

See Ordinances
41, 53 and 55

Resolution No. 61-20

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

WHEREAS, the Tribal Council, pursuant to Ordinance No. 27, provided for probating the estates of members of the White Mountain Apache Tribe, and

WHEREAS, said Ordinance was amended by Ordinance No. 41, dated the 5th day of May, 1960, which provided among other things that the said Probate Ordinance could thereafter be amended by resolution, subject to the approval of the Secretary of the Interior or his authorized representative, and

WHEREAS, there is a need to provide for the expedient probating of small estates.

BE IT RESOLVED by the Council of the White Mountain Apache Tribe that Probate Ordinance No. 27 is amended as follows:

Estates of deceased persons, minors or incompetent persons, where the value of the entire estate does not exceed the sum of Two Hundred Fifty Dollars (\$250.00) and the property of said estate consists wholly of personal property, may be settled and distributed without procuring letters of administration or of guardianship under the following rules, to-wit:

- (a) Any person desiring to settle an estate under the provisions of this rule shall make and file with the Clerk of the White Mountain Apache Tribal Court an application stating that the person whose estate is sought to be administered is dead, a minor or an incompetent, and that the value of the estate within the exterior boundaries of the Fort Apache Indian Reservation does not exceed the sum of Two Hundred Fifty Dollars (\$250.00), which application shall also contain the names, ages, relationships and addresses of the known heirs and the description and value of the property included in the estate.
- (b) Upon the presentation of such affidavit, the Tribal Judge may, without notice, appoint the affiant or some other qualified person to act as trustee of said estate by a written order and may, in his discretion, require a bond of said trustee.
- (c) Said trustee is entitled to the possession of all of the personal property of said decedent, minor or incompetent only if there is no real property belong to such person. No formal appraisement thereof shall be required, nor shall notice to creditors be given, provided, however, rights of creditors against said decedent or his estate shall not be affected by this proceeding, and said personal property, whether in the possession of said trustee or other persons, except after sale by said trustee, shall be subject to rights of creditors. Said trustee, with the approval of the Tribal Court, may pay from the assets of the estate sums due to a creditor or creditors of said decedent.

(d) Said trustee shall pay to the Tribal Court as and for the probate fee, ten per cent (10%) of the total value of the personal property of decedent.

(e) Whenever, in the discretion of the trustee it becomes necessary for any reason to sell all or part of the personal property of such estate, said trustee may sell all or any part of said personal property by public sale after at least three (3) days' notice of the time and place of said sale by posting by said trustee in three (3) public and conspicuous places within the exterior boundaries of the Fort Apache Indian Reservation. Property sold by said trustee shall no longer be a part of such estate, and shall be deemed to have been replaced by the proceeds of such sale or sales.

(f) In case of estates of decedents, the trustee shall make distribution of the balance of the estate remaining after the payment of expenses and such debts or claims as are paid with the approval of the Tribal Court, in kind or in cash, or partly in kind and cash, to the known heirs of the decedent according to the Laws of Descent and Distribution of the State of Arizona, and present the receipt or receipts of such heirs with his accounting. In the case of minors or incompetents, the trustee shall retain the balance of said estate and thereafter apply the same for the benefit of such minors or incompetents in such manner as the Tribal Court may direct.

(g) Within thirty (30) days after the order appointing said trustee, the trustee shall file with the Tribal Court a verified accounting, setting forth all property received and disbursed by him as such trustee, with vouchers for payments, distributions and expenses.

(h) Upon the filing of such accounting, the same shall be examined by the Tribal Court, and, if approved by the Tribal Court, said trustee shall be discharged from further liability except where the balance of said estate has been retained in the case of minors or incompetents. In the latter cases, said trustee shall return an additional accounting following the expenditure of the balance of the estate as directed by the Tribal Court, together with vouchers therefor, and shall be discharged upon approval of such account by the Tribal Court.

(i) The superintendent of the Fort Apache Agency is hereby authorized to distribute any personal property under his control and belonging to decedent when the value of the property under his control together with all other properties of the said decedent pursuant to the said affidavit does not exceed the value of Two Hundred Fifty Dollars (\$250.00) and when duly directed by the Tribal Court.

The foregoing resolution was on March 1, 1961 duly adopted by a vote of 9 for and 0 against by the Tribal Council of the White Mountain Apache Tribe pursuant to authority vested in it by Ordinance No. 41 adopted by the Tribe May 5, 1960 and approved by the Secretary of the Interior July 15, 1960 pursuant to 14 IAM 2; Secretarial Order No. 2508, as amended.

