



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Approving Administrative Orders on Consent Between the Tribe and the US Environmental Protection Agency for the Three Sunrise Ski Resort National Pollution Discharge Elimination System Permits)

- WHEREAS,** The Constitution of the White Mountain Apache Tribe ("Tribe") of the Fort Apache Indian Reservation provides, at Article IV, Section 1(b) that the Tribal Council ("Council") shall exercise the power, "Tonegotiate, make and perform contracts and agreements of every description, not inconsistent with federal law or this constitution, with any person, association, or corporation, with any municipality or any county or with the State of Arizona or the United States...; and
- WHEREAS,** Section 402 of the Clean Water Act establishes the National Pollution Discharge Elimination System ("NPDES") through which the US Environmental Protection Agency ("EPA") issues permits to allow discharge of pollutants, and regulates the amount and chemical composition of those discharges; and
- WHEREAS,** The Tribe was issued, and continues to utilize, three NPDES permits at Sunrise Ski Resort ("Sunrise") for wastewater treatment (collectively "WWTF"); and
- WHEREAS,** Pursuant to the terms of these permits, the Tribe is responsible for discharging certain substances only within prescribed limits, with which the WWTF have had difficulty; and
- WHEREAS,** In 2014, the Tribe, on Sunrise's behalf, and EPA entered into administrative orders on consent ("AOC"), which are legally binding agreements, that required Sunrise to implement certain improvement measures at its WWTFs, which requirements have not been met, to date; and
- WHEREAS,** Rather than bring an enforcement action against the Tribe, the EPA is seeking updated AOC's with the Tribe and Sunrise, setting new compliance and reporting dates (draft AOCs attached and incorporated herein by reference); and
- WHEREAS,** Attorneys for the Tribe and Sunrise have worked with Sunrise Management, the Sunrise Board of Directors, Tribal Utility Authority, WMAT Water Resources Program, engineering firms to prepare preliminary engineering reports, and requests for proposals for the necessary upgrades, and have negotiated the terms and timetable for the draft AOC's; and
- WHEREAS,** Sunrise Ski Resort has raised the necessary funding and hired a firm to design and construct a wastewater treatment system that will eliminate the need for its three NPDES permits, and advises that it can meet the time requirements contained in the draft AOCs; and

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WHEREAS, After consulting with the Tribe's departments, the EPA and the Sunrise Board of Directors, and reviewing the draft agreements, the Council finds that the approval and execution of the three Sunrise OAC's will give the Sunrise time to meet compliance standards under the Clean Water Act and its NPDES permits, and is in the best interests of the Tribe and its members.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the three attached Administrative Orders on Consent, between the Tribe, Sunrise Ski Resort, and the US Environmental Protection Agency are hereby approved for execution by the Tribe and Sunrise Ski Resort.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that Sunrise Ski Resort, shall make all diligent efforts to work with their partner agencies to meet the AOC reporting and upgrade requirements.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances, or any material facts concerning the issues presented are later found to be false, this Resolution shall be deemed null and void and have no legal effect.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Vice-Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on **FEBRUARY 28, 2024** 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 November 10, 2021, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).

Kasey Velasquez
Kasey Velasquez, Chairman

3.13.2024
Date

Vaneyssa Johnson
Vaneyssa Johnson, Tribal Secretary

03/18/2024
Date