RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Approving Agreement with New Magma Irrigation and Drainage District for  
2016 and Approving 2016 Annual Scheduling Agreement)

RESOLUTION NO. 15-351

WHEREAS, the Tohono O'odham Nation is entitled to receive a total of 66,000 acre-feet of  
Central Arizona Project (“CAP”) water per year; and

WHEREAS, under the Southern Arizona Water Rights Settlement Act, as amended  
(“SAWRSA”), Title III of Public Law 108-451, the Nation is authorized to utilize its  
CAP water either on reservation or off reservation; and

WHEREAS, in 2012, 2013 and 2014 the Nation entered into Agreements with the New Magma  
Irrigation and Drainage District (“NMIDD”), which is designated as a  
groundwater savings facility under Arizona law, to deliver a portion of the  
Nation’s CAP entitlement to NMIDD as “in-lieu water”; and

WHEREAS, the 2012, 2013 and 2014 Agreements were successfully implemented and  
resulted in delivery of a substantial amount of the Nation’s CAP entitlement to  
NMIDD and a substantial payment by NMIDD to the Nation; and

WHEREAS, such agreements require the approval of the Department of the Interior; and

WHEREAS, the Nation’s attorneys have worked with Department of the Interior attorneys to  
develop a standard form of groundwater savings facility agreement that can be  
used by any Arizona tribe and can be used for multiple years, thereby speeding  
up Department of the Interior environmental review and approval of  
agreements; and

WHEREAS, the term of the Nation’s proposed 2016 Agreement is until December 31, 2017,  
but requires an annual decision by the Nation whether to assign any amount of  
CAP water to the contract with NMIDD, which decision results in an Annual  
Scheduling Agreement to be signed by both parties; and

WHEREAS, under the 2016 Agreement, in addition to the payments for the water, the Nation  
will accumulate marketable long-term storage credits through the use by  
NMIDD of the Nation’s CAP water instead of NMIDD pumping and using  
groundwater within the irrigation district itself; and

WHEREAS, in Section 11 of the Agreement, the Nation has agreed to provide a limited waiver  
of sovereign immunity to allow for dispute resolution in any court of competent  
jurisdiction, not to include Arizona state courts, which waiver is limited to
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declaratory and injunctive relief to enforce the Agreement but does not include a waiver of any claims for money damages, attorney's fees, court costs or any other costs, damages, remedy, or claims of any other kind; and

WHEREAS, the Water Resources Committee has reviewed the 2016 Agreement and the 2016 Annual Scheduling Agreement and recommends approval by the Legislative Council.

NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council approves the Agreement Between New Magma Irrigation and Drainage District and the Tohono O'odham Nation Providing for the Delivery of Nation's CAP Water for Water Storage at a Ground Water Savings Facility for the year 2016 which will extend to December 31, 2017, substantially in the form attached hereto, and authorizes the Chairman of the Nation to execute the Agreement and any additional documentation reasonably necessary to implement the intent of the Agreement, provided that the Nation will annually enter into an Annual Scheduling Agreement which will assign a quantity of CAP water to the Agreement, including the possibility of assigning no water to the Agreement.

BE IT FURTHER RESOLVED that the Tohono O'odham Legislative Council approves a limited waiver of the Nation's sovereign immunity to allow disputes arising between the parties with respect to this 2016 Agreement or the Annual Scheduling Agreement to be resolved in any court of competent jurisdiction, not to include Arizona state courts, and limits the waiver to declaratory and injunctive relief to enforce the Agreement but does not waive its sovereign immunity with respect to any claims for money damages, attorney's fees, court costs or any other costs, damages, remedy, or claims of any other kind.

BE IT FINALLY RESOLVED that the Tohono O'odham Legislative Council approves the 2016 Annual Scheduling Agreement with the New Magma Irrigation and Drainage District, effective as of January 1, 2016, substantially in the form attached hereto.
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The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 15th day of SEPTEMBER, 2015 at a meeting at which a quorum was present with a vote of 2,406.85 FOR; 614.55 AGAINST; -0- NOT VOTING; and [0] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(f) and Article XVII, Section 2 of the Constitution of the Tohono O'odham Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat.984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL

[Signature]
Timothy Joaquin, Legislative Chairman
24th day of September, 2015

ATTEST:

[Signature]
Evonne Wilson, Legislative Secretary
21st day of September, 2015

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 24th day of September, 2015 at 2:19 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

[Signature]
Timothy Joaquin, Legislative Chairman

[ ] APPROVED on the 24th day of September, 2015
at 10:51 o'clock, A.M.

