

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Calling on the Secretary of the Department of the Interior to Immediately End the
Department's Land-into-Trust Moratorium and Support Economic Recovery
and Reinvestment by Promptly Issuing Final Decisions on Pending
Tribal Trust Applications)**

RESOLUTION NO. 10-069

- 1 **WHEREAS, the Constitution of the Tohono O'odham Nation was established "in order to affirm**
2 **our sovereign powers of self-government" (Constitution, Preamble); and**
- 3 **WHEREAS, sovereign Indian tribes share a unique trust relationship with the United States of**
4 **America, which is embodied in the Constitution of the United States, numerous court**
5 **opinions, statutes, executive orders, and federal agency policies; and**
- 6 **WHEREAS, as a direct result of various federal policies designed to break up tribal governments**
7 **and Indian land bases and relocate tribes to economically unproductive reservation**
8 **lands, Indian land holdings in the United States fell from 138 million acres in 1887 to**
9 **48 million acres in 1934, a loss that crippled tribes' ability to provide employment and**
10 **economic opportunities; and**
- 11 **WHEREAS, these nineteenth century policies were repudiated and replaced by the land-into-trust**
12 **acquisition provisions of the Indian Reorganization Act of 1934 (25 U.S.C. § 465) and**
13 **other land acquisition authorities which authorize the Secretary of the Interior to**
14 **acquire lands in trust for the benefit of Indian tribes, thereby providing for the**
15 **acquisition of land bases that are essential to meet the needs tribal governments,**
16 **including economic development; and**
- 17 **WHEREAS, despite the Department of the Interior's trust obligation to support tribal economic**
18 **development, the most significant obstacle that tribes face in launching already-**
19 **planned economic development projects and creating tens of thousands of new jobs**
20 **is the fact that the Secretary of the Interior has imposed a moratorium on tribal trust**
21 **acquisitions which are located outside reservation boundaries, involve Indian**
22 **gaming, or involve tribes that were not recognized in 1934; and**
- 23 **WHEREAS, the Department also has failed to make decisions on land-into-trust applications even**
24 **for on-reservation, non-gaming applications that, in some cases, have remained**
25 **pending for more than a decade, and the Department has failed to rule on others even**
26 **after determining that an application meets all requirements for acquisition or**
27 **despite favorable recommendations from Bureau of Indian Affairs regional offices;**
28 **and**
- 29 **WHEREAS, the Department's failure to make final decisions on a broad range of tribal land-into-**
30 **trust acquisitions, in reality, constitutes a moratorium on the trust obligation to take**

RESOLUTION NO. 10-069

(Calling on the Secretary of the Department of the Interior to Immediately End the Department's Land-into-Trust Moratorium and Support Economic Recovery and Reinvestment by Promptly Issuing Final Decisions on Pending Tribal Trust Applications)

Page 2 of 5

1 **such lands into trust for the benefit of Indian tribes across the United States ("DOI**
2 **Trust Moratorium"); and**

3 **WHEREAS, although the Department of the Interior has not formally announced or acknowledged**
4 **its Moratorium, in 2009 the current administration failed to issue even a single**
5 **Federal Register notice of a final fee-to-trust final decision (in contrast to ten such**
6 **notices published in the last year of the Bush Administration); and**

7 **WHEREAS, as part of the DOI Trust Moratorium, the Department likewise has ceased moving**
8 **forward with its compliance with the National Environmental Policy Act ("NEPA"),**
9 **refusing to publish final environmental impact statements and other NEPA documents**
10 **relating to Moratorium-affected land-into-trust acquisitions; and**

11 **WHEREAS, the DOI Trust Moratorium violates the Department of the Interior's duty as a trustee**
12 **to carry out the trust acquisition provisions of the Indian Reorganization Act of 1934**
13 **and numerous other federal laws and settlements authorizing or directing the**
14 **Secretary of the Interior to take land into trust for the tribes' benefit; and**

15 **WHEREAS, the Department has misused the NEPA by withholding publication of completed**
16 **environmental impact statements and otherwise using NEPA requirements to delay**
17 **final action on land-into-trust acquisitions and thereby continue its Moratorium; and**

18 **WHEREAS, the DOI Trust Moratorium is directly contrary to the formal position of National**
19 **Congress of American Indians ("NCAI") member-tribes, which have called upon the**
20 **Assistant Secretary for Indian Affairs to take specific, concrete steps to reduce the**
21 **chronic backlog in trust land acquisitions (NCAI Resolution #PHX-08-008); and**

22 **WHEREAS, the DOI Trust Moratorium violates Executive Order 13175 and President Obama's**
23 **Executive Memorandum of November 5, 2009, which direct the Department of the**
24 **Interior and other federal agencies to consult with tribes in formulating policies or**
25 **taking actions that "have substantial direct effects on one or more Indian tribes" or**
26 **"on the relationship between the Federal Government and Indian tribes" (Executive**
27 **Order 13175, Section 1(a)) as the Department has conducted no consultation**
28 **whatsoever with tribes regarding the imposition, scope, or duration of the DOI Trust**
29 **Moratorium; and**

