

**TESTIMONY OF CHAIRWOMAN KATHLEEN W. KITCHEYAN
OF THE
SAN CARLOS APACHE TRIBE**

**FOR THE FIELD HEARING ON
IMPROVING HOUSING OPPORTUNITIES FOR NATIVE AMERICANS**

**BEFORE THE SUBCOMMITTEE ON HOUSING
AND COMMUNITY OPPORTUNITY OF THE
FINANCIAL SERVICES COMMITTEE**

UNITED STATES HOUSE OF REPRESENTATIVES

TUBA CITY, ARIZONA

MAY 3, 2004

Good afternoon, Chairman Bob Ney, Vice-Chairman Mark Green, Ranking Member Maxine Waters, my Good friend Congressman Rick Renzi, and other members of the House Financial Services Subcommittee on Housing and Community Opportunity. I am Kathy Kitcheyan, Chairwoman of the San Carlos Apache Tribe based in San Carlos, Arizona. I am honored to be here to testify today before this Committee to provide the views of the San Carlos Apache Tribe on the housing conditions and needs on the San Carlos Apache Indian Reservation. I am joined by Tribal Council Member Robert Olivar, who is also Chairman of the San Carlos Housing Board of Directors for the San Carlos Housing Authority, and Mr. Ronald Boni, Executive Director of the San Carlos Housing Authority. Also, in the audience today are many other members of the San Carlos Tribe who work on housing issues for the Tribe.

Before I begin, I would like to take this moment to thank you for holding this important hearing on the housing needs in Indian Country. We appreciate the dedication to this serious issue you show by the fact that you are here -- far away from Washington, D.C. -- to seek our views and to see the conditions out here first hand. In particular, I want to thank Congressman Rick Renzi for his tireless and passionate advocacy on behalf of the San Carlos Apache Tribe as well as for the other tribes in his district and across the country. His efforts on behalf of Indian tribes are well known and we appreciate the priority he has made in addressing our needs.

The San Carlos Apache Indian Reservation

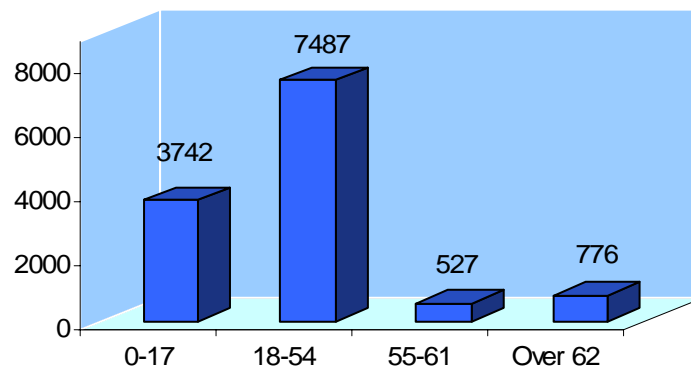
To better understand the housing needs on the San Carlos Apache Indian Reservation as well as the United States' trust responsibility to the San Carlos Apache Tribe, it is helpful to know about the Reservation itself as well as the history of the Apache people. The aboriginal territory of the Apache Nation included the western part of Texas, the current states of Arizona and New Mexico, and the country of Mexico. The Apache Treaty of Santa Fe in 1852 was executed by Mangus Colorado and others on behalf of the Apaches. Pursuant to the Treaty, lands within the aboriginal territories

of the Apache Nation were to be set aside for a permanent Tribal homeland and the United States promised to provide for the “humane” needs of the Apache people. In exchange, the Apache Nation agreed to the end of hostilities between the two nations.

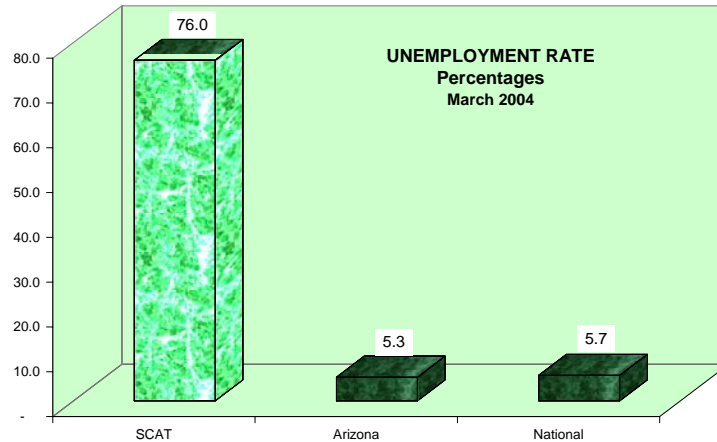
The San Carlos Apache Indian Reservation was established by an executive order of President Grant on November 9, 1871. Through the concentration policies of the United States, various bands of Apaches were forcibly removed to the San Carlos Apache Indian Reservation. These bands included the Coyoteros, Mimbrenos, Mongollon, Aravaipa, Yavapai, San Carlos, Chiricahua, Warm Springs, and Tonto Apaches. Famous Apache leaders who were located at San Carlos included Geronimo, Cochise, Loco, Eskiminzin, Nachie, Chatto, and others. Throughout history, the United States in 1873, 1874, 1876, 1877, 1893, and 1902 diminished the size of the Reservation several times by executive order due to the discovery of silver, copper, coal, water, and other minerals and natural resources. I have attached a map illustrating the reduction in the size of the Reservation over the years by the United States.

