

**LEGISLATIVE ORDER OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Declaring Lack of Jurisdiction Over Election Contest by a District or Community)**

LEGISLATIVE ORDER NO. 11-214

- 1 **WHEREAS, the Constitution of the Tohono O'odham Nation provides that the "Council shall enact**
2 **an election ordinance . . . which shall prescribe the qualifications of candidates, the**
3 **registration requirements for voting and such other rules and procedures necessary**
4 **to the orderly conduct of elections, including but not limited to procedures for**
5 **validation of petitions and the settlement of any and all election disputes."**
6 **(Constitution, Article X, Section 7); and**
- 7 **WHEREAS, the Uniform Election Ordinance, Ordinance No. 03-86, provides that the Nation's**
8 **Judicial Court "shall have jurisdiction over all violations of this Ordinance not herein**
9 **specifically reserved by the Tohono O'odham Council" (Uniform Election Ordinance,**
10 **Article XIII, Section 11); and**
- 11 **WHEREAS, Article VIII of the Uniform Election Ordinance reserves to the Council jurisdiction over**
12 **an election contest submitted by "any eligible voter of the nation" to contest an**
13 **election on grounds of "misconduct on the part of any District Election Board or of the**
14 **Election Board, or any member thereof" (Uniform Election Ordinance, Article VIII,**
15 **Section 1.A.); and**
- 16 **WHEREAS, the Council's authority to grant relief under Uniform Election Ordinance Article VIII**
17 **is limited to certifying or setting aside election results or, in specific instances, to**
18 **certifying the election of a candidate who the Council determines had a higher**
19 **number of votes than the candidate whose election is contested (Uniform Election**
20 **Ordinance, Article VIII, Section 5); and**
- 21 **WHEREAS, on May 31, 2011 eligible voters filed four contest statements alleging Election Board**
22 **misconduct within the Chukut Kuk District during the 2011 general election; and**
- 23 **WHEREAS, the Chukut Kuk District filed a fifth contest statement alleging constitutional**
24 **violations and Election Board misconduct within the Chukut Kuk District during the**
25 **2011 general election; and**
- 26 **WHEREAS, the Chukut Kuk District's contest statement acknowledges that the statement is not**
27 **filed "according to a statutory right under the Nation's Election Ordinance" (Chukut**
28 **Kuk District Contest Statement, page 1); and**
- 29 **WHEREAS, the contestant identified in the Chukut Kuk District's contest statement is not an**
30 **eligible voter, "The contestant is the Chukut Kuk District and its Communities."**
31 **(Chukut Kuk District Contest Statement, page 1, paragraph A); and**

1 **WHEREAS, the Uniform Election Ordinance does not reserve to the Legislative Council**
2 **jurisdiction to hear election challenges filed by the Nation's districts or communities;**
3 **and**

4 **WHEREAS, the Chukut Kuk District's contest statement requests that the Council compel the**
5 **Election Board to "forever recognize the District's rights and powers to 'govern itself**
6 **in matters of local concern," and that the Council declare acts of the Election Board**
7 **unlawful and unconstitutional; and**

8 **WHEREAS, the Constitution of the Tohono O'odham Nation vests the Judicial Branch with the**
9 **power to declare laws unconstitutional and to grant declaratory and injunctive relief**
10 **(Constitution, Article VIII, Section 10).**

11 **NOW, THEREFORE, BE IT ORDERED by the Tohono O'odham Legislative Council that the Uniform**
12 **Election Ordinance does not vest the Council with jurisdiction to hear the Chukut Kuk**
13 **District's contest statement, which will not be heard during the election contest**
14 **hearing set pursuant to Legislative Order No. 11-213.**

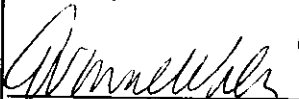
15 **The foregoing Order was passed by the Tohono O'odham Legislative Council on the 09TH day of**
16 **JUNE, 2011 at a meeting at which a quorum was present with a vote of 2,131.40 FOR; -0- AGAINST;**
17 **464.10|04 NOT VOTING; and [0] ABSENT, pursuant to the powers vested in the Council by Section**
18 **1 of Article V; Section 1 of Article VI; subsection 1 (a) and 1(l) of Article VI; and Section 7 of Article**
19 **X of the Constitution of the Tohono O'odham Nation, adopted by the Tohono O'odham Nation on**
20 **January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs**
21 **(Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).**
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23 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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25 _____
26 **Verlon M. Jose, Legislative Chairman**

27 9 day of June, 2011

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30 **ATTEST:**

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33 **Evonne Wilson, Legislative Secretary**

34 9 day of June, 2011
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ACTION: DECLARING LACK OF JURISDICTION OVER ELECTION CONTEST BY A DISTRICT OR COMMUNITY

MOVED: COUNCILWOMAN MICHELLE ORTEGA

SECOND: COUNCILWOMAN EVELYN JUAN MANUEL

DATE: JUNE 09, 2011

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF Oidak 198.7	1. WAVALENE 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 Stephens)	79.50	X			
	2. FREDERICK 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	X
	2. GLORIA RAMIREZ ()	93.55			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		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	
BABOQUIVARI 324.0	1. FRANCES MIGUEL (Roberta Harvey)	162.0	X			
	2. FRANCES G. ANTONE (Vernon Smith)	162.0	X			
TOTAL		2,595.50	2,131.40	-0-	464.10 [04]	[01]