

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Opposition to Provisions in Arizona Water Settlements Act Imposing State Law
and Jurisdiction on Future Trust Lands Acquisitions)**

RESOLUTION NO. 01-031

- 1 **WHEREAS, on October 24, 2000, the Arizona Water Settlements Act of 2000 (the "Arizona Act") was**
2 **introduced in the United States Senate (S. 3231) and House of Representatives (H.R.**
3 **5529); and**
- 4 **WHEREAS, included in the Arizona Act as Titles II and III, respectively, are water settlements for**
5 **the (1) Gila River Indian Community (the "Community") designated as the Gila River**
6 **Indian Community Water Rights Settlement Act of 2000 (the "Community Settlement**
7 **Act") and (2) the Tohono O'odham Nation (the "Nation") designated as the Southern**
8 **Arizona Water Rights Settlement Amendments Act of 2000 (the "Nation Settlement**
9 **Act"); and**
- 10 **WHEREAS, the Nation Settlement Act is intended to implement the Southern Arizona Water**
11 **Rights Settlement Act of 1982, Public Law 97-293 (96 Stat. 1261) and finally resolve the**
12 **Nation's water claims in the Tucson basin; and**
- 13 **WHEREAS, Section 211 of the Community Settlement Act establishes certain preconditions to**
14 **future acquisitions of trust lands outside the exterior boundaries of the Community's**
15 **Reservation ("Future Trust Lands") which are implemented through**
16 **Intergovernment Agreements ("IGA's") between the Community and the State of**
17 **Arizona, as well as Arizona Counties, Municipalities and Irrigation Districts; and**
- 18 **WHEREAS, Section 211 and the IGA's (1) impose Arizona laws to define and regulate the**
19 **Community's water rights, land use, public services and certain other rights of the**
20 **Community related to use of the Future Trust Lands; (2) provide for exclusive State**
21 **Court jurisdiction over any disputes arising under the IGA's and require the**
22 **Community to waive its immunity from suit in State Court; (3) mandate payment by**
23 **the Community of State, County and Municipal property taxes; and (4) extinguish any**
24 **Community claims to federal reserved rights on water resources associated with the**
25 **Future Trust Lands; and**
- 26 **WHEREAS, Section 211 provides that the Secretary of Interior is (1) bound by the IGA's; (2)**
27 **foreclosed from abrogating the IGA's in administrative or judicial proceedings; (3)**
28 **only authorized to intervene in State Court proceedings regarding disputes under the**

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1 IGA's; and (4) prohibited from seeking to remove any dispute to Federal Court; and
2 **WHEREAS, on January 9, 2001, Michael J. Pearce, Chief Counsel for the Arizona Department of**
3 **Water Resources, made a presentation to the Tohono O'odham Legislative Council**
4 **regarding the application of provisions comparable to Section 211 and the IGA's to**
5 **(1) the Nation Settlement Act and (2) the Gila Bend Indian Reservation Lands**
6 **Replacement Act, Public Law 99-503 (100 Stat. 1798) (the "Nation Lands Replacement**
7 **Act"); and**
8 **WHEREAS, the Nation Lands Replacement Act confirms a settlement of the Nation's claims for**
9 **an unconstitutional taking by the United States of lands within the Gila Bend Indian**
10 **Reservation and provides specific standards for taking replacement lands into trust;**
11 **and**
12 **WHEREAS, the discretion of the Secretary of the Interior, as well as the procedures and**
13 **standards applicable to placing lands into trust for Indian nations, are prescribed in**
14 **and exclusively governed by existing federal law and regulations; and**
15 **WHEREAS, adoption of the procedures and standards in Section 211 and the IGA's for Future**
16 **Trust Lands would (1) divest the Secretary of any meaningful discretion now**
17 **recognized under federal law; (2) substitute State law for Federal law in determining**
18 **whether and on what terms lands would be taken into trust; and (3) virtually**
19 **extinguishes tribal regulatory and judicial jurisdiction over Future Trust Lands; and**
20 **WHEREAS, application of these principles to Indian nations as a condition to securing the water**
21 **settlements contemplated by the Arizona Act is (1) an unwarranted and selective**
22 **modification of federal law on trust land acquisitions; and (2) a fundamental**
23 **intrusion on the affected Indian nation's sovereign rights of self-government which**
24 **the United States, as trustee, is legally bound to foster, support and protect under**
25 **longstanding Federal policy and law; and**
26 **WHEREAS, the Nation has in the past, and intends to continue in the future, to enter into**
27 **mutually acceptable intergovernmental and cooperative agreements with State and**
28 **Federal governmental agencies and other entities on subjects of common concern.**

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1 **NOW, THEREFORE, BE IT RESOLVED THAT:**