MAR 13 1961

APPROVED.....

Albert H. Mowbray
Superintendent

Lester Oliver
Chairman of the Tribal Council

Mary C. Goodfellow
Secretary of the Tribal Council

Received in Superintendent's Office

MAR 8 1961

(Date)

Resolution No. 61-20

MAR 17 1961

Mr. F. M. Haverland

Area Director, Phoenix, Arizona

Dear Mr. Haverland:

Resolution No. 61-19 grants permission to the Fort Apache Rod and Gun Club to conduct a fish derby on opening day of Tonto Lake. The fish derby will be under the supervision of the White Mountain Recreation Enterprise.

The resolution was adopted on March 1, 1961 by the Tribal Council of the White Mountain Apache Tribe pursuant to authority vested in it by Article V, Section 1 (1) of the Tribe's Constitution. Under this authority the resolution is not subject to rescission by the Secretary of the Interior.

Sincerely yours,

7S/ Albert M. Hawley

Superintendent

MAR 17 1961

Mr. F. M. Haverland

Area Director, Phoenix, Arizona

Dear Mr. Haverland:

Resolution No. 61-20 amends Tribal Ordinance No. 27 which was amended by Ordinance No. 41, which provided among other things that the said Ordinance could be amended by resolution, subject to the approval of the Secretary of the Interior.

This resolution provides for the probating of estates where the value of the entire estate does not exceed the sum of \$250 and the property of said estate consisting of personal property. The resolution sets forth the procedure by which any person desiring to settle an estate can make application to the White Mountain Apache Tribal Court. The resolution also sets forth the procedures for the Tribal Judge in probating estates that do not exceed \$250 in total value.

This resolution was adopted March 1, 1961 by the Council of the White Mountain Apache Tribe pursuant to authority vested in Ordinance No. 41 adopted by the Tribal Council May 5, 1960 and approved by the Secretary of the Interior July 15, 1960.

Sincerely yours,

/S/ Albert M. Hawley

Superintendent

March 24, 1961

Commissioner, Bureau of Indian Affairs

Washington 25, D. C.

Attention: Tribal Programs

Dear Sir:

There are forwarded herewith three copies of Resolution No. 61-20 adopted by the White Mountain Apache Tribal Council on March 1, 1961 and approved by Superintendent Albert M. Hawley March 13, 1961. Pursuant to Section (q), Article V of the Constitution and Bylaws of the White Mountain Apache Tribe, the resolution is subject to review by the Secretary.

This resolution amends Tribal Ordinance No. 27 and provides for the probating of estates where the value of the entire estate does not exceed the sum of \$250 and the property of said estate consists wholly of personal property.

On page 1 of the resolution, paragraph (a), lines 1 and 4, and in paragraph (c) line 3 the word "person" is used. A more appropriate word would be "Indian."

The resolution is very well written and in our opinion is a proper exercise of tribal authority. We recommend that it not be rescinded.

Sincerely yours,

(SIGNED) F.M. HAVERLAND

Area Director

Enclosure

Copy to: Supt., Fort Apache Agency
White Mtn. Apache Tribal Council
(thru Supt., Fort Apache Agency)





UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON 25, D. C.

IN REPLY REFER TO:
Law and Order
3434-61

Through: Area Director, Phoenix

Mr. Lester Oliver, Chairman

White Mountain Apache Tribal Council

Dear Mr. Oliver:

On March 1, 1960, the White Mountain Apache Tribal Council enacted Resolution No. 61-20, which was approved by the Superintendent on March 13, 1961. Pursuant to Section (q), Article V, of the tribal constitution, the resolution is subject to review by the Secretary of the Interior.

The resolution now here amends Ordinance No. 27 to provide for the probate of estates wherein the value of the entire estate does not exceed the sum of \$250 and the property of such estates consists wholly of personal property. We have reviewed Ordinance No. 61-20 in accordance with Secretarial Order 2508, as amended (19 F. R. 4585), and find no reason that would prompt us to recommend its rescission to the Secretary of the Interior. Therefore, it remains in full force and effect.

Sincerely yours,

(Sgd.) [Signature]

ACTING

Commissioner

Copy to: Area Director, Phoenix Area Office
Superintendent, Fort Apache

APR 17 1961

NOTED:

Harry L. Stevens

Assistant AREA DIRECTOR, PHOENIX

