



# **WHITE MOUNTAIN APACHE TRIBE**

**A Sovereign Tribal Nation**

## **(Approving Two Administrative Orders on Consent between the Tribe and the U.S. Environmental Protection Agency for the Hondah/McNary and Whiteriver Wastewater Treatment Facilities)**

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- 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, “To negotiate, 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, five NPDES permits, including three at the Sunrise Ski Resort Wastewater Treatment Facilities, one at the Hon-Dah/McNary Wastewater Treatment Facility, and one at the Whiteriver Wastewater Treatment Facility (collectively “WWTF”); and
- WHEREAS,** Pursuant to the terms of the permits, the Tribe is responsible for discharging certain substances only within prescribed limits that the Tribe created; and
- WHEREAS,** In 2014, the Tribe and EPA entered into five Administrative Orders on Consent (“AOC”) that required the Tribe to implement certain improvement measures at its WWTF, which requirements have not been met; and
- WHEREAS,** Rather than bring an enforcement action against the Tribe, the EPA is seeking updated AOCs with the Tribe, setting new compliance and reporting dates (draft AOCs attached and incorporated herein by reference); and
- WHEREAS,** The Tribe’s attorneys have worked with Tribal Utility Authority, WMAT Water Resources Program, engineering firms, and Indian Health Service to prepare preliminary engineering reports, and requests for proposals for the necessary upgrades; and
- WHEREAS,** On February 20, 2024, via Resolution No. 02-2024-048, the Council approved three Agreements on Consent for Sunrise Ski Resort’s NPDES permits, while requesting additional information regarding funding and preparedness for the Tribe’s two facilities at Hondah/McNary and Whiteriver; and

***Resolution No. 04-2024-069***

**WHEREAS,** Subsequently, EPA confirmed that the \$850,000.00 Clean Water Indian Set Aside Program Grant that it awarded the Tribe in 2019 for needed upgrades to the Hondah/McNary WWTF will be available only until September 30, 2026; and

**WHEREAS,** After discussions with EPA, Indian Health Service, and the Tribe's Utility Authority, the Council is confident that the Tribe can meet the milestones required by the AOCs and achieve compliance, provided that the dates therein are adjusted to reflect the passage of time since discussions began; and

**WHEREAS,** The Council finds, at this time, that approving the AOCs between the Tribe and the EPA for the Hondah/McNary and Whiteriver wastewater treatment facilities will help the Tribe achieve necessary compliance while also preventing EPA enforcement action, 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 two attached Administrative Orders on Consent, between the Tribe and the US Environmental Protection Agency are hereby approved for execution by the Tribe, provided that EPA is willing to adjust the dates therein to reflect the time the Tribe has spent in deliberation on this important issue.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the Tribe 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 APRIL 23, 2024 duly adopted by a vote of TEN for, ZERO against, and ONE 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 4-25-2024  
Kasey Velasquez, Chairman Date

Vaneysa Johnson 4/29/2024  
Vaneysa Johnson, Tribal Secretary Date