The Reservation now, at its current size, spans three Arizona counties: Gila, Graham, and Pinal. The reservation currently has a land base of 1.8 million acres. The Reservation is mostly rural and lacks basic infrastructure in many parts. The total population is 12,532 members, which is based upon figures compiled by the Tribe’s Enrollment Office. 30% of the population is under the age of 18 years; 60% are between the ages of 18-54; 4% are between the ages of 55-61; and 6% are 62 years of age or over.

Population Breakout
(Based on Tribal Enrollment Office)



Although some have moved away due to economic depression on the Reservation and other reasons, a high majority of our members, 84%, live on the Reservation. While we have worked hard to develop our Reservation economy, 76% of our Reservation population is unemployed compared to the national unemployment rate of 5.7% and the state of Arizona rate of 5.3%. We suffer from a poverty level of 77%.



The Tribe has designated the San Carlos Housing Authority (SCHA) to operate and administer the Tribe's housing program. Currently, much of SCHA's work is accomplished primarily from funding under the Native American Housing Assistance and Self-Determination Acts (NAHASDA).

Critical Housing Needs on the Reservation

There are two critical needs relating to housing on the Reservation: (1) a severe housing shortage; and (2) severely inadequate utility infrastructure. These inadequacies create unsafe and unsanitary conditions.

This situation is simply unacceptable in this great country of ours. Let me be clear that the San Carlos Apache Tribe supports our troops in Iraq, Afghanistan, and other parts of the world. The Apaches have many decorated war veterans that have served with distinction in the United States military throughout this country's history. In fact, the San Carlos Housing Authority has an employee named Percy Via, an Army reservist, who has worked for them for 20 years. He was called to duty and was part of the first wave of Army soldiers to invade Iraq. He just returned three weeks ago from Iraq, and we are very proud of him.

However, I wonder about some of the priorities of the United States when my community needs to be rebuilt, my people need homes, and my people need infrastructure, including sewage and water systems. When I hear about the billions and billions of dollars the United States is spending to rebuild Iraq, to build homes for the Iraqi people, and to build infrastructure in Iraq, such as sewage and water systems, I wonder why the United States will do these things for the Iraqi people but not for its own citizens in the United States. We have gone without for so long. Many Apaches do not have homes, do not have plumbing, and do not have drinkable water. It is not right that the United States has not addressed our needs and instead addresses the needs of people in other parts of the world.

I cannot stress enough the dire housing shortage on the Reservation. There are approximately 2400 families on the Reservation that are in need of homes. 39% of families live in substandard housing and 40% of families live in overcrowded conditions.

We have calculated that it would take building 125 homes a year for 10 years to meet the housing needs of tribal members. Also, 94% of 3,067 total families are considered low income as defined by NAHASDA. Council Member Olivar recently stated that he receives at least 6 visits a day from families who have no place to go and are in desperate need of housing. Mr. Olivar states that it is heartbreaking to tell these families that the waiting list is too long and that there are no homes for them. I know that the other Council Members as well as the San Carlos Housing Authority employees meet with families with these same plights as often as Mr. Olivar.

I have attached pictures of some of the terrible housing conditions on the Reservation to give you an idea about the sub-standard housing conditions in my community. My hope is that, through this hearing and through your assistance, we can find ways to tackle this problem and to work together to strive to ensure that everyone who needs a home has one. And not just any home, I mean a decent and affordable one.

One area that needs improvement is the environmental review process required for HUD's Indian Housing Block Grants under NAHASDA. HUD's Southwest Office of Native American Programs does provide efficient technical assistance and guidance to the SCHA in training matters and on programmatic issues; however, the Tribe is frustrated with the inordinate amount of time that it takes for HUD to approve environmental reviews for its housing projects.

