

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Enacting Title 25, Tohono O'odham Code, Chapter 3 - Tohono O'odham Nation
Water Code and Repealing Title 25, Tohono O'odham Code, Chapter 3 -
Interim Allottee Water Rights Code)

RESOLUTION NO. 11-198

1 **WHEREAS, "All waters which originate in or flow in, into or through the Tohono O'odham Nation,**
2 **or which are stored in the Tohono O'odham Nation, whether found on the surface or**
3 **underground, are a valuable public resource of the Tohono O'odham Nation to be**
4 **protected for the present and future use of the Tohono O'odham Nation as a whole."**
5 **(Constitution, Article XVII, Section 1); and**

6 **WHEREAS, the Nation's Constitution provides that the Tohono O'odham Legislative Council "shall**
7 **have, consistent with federal law, the control and management of these waters and**
8 **shall have the power to: (a) Determine how these waters shall be developed, used and**
9 **conserved for the greatest public benefit..." (Constitution, Article XVII, Section 2, (a));**
10 **and**

11 **WHEREAS, on December 10, 2004, the Arizona Water Settlements Act, P.L. 108-451 ("AWSA"),**
12 **including Title III, the Southern Arizona Water Rights Settlement Act Amendments of**
13 **2004 ("SAWRSA Amendments") was enacted by the U.S. Congress; and**

14 **WHEREAS, under the SAWRSA Amendments, the Nation was required to enact and obtain**
15 **approval from the Secretary of the Interior of the Interim Allottee Water Rights Code**
16 **that applied to uses of SAWRSA Water within the San Xavier Reservation; and**

17 **WHEREAS, the Tohono O'odham Legislative Council enacted the Title 25, Tohono O'odham Code,**
18 **Chapter 3, the Interim Allottee Water Rights Code on May 15, 2007 and adopted**
19 **conforming edits on July 30, 2007 (Resolution No. 07-257 and Resolution No. 07-485);**
20 **and**

21 **WHEREAS, the SAWRSA Amendments also require the adoption of a comprehensive water code**
22 **that retains certain provisions contained in the Interim Allottee Water Rights Code**
23 **concerning the rights of Allottees to use water; and**

24 **WHEREAS, from 2007 to the present, the Legislative Water Resources Committee, with assistance**
25 **from the Water Resources Department, has held numerous public hearings, met with**
26 **members of the Nation, ASARCO, Cyprus Tohono Corporation and other water users,**
27 **considered verbal and written comments, and incorporated suggestions into the**
28 **proposed Tohono O'odham Nation Water Code; and**

29 **WHEREAS, the proposed Tohono O'odham Nation Water Code is a comprehensive water code that**
30 **addresses all of the Nation's water resources; and**

31 **WHEREAS, on November 23, 2010 the Legislative Council approved Resolution No. 10-460,**
32 **"Enacting Title 25, Tohono O'odham Code, Chapter 3 - Tohono O'odham Nation Water**

RESOLUTION NO. 11-198

(Enacting Title 25, Tohono O'odham Code, Chapter 3 - Tohono O'odham Nation Water Code and Repealing Title 25, Tohono O'odham Code, Chapter 3 - Interim Allottee Water Rights Code)

Page 2 of 3

1 **Code and Repealing Title 25, Tohono O'odham Code, Chapter 3 – Interim Allottee**
2 **Water Rights Code”;** and

3 **WHEREAS, on November 30, 2010, the Nation’s Chairman vetoed Resolution No. 10-460 and a**
4 **December 6, 2010 veto override failed; and**

5 **WHEREAS, the Water Resources Committee subsequently met and consulted with the districts**
6 **that had requested the veto; and**

7 **WHEREAS, the Water Resources Committee revised Article V – Water Shortages of the previously**
8 **proposed Tohono O'odham Nation Water Code and the current proposed draft reflects**
9 **these revisions; and**

10 **WHEREAS, it is in the best interest of the Nation to adopt and enact 25 Tohono O'odham Code,**
11 **Chapter 3 – Tohono O'odham Nation Water Code and to repeal the current 25 Tohono**
12 **O'odham Code, Chapter 3 - Interim Allottee Water Rights Code; and**

13 **WHEREAS, 25 Tohono O'odham Code, Chapter 4- Implementation Provisions Regarding SAWRSA**
14 **is not being repealed and is being retained.**

15 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council enacts 25**
16 **Tohono O'odham Code, Chapter 3 – Tohono O'odham Nation Water Code.**