- 2 **1. The Tohono O'odham Legislative Council opposes and will reject any application**
3 **to the Southern Arizona Water Rights Settlement Amendments Act of 2000 of the**
4 **provisions, or comparable provisions, of Section 211 of Title II of the Arizona Act**
5 **and the related Intergovernmental Agreements.**
- 6 **2. The Legislative Council opposes and will reject any application to the Gila Bend**
7 **Indian Reservation Lands Replacement Act, Public Law 99-503 (100 Stat. 1798) of**
8 **the provisions, or comparable provisions, of Section 211 of Title II of the Arizona**
9 **Act and the related Intergovernmental Agreements.**
- 10 **3. The Legislative Council urges the United States Congress, the President and**
11 **related agencies to assure that any amendments to the current procedures and**
12 **standards in Federal law on taking lands into trust be accomplished in a manner**
13 **which conforms to the United States' trust responsibility to Indian nations and**
14 **allows due deliberation, comment and participation by the Tohono O'odham**
15 **Nation and other Indian nations.**

16 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 12TH Day**
17 **of JANUARY, 2001 at a meeting at which a quorum was present with a vote of 1,955.9 FOR; -0-**
18 **AGAINST; -0- NOT VOTING; and 209.6 [05] ABSENT, pursuant to the powers vested in the Council by**
19 **Section 1 (j) of Article VI; Section 1 of Article XVI and Section 2 of Article XVII of the Constitution**
20 **of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and**
21 **approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986,**
22 **pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).**

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24 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

25 
26 **Dennis Ramon, Legislative Chairman**

27 17 day of January, 20 01

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32 **ATTEST:**

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34 _____
35 **Julianna Saraficio, Acting Legislative Secretary**

36 12 day of January, 20 01.
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1 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham**
2 **Nation on the 17 day of January, 20 01 at 9:03 o'clock, A .M.,**
3 **pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective**
4 **upon his approval or upon his failure to either approve or disapprove it within 48 hours of**
5 **submittal.**


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7 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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11 **Dennis Ramon, Legislative Chairman**

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16 **APPROVED**

17 on the 17th day of January, 20 01
18 at 10:34 o'clock, A .M.

19 **DISAPPROVED**

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22 **EDWARD D. MANUEL, Chairman**
23 **TOHONO O'ODHAM NATION**

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29 **Returned to the Legislative Secretary on the 17 day of**
30 **January, 20 01, at 4:20 o'clock, P .M.**

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35 **Julianna Saraficio, Acting Legislative Secretary**

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ACTION: OPPOSITION TO PROVISIONS IN ARIZONA WATER SETTLEMENTS ACT IMPOSING STATE LAW AND JURISDICTION ON FUTURE TRUST LANDS ACQUISITIONS

Moved: COUNCILWOMAN MARY ANN ANTONE

SECOND: COUNCILMAN ALBERT MANUEL, JR.

DATE: JANUARY 12, 2001

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 171.8	1. MARY ANN ANTONE (Darlene Andrew)	85.9	X			
	2. RITA MARTINEZ (Nicholas Jose)	85.9	X			
SELLS 372.7	1. DENNIS E. JOSE ()	186.35	X			
	2. EVELYN JUAN** ()	186.35	X			
SCHUK TOAK 133.4	1. MARY FLORES ()	66.7	X			X
	2. AMBROSE ENCINAS ()	66.7	X			
SAN XAVIER 165.9	1. TONY BURRELL ()	82.95	X			
	2. DENNIS RAMON ()	82.95	X			
BABOQUIVARI 286.5	1. FRANCES MIGUEL ()	143.25	X			
	2. FRANCES G. ANTONE (Edward N. Kisto)	143.25	X			
GU ACHI 209.6	1. CAMILLUS LOPEZ (Louis Johnson)	104.8				X
	2. ALEX J. RAMON ()	104.8				X
PISINEMO 156.8	1. BARBARA SALVICIO (Alex Antone)	78.4	X			
	2. JOHNSON JOSE ()	78.4	X			
SAN LUCY 128.1	1. ALBERT MANUEL, JR. ()	64.05	X			
	2. GLORIA RAMIREZ ()	64.05	X			
GU VO 160.0	1. FERN SALCIDO ()	80.0	X			X
	2. GLORIA MONTANA (Phillip Antone)	80.0	X			
HICKIWAN 158.1	1. SHIRLEY MOLINA ()	79.05	X			
	2. LLOYD FRANCISCO (Susan Sam)	79.05	X			
CHUKUT KUK 222.6	1. KENNETH WILLIAMS ()	111.3	X			X
	2. DAVID GARCIA (Mary Audrey Juan)	111.3	X			
TOTAL		2,165.5	1,955.9	-0-	-0-	209.6 [05]

**PASSED VOTES