Before HUD releases funds for a tribal housing project, the Tribe, among other things, must submit an environmental review of the project that must, in turn, be approved by HUD. The Tribe submitted environmental reviews for two of its housing projects over a year ago and there has been no action taken by HUD on these reviews. As discussed above, we have tribal members, including children, who are homeless or need serious rehabilitation performed on their homes. These delays, therefore, take a huge, and sometimes irreversible, toll on our people. We are two years behind in using our grant funding due to the delay of HUD in approving our environmental reviews for our two housing projects. We are told that there is a huge backup in processing the environmental reviews for tribal housing projects at HUD's Southwest Office of Native American Programs located in Phoenix and that the Phoenix office is responsible for 170 tribal housing authorities. We recommend that the Phoenix office be given more resources to handle the huge loads that it has, and we also recommend that HUD streamline and expedite the environmental review process.

Tied to our housing needs are our utility infrastructure needs. The Tribe's utility infrastructure is sorely inadequate and, without improved infrastructure, it will be difficult to provide decent housing. Specifically, our sewage treatment systems are in such bad shape that they are causing a health risk to nearby communities. The hydraulic capacity of our existing sewage treatment facilities have been exceeded by approximately sixteen percent. The capacity has been exceeded to the point that they cannot adequately provide reliable sewage treatment. Due to lack of funds, the existing sewer ponds are filling with too much sludge and the berms (earth dikes around pool) have deteriorated.

In an attempt to address our sewage system problems, the Tribe did seek funding from USDA's Rural Housing Service a few years ago. However, because the

funding for the Rural Housing Service is very limited, the Rural Housing Service did not have enough funding to allow us to fix our sewage treatment system problems. Instead, the funding provided then was only enough to allow us to put some band-aids on the problem through some isolated sewer upgrades. The Tribe does not have the funding to fix our sewage treatment system and would be appreciative of assistance from the federal government to rectify this situation. We understand that the tribes who have been able to obtain funding from the Rural Housing Service to make systemic sewage and water infrastructure improvements have been able to make an extremely positive impact in their communities. The programs of the Rural Housing Service provide essential basic infrastructure for tribes; therefore, we urge you and your colleagues in the Congress to support this program through significantly increased funding.

The Tribe is also experiencing many problems with its current water storage facilities. First, the storage tanks are too small and do not meet the Tribe's demand for water by 24%. In order to provide and build more homes, adequate storage and distribution systems need to be installed. Second, the water quality of our drinking water is very poor and contains many chemicals and minerals. Third, due to the lack of adequate water distribution systems, our fire departments cannot effectively combat house fires on the Reservation. Currently, our fire departments rely on 1,000-gallon water tanks attached to their trucks for fighting fires given that there are no fire hydrants or other adequate water distribution systems on the Reservation. This system of fighting fires is insufficient and results in homes burning to the ground. Unfortunately, the Tribe does not have the funding to upgrade or build the required systems to adequately supply present and future demand and again would appreciate assistance on this matter as well.

Trust Land Issues Affecting Homeownership on the Reservation

The Reservation, which is 1.8 million acres, is held in trust for the San Carlos Apache Tribe by the United States. The trust land issues affecting homeownership on the Reservation are similar to the issues affecting other tribes with trust lands. Historically, financial institutions, as you know, have been reluctant to provide mortgages for homes on trust land. However, the Tribe would like to change this and increase homeownership on the Reservation. The Tribe plans to apply for HUD's Section 184 Indian Housing Loan Guarantee Fund, which provides a federal guarantee to mortgage lenders to protect them if a homeowner defaults and the property is on trust land, and encourage financial institutions to provide mortgages to tribal members for homes on the Reservation. To this end, the Tribe is in the process of drafting and adopting an eviction and foreclosure code as well as a land lease agreement that can be used with the BIA, HUD, and financial institutions to comply with requirements of Section 184 and to ease some of the concerns of lenders in foreclosure situations.

We also recommend the creation of a program similar to Section 184 for middle income families who would like to become homeowners or the expansion of Section 184 to include middle income families. Currently, middle income families fall outside of the eligibility requirements for Section 184. However, middle income families encounter the same problems that low income families encounter in obtaining the dream of homeownership on trust land – *i.e.*, private markets are hesitant to lend to them without a federal guarantee if the homeowner defaults on property on trust land. A program like Section 184 would go far in remedying this situation.

Also, we would like to point out that with more mortgages on trust land, which we hope is the future of the San Carlos Apache Reservation, comes the creation of certain other issues related to homeownership on the Reservation. Specifically, those tribal courts that will have jurisdiction over foreclosure proceedings under tribal housing ordinances may need more funding depending on the expansion of their dockets as a result of these new cases. Also, tribal governments will likely need more funding at some point to create and administer adequate realty recording systems.

