

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Calling on Center for Disease Control and Prevention Director to Honor**  
**Government-to-Government Relationship and Consult with Indian Tribes)**

**RESOLUTION NO. 07-734**

1 **WHEREAS, the Legislative Council is vested with the authority to provide “laws, ordinances, and**  
2 **resolutions . . . to promote, protect, and provide for public health, peace, morals,**  
3 **education and general welfare of the Tohono O’odham Nation and its members” and**  
4 **to consult with “federal agencies regarding federal activities that affect the Tohono**  
5 **O’odham Nation” (Constitution of the Tohono O’odham Nation, Article VI, Section**  
6 **1(c)(2) and (j)); and**

7 **WHEREAS, as the United States Congress has recognized, “Federal health services to maintain**  
8 **and improve the health of the Indians are consonant with and required by the Federal**  
9 **Government's historical and unique legal relationship with, and resulting**  
10 **responsibility to, the American Indian people.” (25 U.S.C. Section 1601(a)); and**

11 **WHEREAS, although “the unmet health needs of the American Indian people are severe and the**  
12 **health status of the Indians is far below that of the general population of the United**  
13 **States,” the United States, in the fulfillment of its trust obligation to Indian people, has**  
14 **made it a goal “to provide the quantity and quality of health services which will permit**  
15 **the health status of Indians to be raised to the highest possible level and to encourage**  
16 **the maximum participation of Indians in the planning and management of those**  
17 **services.” (25 U.S.C. Section 1601(d) and (b)); and**

18 **WHEREAS, the Tohono O’odham Nation (formerly known as the Papago Tribe) is located in**  
19 **southwestern Arizona and includes 75 miles of international border between the**  
20 **United States and Mexico; and**

21 **WHEREAS, the health needs of the Tohono O’odham Nation (herein referred to as the “Nation”)**  
22 **are many, health facilities are far and few between, and a number of Nation’s**  
23 **members are located in Mexico, making the delivery of critical health care extremely**  
24 **challenging; and**

25 **WHEREAS, the Nation nevertheless finds itself providing for the health needs of its members in**  
26 **the best way possible with limited funds and despite the lack of a public**  
27 **transportation system, poor roads crossing approximately 2.8 million acres of rough**  
28 **terrain, and a difficult desert environment lacking rivers, forests, or any clean,**  
29 **reliable surface drinking water; and**

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1 **WHEREAS, for many Nation's members, the nearest cities where comprehensive health care is**  
2 **available include Tucson, Arizona to the east and Phoenix to the north with one town**  
3 **bordering the north, Casa Grande and to the southwest, Ajo; and**

4 **WHEREAS, although the distances involved for all of our tribal leaders to get to the nearest**  
5 **airports for consultations with CDC and other distant federal health officials**  
6 **frequently require many hours or even days of travel, the Nation's leaders come**  
7 **because they must speak on behalf of the membership, some who will never get to see**  
8 **or go anywhere beyond the two nearest cities; and**

9 **WHEREAS, the Nation has accordingly appointed Legislative Council representatives to serve on**  
10 **the National Indian Health Board ("NIHB") and has authorized Legislative Council**  
11 **Health and Human Services Committee members and other designated**  
12 **representatives to communicate and coordinate with federal health officials in order**  
13 **to address unmet health care needs and participate in the planning and management**  
14 **of health services to the Tohono O'odham; and**

15 **WHEREAS, two Legislative Council representatives were authorized to attend and participate in**  
16 **an October 24-25, 2007 consultation organized by the Tribal Consultation Advisory**  
17 **Committee ("TCAC") in Atlanta, Georgia with Centers for Disease Control and**  
18 **Prevention ("CDC") Director Dr. Julie Gerberding; and**

19 **WHEREAS, the consultation was organized in accordance with the CDC/ATSDR Tribal**  
20 **Consultation Policy, which designates the CDC Director as one of the official points of**  
21 **contact for government-to-government consultations with Indian tribes, and which**  
22 **recognizes that consultation is "an enhanced form of communication that emphasizes**  
23 **trust, respect and shared responsibility" and that is "integral to a deliberative process**  
24 **that results in effective collaboration and informed decision-making." (CDC Tribal**  
25 **Consultation Policy, Section IV, Introduction); and**

26 **WHEREAS, the CDC Tribal Consultation Policy itself is mandated by Executive Order No. 13175 and**  
27 **the Presidential Memorandum of September 23, 2004, both of which reaffirm the**  
28 **government-to-government relationship with Indian tribes and require that federal**  
29 **agencies such as the CDC engage in meaningful and timely consultations with tribes**