30 **WHEREAS, the DOI Trust Moratorium undermines the federal government's express commitment**
31 **to support the right to tribal self-government and self-determination ((Executive**
32 **Order 13175, Section 2(c)); and**

RESOLUTION NO. 10-069

(Calling on the Secretary of the Department of the Interior to Immediately End the Department's Land-into-Trust Moratorium and Support Economic Recovery and Reinvestment by Promptly Issuing Final Decisions on Pending Tribal Trust Applications)

Page 3 of 5

1 **WHEREAS, by its enactment of the American Recovery and Reinvestment Act of 2009 ("ARRA") and**
2 **other measures, the federal government has shown its commitment to responding to**
3 **the national recession and resulting high unemployment rates by creating new jobs,**
4 **spurring economic activity, and investing in long-term economic growth (ARRA, Pub.**
5 **L. 111-5, Section 3(a)); and**

6 **WHEREAS, tribes across the United States are prepared to actively support national economic**
7 **recovery by investing billions of dollars in new developments on lands for which trust**
8 **applications remain pending at the Department of the Interior; and**

9 **WHEREAS, a review of publicly-available NEPA documentation relating to just a portion of the**
10 **acquisitions caught up in the DOI Trust Moratorium reveals that tribal projects and**
11 **investments planned for lands caught up in the Moratorium would generate a**
12 **minimum of 47,359 jobs if the land were to be taken into trust - jobs that risk being**
13 **lost because of the DOI Trust Moratorium; and**

14 **WHEREAS, the actual number of jobs that could be generated by all tribal projects that have been**
15 **blocked by the DOI Trust Moratorium is significantly higher; and**

16 **WHEREAS, Indian tribes are vital partners in the United States' effort to combat high employment**
17 **rates and spur economic recovery, and the DOI Trust Moratorium directly conflicts**
18 **with the federal policy of actively supporting investment in new construction and jobs**
19 **as a catalyst for recovering from the deep and pervasive recession the entire nation**
20 **now faces; and**

21 **WHEREAS, the DOI Trust Moratorium violates the Department's duty to Indian tribes and**
22 **individual tribal citizens, as well as the federal government's obligation to support a**
23 **thriving economic environment for the benefit of United States citizens as a whole.**

24 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Nation calls upon the Secretary of**
25 **the Department of the Interior to immediately end the DOI Trust Moratorium, to**
26 **process land-into-trust applications in good faith and in an expeditious manner, and**
27 **to support economic recovery and reinvestment by promptly issuing final decisions**
28 **on pending tribal land-into-trust acquisitions.**

29 **BE IT FINALLY RESOLVED that the Tohono O'odham Legislative Council hereby authorizes the**
30 **Nation's delegation to the 2010 NCAI Executive Council Winter Session to introduce an**
31 **NCAI resolution opposing the DOI Trust Moratorium.**

32

RESOLUTION NO. 10-069

(Calling on the Secretary of the Department of the Interior to Immediately End the Department's Land-into-Trust Moratorium and Support Economic Recovery and Reinvestment by Promptly Issuing Final Decisions on Pending Tribal Trust Applications)

Page 4 of 5

1 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 16TH Day
2 of FEBRUARY, 2010 at a meeting at which a quorum was present with a vote of 2,595.50 FOR; -0-
3 AGAINST; -0- NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council by Article
4 VI, Section 1 (i) of the Constitution of the Tohono O'odham Nation, adopted by the Tohono O'odham
5 Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs
6 (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

7
8 TOHONO O'ODHAM LEGISLATIVE COUNCIL

9
10 
11 _____
12 Verlon M. Jose, Legislative Chairman

13
14 23 day of February, 2010

15
16
17
18 ATTEST:

19 
20 _____
21 Evonne Wilson, Legislative Secretary

22
23 23 day of February, 2010.

24
25 Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham
26 Nation on the 23 day of February, 2010 at 5:14 o'clock, P.M.,
27 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective
28 upon his approval or upon his failure to either approve or disapprove it within 48 hours of
29 submittal.

30 TOHONO O'ODHAM LEGISLATIVE COUNCIL

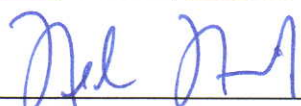
31
32 
33 _____
34 Verlon M. Jose, Legislative Chairman

35
36
37
38 APPROVED

on the 24 day of Feb, 2010

40
41 DISAPPROVED

at 2:05 o'clock, P.M.

42
43 
44 _____
45 NED NORRIS, JR., CHAIRMAN
46 TOHONO O'ODHAM NATION
47
48
49

RESOLUTION NO. 10-069

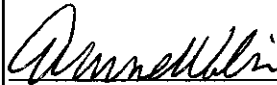
(Calling on the Secretary of the Department of the Interior to Immediately End the Department's Land-into-Trust Moratorium and Support Economic Recovery and Reinvestment by Promptly Issuing Final Decisions on Pending Tribal Trust Applications)

Page 5 of 5

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39
- 40
- 41
- 42
- 43
- 44
- 45
- 46
- 47
- 48
- 49

Returned to the Legislative Secretary on the 24 day of

February, 2010, at 3:28 o'clock, P.M.


Evonne Wilson, Legislative Secretary