Additional Recommendations

The San Carlos Apache Tribe respectfully submits the following additional recommendations to improve the housing conditions not only on our Reservation but also all across Indian Country.

Native American Housing Block Grant: Increase funding for the Native American Housing Block Grant by at least 3% each year to \$1.075 billion by 2007. Data generated by the National American Indian Housing Council shows that \$1.075 billion annually is the minimum necessary amount to begin to sufficiently address Indian housing needs. With all due respect, the President's proposed budget of \$647 million for FY 2005 for the Native American Housing Block Grant is simply not enough, especially considering the rising rate of inflation, building costs, and the increase in the Indian population. I must also add that the current allocation that the San Carlos Apache Tribe receives does not at all meet the needs of tribal housing on our Reservation.

BIA Housing Improvement Program: Increase funding for the BIA's Housing Improvement Program, which as been funded at the same level for many years. This program is very helpful in assisting tribes to rehabilitate homes. We urge the Congress to increase the funding for this program to \$35 million.

NAIHC Technical Assistance Funding: Restore funding for this program of the that enables our Tribe and other tribes to improve their housing capacity. Until recently, NAIHC had received more than \$4 million annually to conduct technical assistance and training for tribes. The President has proposed for FY 2005 only \$2.5 million for this purpose.

Indian Health Service Sanitation Facilities Construction Funds: Eliminate the requirement of the Indian Health Service that tribes cannot use sanitation facilities construction funds to service HUD-funded homes. The Indian Health Service feels that HUD should fund its own infrastructure out of NAHASDA. If NAHASDA were funded in such a way that both houses and infrastructure could be built, then the Indian Health Service's position would make sense. However, given the underfunding of NAHASDA and due to this prohibitive requirement of the Indian Health Service, tribes must choose between housing or infrastructure. We need both, as I have discussed above. The San Carlos Apache Tribe would like to see funding increase to \$180 million to effectively meet housing and water and sewer infrastructure needs.

The Use of 2000 Census by HUD for Indian Housing Block Grant Distributions: We believe that HUD failed in its obligation to negotiate in good faith in the 2003

negotiated rulemaking process on the issue of whether to use 2000 Census data in lieu of tribal enrollment data in calculating Indian Housing Block Grant distributions. Until recently, HUD determined Indian Housing Block Grant distributions based upon tribal enrollment information of tribes. HUD, despite our objections and the objections of many tribes across the country, announced that it would use the 2000 Census to determine grant distributions. For the 2000 Census, respondents self-identified whether they were Indian and to what tribe they were affiliated. Many people self-identify with a certain tribe but are not actually members of that tribe. Therefore, use of this data instead of tribal enrollment data does not provide accurate information for determining the funding needs of a tribe.

Thank you for the opportunity to testify today. I would be pleased to answer any questions you may have.



