

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Adopting 2019 Amendments to 25 Tohono O'odham Code Chapter 3 -
Tohono O'odham Nation Water Code)**

RESOLUTION NO. 19-103

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

6 **WHEREAS,** **the Nation's Constitution provides that the Tohono O'odham Legislative Council**
7 **"shall have, consistent with federal law, the control and management of these**
8 **waters and shall have the power to: (a) Determine how these waters shall be**
9 **developed, used and conserved for the greatest public benefit. . ." and "[t]o**
10 **administer land and other public property, and by law, ordinance or**
11 **resolution...to manage protect, preserve and regulate the use of the property,**
12 **wildlife, land, air and natural resources (including surface and ground waters) of**
13 **the Tohono O'odham Nation." (Constitution, Article XVII, Section 2(a) and Article**
14 **VI, Section 1(i)(2)); and**

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

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

22 **WHEREAS,** **the Tohono O'odham Legislative Council enacted the Title 25, Tohono O'odham**
23 **Nation Code, Chapter 3, the Tohono O'odham Water Rights Code on May 15, 2007**
24 **and adopted conforming edits on July 30, 2007 (Resolution No. 07-257 and**
25 **Resolution No. 07-485); and**

26 **WHEREAS,** **the SAWRSA Amendments also required the adoption of a comprehensive water**
27 **code that retained certain provisions contained in the Interim Allottee Water**
28 **Rights Code concerning the rights of Allottees to use water; and**

29 **WHEREAS,** **by Resolution No. 11-198, the Nation enacted and codified the Tohono O'odham**
30 **Nation Water Code ("Water Code") as 25 Tohono O'odham Code Chapter 3; and**

31 **WHEREAS,** **the SAWRSA Amendments require certain sections of the Water Code be**
32 **submitted to the Secretary of the Interior for approval; and**
33

RESOLUTION NO. 19-103

(Adopting 2019 Amendments to 25 Tohono O'odham Code Chapter 3 – Tohono O'odham Nation Water Code)

Page 2 of 3

1 **WHEREAS,** after the Water Code was submitted for review to the Secretary of the Interior
2 through the Bureau of Indian Affairs (“BIA”) on August 22, 2011, the BIA delivered
3 to the Nation its draft analysis of the Water Code on May 13, 2015 stating concerns
4 over the disagreement between the Nation and the San Xavier District on certain
5 provisions of the Water Code; and

6 **WHEREAS,** representatives of the Nation and the San Xavier District have discussed and
7 drafted amendments, which are dated for reference April 2019 and incorporated
8 by this reference, to the Water Code that resolve the disagreement; and

9 **WHEREAS,** the April 2019 Tohono O'odham Nation Water Code Amendments address the
10 notice and public comment provisions for adoption of any regulations by the
11 Water Resources Department Director, the factors to consider when determining
12 the quantities of water to be delivered to the San Xavier Reservation and eastern
13 Schuk Toak District during a deficiency year, and other SAWRSA CAP Water
14 shortage provisions; and

15 **WHEREAS,** the Water Resources Committee held four public hearings to present the 2019
16 Tohono O'odham Nation Water Code Amendments; and

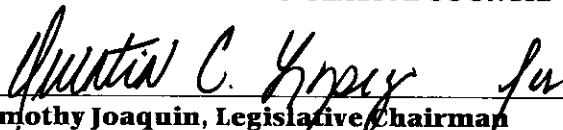
17 **WHEREAS,** the Water Resources Committee recommends in the best interests of the Nation
18 the adoption of the April 2019 Tohono O'odham Nation Water Code Amendments,
19 as attached hereto.

20 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council:

- 21 1. **Adopts the April 2019 Tohono O'odham Nation Water Code Amendments.**
- 22 2. **Authorizes the Chairperson of the Tohono O'odham Nation to submit the**
23 **Tohono O'odham Nation Water Code, as amended, to the Secretary of the**
24 **Interior for approval, and to take all other reasonable and necessary steps to**
25 **implement this Resolution.**

26 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 02ND**
27 **day of APRIL, 2019 at a meeting at which a quorum was present with a vote of 1,922.65 FOR;**
28 **1,161.95 AGAINST; [01] NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the**
29 **Council by Article XVII, Section 1 and Section 2(a) and Article VI, Section 1(i)(2) of the**
30 **Constitution of the Tohono O'odham Nation, adopted by the Tohono O'odham Nation on**
31 **January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs**
32 **(Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat.984).**