17 **BE IT FURTHER RESOLVED by the Tohono O'odham Legislative Council that the Interim Allottee**
18 **Water Rights Code, as codified at 25 Tohono O'odham Code, Chapter 3, shall be**
19 **repealed and superseded in accordance with Sections 31003 and 31004 of the Tohono**
20 **O'odham Nation Water Code.**

21 **BE IT FINALLY RESOLVED by the Tohono O'odham Legislative Council that 25 Tohono O'odham**
22 **Code, Chapter 4 - Implementation Provisions Regarding SAWRSA, shall remain in**
23 **effect; provided that upon the effective date of the Tohono O'odham Nation Water**
24 **Code, 25 Tohono O'odham Code, Chapter 4, Section 4102 shall be amended as follows:**

25 **“Section 4102 Definitions**
26 **Unless specifically stated otherwise, the definitions contained in the Tohono O'odham**
27 **Nation Water Code, 25 Tohono O'odham Code, Chapter 3, Section 3103 shall apply to**
28 **this Chapter.”**

29 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 26TH Day**
30 **of MAY, 2011 at a meeting at which a quorum was present with a vote of 1,065.55 FOR; 905.85**
31 **AGAINST; 624.10 [04] NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council**
32 **by Article XVII, Section 1 and Section 2 of the Constitution of the Tohono O'odham Nation, adopted**
33 **by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
34 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**
35 **18, 1934 (48 Stat. 984).**

36
37
38

RESOLUTION NO. 11-198

**(Enacting Title 25, Tohono O'odham Code, Chapter 3 - Tohono O'odham Nation Water Code and Repealing Title 25, Tohono O'odham Code, Chapter 3 - Interim Allottee Water Rights Code)
Page 3 of 3**

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

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Verlon Jose
Verlon M. Jose, Legislative Chairman

1 day of June, 2011

ATTEST:

Evonne Wilson
Evonne Wilson, Legislative Secretary

31 day of May, 2011.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 1 day of June, 2011 at 10:10 o'clock, A.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Verlon Jose
Verlon M. Jose, Legislative Chairman

APPROVED

on the 2nd day of June, 2011

DISAPPROVED

at 3:07 o'clock P.M.

Ned Norris, Jr.
NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 2 day of

June, 2011, at 3:17 o'clock, P.M.

Evonne Wilson
Evonne Wilson, Legislative Secretary

ACTION: ENACTING TITLE 25, TOHONO O'ODHAM CODE, CHAPTER 3 - TOHONO O'ODHAM NATION WATER CODE AND REPEALING TITLE 25, TOHONO O'ODHAM CODE, CHAPTER 3 - INTERIM ALLOTTEE WATER RIGHTS CODE

MOVED: COUNCILMAN TIMOTHY JOAQUIN

SECOND: COUNCILWOMAN MARY LOPEZ

DATE: MAY 26, 2011

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF Oidak 198.7	1. WA VALENE ROMERO (Nicholas Jose)	99.35	X			
	2. MARY LOPEZ ()	99.35	X			
SELLS 449.6	1. KIMBERLY MULL ()	224.80			X	
	2. EVELYN B. JUAN MANUEL ()	224.80			X	
SCHUK TOAK 159.0	1. FRANCES B. CONDE (Stanley Stephans)	79.50		X		
	2. FREDRICK JOSE (Phyllis Cachora)	79.50		X		
SAN XAVIER 204.7	1. FELICIA NUÑEZ ()	102.35		X		
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	102.35		X		
SAN LUCY 187.1	1. LORRAINE EILER ()	93.55	X			
	2. GLORIA RAMIREZ ()	93.55	X			X
PISINEMO 184.5	1. CHESTER ANTONE (Tony Murrietta)	92.25	X			
	2. EDWARD MANUEL (Gerald Fayuant)	92.25	X			
HICKIWAN 174.5	1. MICHELLE ORTEGA ()	87.25			X	
	2. SANDRA ORTEGA ()	87.25			X	
GU VO 206.3	1. GRACE MANUEL ()	103.15		X		
	2. PAMELA ANGHILL (Angela Ortiz)	103.15	X			
GU ACHI 230.1	1. TIMOTHY L. JOAQUIN ()	115.05	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	115.05	X			
CHUKUT KUK 277.0	1. ETHEL GARCIA (Sara Mae Williams)	138.50		X		
	2. VERLON M. JOSE ()	138.50		X		X
BABOQIVARI 324.0	1. FRANCES MIGUEL (Roberta Harvey)	162.0	X			
	2. FRANCES G. ANTONE (Vernon Smith)	162.0		X		
TOTAL		2,595.50	1,065.55	905.85	624.10 [04]	[02]