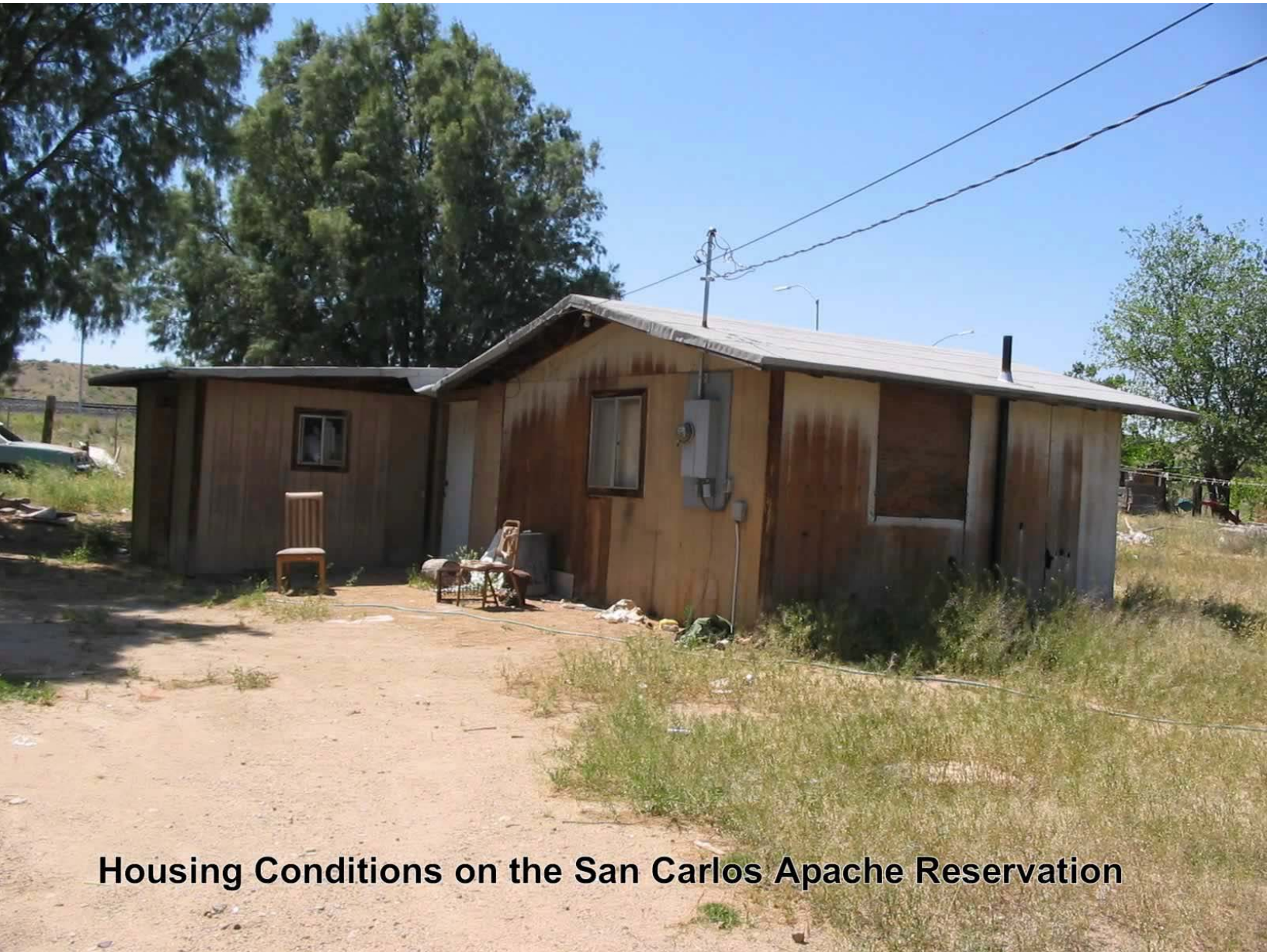
Housing Conditions on the San Carlos Apache Reservation

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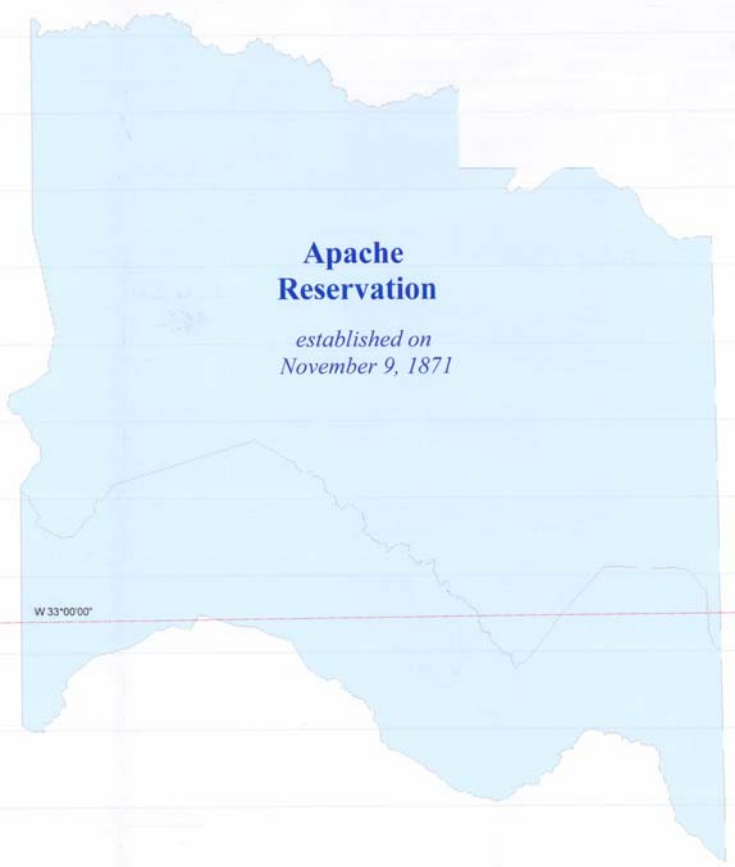
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Housing Conditions on the San Carlos Apache Reservation



Original Apache Reservation

**Apache
Reservation**
*established on
November 9, 1871*



**Deletions From Original November 9, 1871
establishment of the Apache Reservation**