33
34 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

35
36 
37
38 **Timothy Joaquin, Legislative Chairman**

39
40 **5** day of **April**, 2019
41

RESOLUTION NO. 19-103

(Adopting 2019 Amendments to 25 Tohono O'odham Code Chapter 3 – Tohono O'odham Nation Water Code)

Page 3 of 3

1 ATTEST:

2 Evonne Wilson

3
4 Evonne Wilson, Legislative Secretary

5 5 day of April, 2019

7
8 Said Resolution was submitted for approval to the office of the Chairman of the Tohono
9 O'odham Nation on the 5 day of April, 2019 at 4:00 o'clock, p.m.,
10 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become
11 effective upon his approval or upon his failure to either approve or disapprove it within 48
12 hours of submittal.

13
14 TOHONO O'ODHAM LEGISLATIVE COUNCIL

15
16 Timothy C. Joaquin for
17
18 Timothy Joaquin, Legislative Chairman

19
20
21
22 APPROVED

23 on the 9 day of April, 2019

24
25 DISAPPROVED

26 at 5:11 o'clock, p.m.

27 EXCEEDED 48 HOURS

28
29 Edward D. Manuel
30 EDWARD D. MANUEL, CHAIRMAN
31 TOHONO O'ODHAM NATION

32
33
34
35 Returned to the Legislative Secretary on the 10 day of

36 April, 2019, at 8:42 o'clock, a.m.

37
38
39 Evonne Wilson

40
41 Evonne Wilson, Legislative Secretary

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
50
51

ACTION: ADOPTING 2019 AMENDMENTS TO 25 TOHONO O'ODHAM CODE CHAPTER 3 - TOHONO O'ODHAM NATION WATER CODE

Moved: COUNCILMAN DANIEL L.A. PRESTON III

SECOND: COUNCILMAN ANTHONY J. FRANCISCO JR.

DATE: APRIL 02, 2019

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 235.8	1. MARY LOPEZ ()	117.9	X			
	2. LUCINDA ALLEN (Yolonda Garcia)	117.9	X			
SELLS 527.2	1. ARTHUR WILSON (<i>Absent</i>) (Evelyn Juan Manuel) (<i>Present</i>)	263.6		X		
	2. ADRIANNE TILLER ()	263.6		X		
SCHUK TOAK 185.7	1. ANTHONY J. FRANCISCO JR. (Teresa F. Donahue)	92.85	X			
	2. QUINTIN C. LOPEZ (<i>Absent</i>) (Agnes V. Joaquin) (<i>Present</i>)	92.85	X			
SAN XAVIER 232.3	1. DANIEL L.A. PRESTON III (Felicia Nunez)	116.15	X			
	2. JANICE FELIX (Adam Andrews)	116.15	X			
SAN LUCY 231.1	1. JANA MONTANA (<i>Absent</i>) (Diana Manuel) (<i>Present</i>)	115.55	X			
	2. GLORIA RAMIREZ (Lorraine Eiler)	115.55	X			
PISINEMO 225.9	1. CHESTER ANTONE (Caroline D. Garcia)	112.95	X			
	2. MONICA K. MORGAN ()	112.95	X			
HICKIWAN 209.0	1. LOUIS R. LOPEZ (Shirley Molina)	104.5		X		
	2. SANDRA D. ORTEGA ()	104.5		X		X
GU VO 256.9	1. GRACE MANUEL ()	128.45		X		
	2. DALLAS LEWIS (Nacho Flores)	128.45		X		
GU ACHI 270.9	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	135.45	X		X	
	2. LORETTA LEWIS (Victoria Hobbs)	135.45	X			
CHUKUT KUK 337.7	1. BILLMAN LOPEZ (Patricia Antone)	168.85		X		
	2. VIVIAN JUAN-SAUNDERS (Juanita Homer)	168.85	X			
BABOQUIVARI 372.1	1. FRANCES MIGUEL (<i>Absent</i>) (Roberta E. Harvey) (<i>Present</i>)	186.05	X			X
	2. LEANDER MASE (Francine Schooling)	186.05	X			
TOTAL		3,084.6	1,922.65	1,161.95	[01]	[02]