal Council concludes that revenues generated by hydroelectric power derived from the Tribe's water resources and from federal investments that increase dependable water supplies in the Salt River should be deposited in an account for the White Mountain Apache Tribe to fund development of its water resources; and

WHEREAS, Tribal representatives also pointed out to the Departments of Interior and Justice that shutdowns of transbasin diversions from Blue Ridge Reservoir into the Verde River and from Show Low Lake into Forestdale Creek and the Salt River System to replace water pumped from the White Mountain Apache Tribe's Black River by Phelps Dodge, proposals now under discussion as a means of resolving conflicting claims in the Little Colorado River Basin, would further reduce water supplies available in the Salt River Basin to satisfy the prior and superior claims of the White Mountain Apache Tribe and other downstream, junior appropriators thereby increasing pressure on Arizona Courts to find against the Trustee's claim for the White Mountain Apache Tribe and increasing pressure on the White Mountain Apache Tribe not to divert or consume any water within the Salt River Basin embraced by a subsequent decree of its water rights; and

WHEREAS, the Tribal Council further concludes that its Trustee, the United States of America, has taken upon the responsibility, and therefore the liability of protecting the Tribe's priceless water resources, an irreplaceable trust asset, by the filing of its claim, amongst all other actions by the Trustee, and that the conduct of the Trustee United States relative to the protection of those rights must be in accordance with the highest fiduciary standards; further, that full title to the use of the water resources aforescribed resides in the White Mountain Apache Tribe and the Tribal Council must be advised by its Trustee, in writing and by definitive action, of the Trustee's intent to protect the Tribe's reserved water rights so that the Tribal Council may define separate, perhaps supplemental, measures of its own to protect its water resources and reserved water rights in the event that its Trustee abandons or underperforms its efforts to preserve and protect the Tribe's water resources.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that compelled by reasons of self-preservation, the recent opinion of the Arizona Supreme Court respecting groundwater and the recent acceleration of State Court proceedings in the Little Colorado River and Gila River general stream adjudications, the White Mountain Apache Tribe must be fully informed of the intentions of the Trustee United States in respect to issues discussed in this Resolution and therefore requests a response by September 30, 2000 to the following questions:

1. Will the Trustee United States file a motion to dismiss the Little Colorado River and Gila River general stream adjudications for failure to include the transbasin Coconino and other aquifers?
2. Will the Trustee United States amend claims it filed on behalf of the White Mountain Apache Tribe in the Little Colorado River and Gila River general stream adjudication to include claims to rights of the Tribe in the transbasin Coconino and other aquifers that underlie the Reservation and which supply the valuable,

dependable base flow of the Tribe's springs and streams within the Tribe's Reservation?

3. Will the Trustee United States oppose any Federal Court complaint for declaratory and other relief filed by the White Mountain Apache Tribe against ground water pumpers north of the Reservation in the Little Colorado River Basin, the Apache County and Maricopa County Superior Courts, and other appropriate parties, for lack of jurisdiction under the McCarran Amendment for failure to include the transbasin Coconino and Pinetop-Lakeside Aquifers in their respective adjudications?
4. Will the Trustee United States support a Federal Court action filed by the White Mountain Apache Tribe or alternatively, an action filed in the State Courts challenging the jurisdiction of the State Courts under the McCarran Amendment for failure to include the transbasin Coconino and Pinetop-Lakeside Aquifers?
5. What steps will the Trustee United States take on behalf of the White Mountain Apache Tribe to overcome adverse policy declarations of the Bureau of Reclamation in the CAP reallocation which provide neither a practical nor equitable reallocation of CAP water in conjunction with the success of the claim of the United States on behalf of the Tribe and the future use of Salt River water by the Tribe?
6. Will the Trustee United States amend the practical irrigable acreage claim filed in both State Court proceedings, purportedly on behalf of the White Mountain Apache Tribe, to the extent that the White Mountain Apache Tribe has specified where said PIA claims are inadequate and understated and where evaporative losses and secretarial power sites are overstated or otherwise erroneous?
7. Will the Trustee United States take steps, including legislation, to develop an account from which revenues from hydroelectric power made possible by the federal investment in Roosevelt Dam and other downstream dams can be deposited to fund development of the Tribe's water development plans for the Fort Apache Indian Reservation?
8. Will the Trustee United States oppose any proposed settlement in the Little Colorado River Basin that does not include assertion of the prior and paramount aboriginal rights, from time immemorial, of the White Mountain Apache Tribe to the transbasin Coconino and Pinetop-Lakeside Aquifers to the extent those sources of water constitute the base flow of the springs and streams within the Tribe's Reservation?
9. What steps will the Trustee United States take to ensure that the waters imported

to the Fort Apache Indian Reservation and to off-Reservation tributaries of the Salt River as replacement for the diversion of the Tribe's waters on the Black River by Phelps Dodge are not diminished or alternatively that Phelps Dodge will terminate its diversions of the Tribe's water?

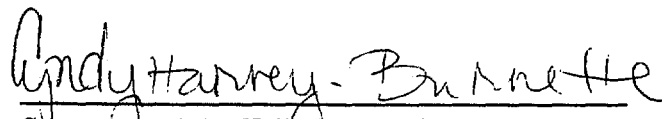
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby advises Secretary of Interior Bruce Babbitt and Attorney General Janet Reno and their designated representatives that it is willing to meet at any time prior to September 30, 2000 for a definitive response to the foregoing questions.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby reaffirms its commitment to the preservation and protection of the Tribe's reserved water rights, without which it cannot survive, and petitions the Trustee United States to respond fairly and honorably to the questions presented herein.

The foregoing resolution was on July 10, 2000, duly adopted by a vote of ten (10) for and zero (0) 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) (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 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