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- 1                   **when formulating policies having a substantial effect on any Indian tribe; and**
- 2 **WHEREAS, consultations with Nation's officials are particularly timely given the CDC's**
- 3                   **involvement in addressing an existing infectious disease outbreak on the Nation; and**
- 4 **WHEREAS, less than one week prior to the Atlanta meeting, the TCAC was notified that CDC**
- 5                   **Director Gerberding would not be attending the consultation or the TCAC meeting;**
- 6                   **and**
- 7 **WHEREAS, the NIHB's offer to designate its staff to meet with counterparts among the CDC staff**
- 8                   **for the same dates was likewise rejected; and**
- 9 **WHEREAS, Dr. Gerberding's last-minute notice to tribal officials that she would not attend a**
- 10                   **scheduled consultation with tribal representatives who had already planned to travel**
- 11                   **across the country to consult with her violates both the spirit of mutual respect**
- 12                   **embodied in the CDC's Tribal Consultation Policy and the CDC's goal of employing**
- 13                   **principles of "meta-leadership" by focusing on communication and collaboration**
- 14                   **rather than commanding and directing.**
- 15 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council hereby**
- 16                   **(1) expresses its disappointment at Dr. Gerberding's decision not to attend the**
- 17                   **October 24-25, 2007 Atlanta consultation with tribal representatives or designate**
- 18                   **CDC staff to meet with NIHB staff during the same period;**
- 19                   **(2) urges Dr. Gerberding to promptly explain and justify her decisions in a letter to all**
- 20                   **tribal leaders; and**
- 21                   **(3) calls upon Dr. Gerberding to honor government-to-government relationship and**
- 22                   **personally consult with Indian tribes at all future consultations including but not**
- 23                   **limited to the consultation that is currently scheduled for her home state of South**
- 24                   **Dakota.**

25 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 08<sup>TH</sup>. Day**

26 **of NOVEMBER, 2007 at a meeting at which a quorum was present with a vote of 2,534.5 FOR; -0-**

27 **AGAINST; -0- NOT VOTING; and [06] ABSENT, pursuant to the powers vested in the Council by**

28 **Section 1(c)(2) and (j) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by**

29 **the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**

30 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**

31 **18, 1934 (48 Stat. 984).**

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TOHONO O'ODHAM LEGISLATIVE COUNCIL

Verlon Jose  
Verlon M. Jose, Legislative Chairman

9 day of November, 2007

ATTEST:

Lucille Lopez  
Lucille Lopez, Acting Legislative Secretary

08 day of November, 2007.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 9 day of November, 2007 at 1:24 o'clock, P..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 09 day of November, 2007

DISAPPROVED

at 1:26 o'clock, P..M.

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

Returned to the Legislative Secretary on the 09 day of November, 2007, at 1:37 o'clock, P..M.

Lucille Lopez  
Lucille Lopez, Acting Legislative Secretary

**ACTION: CALLING ON CENTER FOR DISEASE CONTROL AND PREVENTION DIRECTOR TO HONOR GOVERNMENT-TO-GOVERNMENT RELATIONSHIP AND CONSULT WITH INDIAN TRIBES**

**MOVED: COUNCILWOMAN CYNTHIA MANUEL**

**SECOND: COUNCILWOMAN SANDRA ORTEGA**

**DATE: NOVEMBER 08, 2007**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
<b>BABOQUIVARI</b> <b>316.9</b>	1. FRANCES MIGUEL ( <i>Absent</i> ) (Roberta Harvey) ( <i>Present</i> )	158.45	X			X
	2. FRANCES G. ANTONE ( <i>Absent</i> ) (Vernon Smith) ( <i>Present</i> )	158.45	X			
<b>CHUKUT KUK</b> <b>264.8</b>	1. ETHEL GARCIA ( )	132.40	X			
	2. VERLON M. JOSE ( )	132.40	X			
<b>GU ACHI</b> <b>227.9</b>	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	113.95	X			X
	2. CYNTHIA E. MANUEL ( )	113.95	X			
<b>GU VO</b> <b>199.2</b>	1. GRACE MANUEL ( )	99.60	X			
	2. MICHAEL FLORES ( )	99.60	X			X
<b>HICKIWAN</b> <b>172.0</b>	1. MICHELLE ORTEGA ( )	86.00	X			
	2. SANDRA ORTEGA ( )	86.00	X			
<b>PISINEMO</b> <b>182.4</b>	1. CHESTER ANTONE ( )	91.20	X			
	2. GERALD FAYUANT ( )	91.20	X			
<b>SAN LUCY</b> <b>181.1</b>	1. LORRAINE EILER ( )	90.55	X			
	2. GLORIA RAMIREZ ( )	90.55	X			
<b>SAN XAVIER</b> <b>196.5</b>	1. FELICIA NUÑEZ (Adam P. Andrews)	98.25	X			X
	2. OLIVIA VILLEGAS-LISTON (Eileen A. Estrada-Lopez)	98.25	X			
<b>SCHUK TOAK</b> <b>154.6</b>	1. FRANCES B. CONDE ( <i>Absent</i> ) (Frederick Jose) ( <i>Present</i> )	77.30	X			
	2. PHYLLIS CACHORA (Agnes Joaquin)	77.30	X			
<b>SELLS</b> <b>444.7</b>	1. KIMBERLY LISTO ( )	222.35	X			
	2. EVELYN B. JUAN MANUEL ( )	222.35	X			X
<b>SIF OIDAK</b> <b>194.4</b>	1. WAVALENE ROMERO ( )	97.20	X			X
	2. MARY LOPEZ ( )	97.20	X			
<b>TOTAL</b>		<b>2,534.5</b>	<b>2,534.5</b>	<b>-0-</b>	<b>-0-</b>	<b>[06]</b>

**\*\*PASSED VOTES**