[ ] DISAPPROVED

[Signature]
EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION
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(Approving Agreement with New Magma Irrigation and Drainage District for 2016 and Approving 2016 Annual Scheduling Agreement)
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Returned to the Legislative Secretary on the 24th day of

September, 2015, at 11:18 o'clock, A.M.

Evonne Wilson, Legislative Secretary
**RESOLUTION NO. 15-351**

**ACTION:** APPROVING AGREEMENT WITH NEW MAGMA IRRIGATION AND DRAINAGE DISTRICT FOR 2016 AND APPROVING 2016 ANNUAL SCHEDULING AGREEMENT

**MOVED:** COUNCILMAN QUINTIN C. LOPEZ  
**SECOND:** COUNCILWOMAN LUCINDA ALLEN

**DATE:** SEPTEMBER 15, 2015

<table>
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<tr>
<th>DISTRICT</th>
<th>LEGISLATIVE REPRESENTATIVES</th>
<th># OF VOTES</th>
<th>FOR</th>
<th>AGAINST</th>
<th>NOT VOTING</th>
<th>ABSENT</th>
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| BABOQUIVARI | 1. FRANCES MIGUEL (Absent)  
             |             | 183.60 | X    |         |            |        |
|             | 2. VERNON J. SMITH (Absent)  
             |             | 183.60 | X    |         |            |        |
| CHUKUT KUK  | 1. ETHEL GARCIA (Marlakay K. Henry)                    | 166.05 | X    |         |            |        |
|             | 2. BILLMAN LOPEZ (Absent) (Patricia Vicenti) (Present) | 166.05 | X    |         |            |        |
| GUACHI      | 1. TIMOTHY L. JOAQUIN (Louis L. Johnson)                | 132.50 | X    |         |            |        |
|             | 2. LORETTA LEWIS (Patricia Vicenti) (Present)          | 132.50 | X    |         |            |        |
| GU VO       | 1. GRACE MANUEL (Dallas Lewis)                         | 125.3    | X    |         |            |        |
|             | 2. PAMELA ANGHILL (Jeffery Antone, Sr.)                | 125.3    | X    |         |            |        |
| HICKIWAN    | 1. LOUIS R. LOPEZ (Shirley Molina)                      | 102.90   | X    |         |            |        |
|             | 2. SANDRA ORTEGA ( )                                   | 102.90   | X    |         |            |        |
| PISINEMO    | 1. CHESTER ANTOINE (Absent) (Tony Murrietta) (Present) | 109.95   | X    |         |            |        |
|             | 2. MÓNICA K. MORGAN (Dallas Lewis)                     | 109.95   | X    |         |            |        |
| SAN LUCY    | 1. DIANA MANUEL (Gloria Ramirez)                       | 113.25   | X    |         |            |        |
|             | 2. JANA MONTANA ( )                                   | 113.25   | X    |         |            |        |
| SAN XAVIER  | 1. DANIEL L.A. PRESTON III (Gene Enis)                 | 114.3    | X    |         |            |        |
|             | 2. RACHEAL WILSON-STONER (Absent) (Olivia Villegas-Liston) (Present) | 114.3 | X |         |            |        |
| SCHUK TOAK  | 1. ANTHONY J. FRANCISCO JR. (Theresa Donahue)          | 90.3     | X    |         |            |        |
|             | 2. QUINTIN C. LOPEZ (John Fendenheim)                  | 90.3     | X    |         |            |        |
| SELLS       | 1. ARTHUR WILSON (Beverly Rivas)                       | 256.75   | X    |         |            |        |
|             | 2. BARBARA HAVIER ( )                                  | 256.75   | X    |         |            |        |
| SIF OIDAK   | 1. LUCINDA ALLEN (Nicholas Jose)                       | 115.80   | X    |         |            |        |
|             | 2. MARY LOPEZ ( )                                      | 115.80   | X    |         |            |        |
| **TOTAL**   |                                                       | 3,021.4  | 2,406.85 | 614.55 | -0-        | [04]   |