

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Declining to Participate in Judicial Court Review in the Absence of Adequate
Notice, Information, or Consultation)**

RESOLUTION NO. 08-107

1 **WHEREAS, the Tohono O'odham Legislative Council is vested with the power to consult "with**
2 **appropriate federal agencies regarding federal activities that affect the Tohono**
3 **O'odham Nation" (Constitution of the Tohono O'odham Nation, Article VI, Section 1(j));**
4 **and**

5 **WHEREAS, by its passage and implementation of the Indian Self-Determination and Education**
6 **Assistance Act (25 U.S.C. § 450 et seq.) and similar legislation, the United States of**
7 **America has recognized the need to work with Indian tribes on a government-to-**
8 **government basis and to support Indian tribal self-determination and self-**
9 **governance; and**

10 **WHEREAS, Executive Order 13175 mandates that Executive Branch agencies work with tribes**
11 **when formulating and implementing policies or taking other actions that have a**
12 **substantial direct effect on any Indian tribe (Executive Order 13175, "Consultation and**
13 **Coordination with Indian Tribal Governments" ("Consultation Order")); and**

14 **WHEREAS, the Consultation Order and additional executive orders and memoranda require that**
15 **all Executive Branch agencies ensure that there is "meaningful" and "timely" tribal**
16 **input when formulating policies that have tribal implications; and**

17 **WHEREAS, on March 10, 2008 the Tohono O'odham Legislative Council, Chairman's Office, and**
18 **Tohono O'odham Judicial Court were notified that Coochise Consulting, LLC, on behalf**
19 **of the Bureau of Indian Affairs Division of Tribal Justice Support, would be conducting**
20 **an assessment of the Tohono O'odham Judicial Court from March 10-14, 2008; and**

21 **WHEREAS, the written scope of work for the review indicates that a review team will rate the**
22 **court's use of federal funds as acceptable, unacceptable, or report that no**
23 **determination was reached; and**

24 **WHEREAS, a letter from the BIA Office of Justice Services to the BIA Western Region director states**
25 **that the review is "not mandatory, and the tribe can refuse without any consequences**
26 **from the Bureau"; and**

27 **WHEREAS, it is unclear whether the review triggers formal tribal consultation, whether financial**
28 **and other information about the Judicial Court will be disclosed to other entities in**
29 **the federal government or elsewhere, or whether any rating could negatively impact**
30 **Judicial Court funding; and**

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1 **WHEREAS, for these reasons it is not currently in the Nation's best interest to participate in the**
2 **review.**

3 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that it hereby (1)**
4 **relies on the BIA Office of Justice Services' representation that the review is "not**
5 **mandatory, and the tribe can refuse without any consequences from the Bureau" and**
6 **(2) declines to participate in the review of the Tohono O'odham Judicial Court by**
7 **Coochise Consulting, LLC in the absence of adequate notice, information, or**
8 **consultation.**

9 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 10TH Day**
10 **of MARCH, 2008 at a meeting at which a quorum was present with a vote of 2,154.2 FOR; -0-**
11 **AGAINST; -0- NOT VOTING; and 380.3[07] ABSENT, pursuant to the powers vested in the Council by**
12 **Section 1 (j) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono**
13 **O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary -**
14 **Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48**
15 **Stat. 984).**

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17 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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21 **Verlon M. Jose, Legislative Chairman**

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23 17th day of March, 2008

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25 **ATTEST:**

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29 **Lucille Lopez, Acting Legislative Secretary**

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31 10 day of March, 2008.

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33 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham**
34 **Nation on the 17th day of March, 2008 at 1:17 o'clock, P.M.,**
35 **pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective**
36 **upon his approval or upon his failure to either approve or disapprove it within 48 hours of**
37 **submittal.**

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39 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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43 **Verlon M. Jose, Legislative Chairman**

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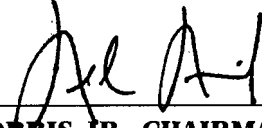
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APPROVED

on the 19th day of March, 2008

DISAPPROVED

at 2:31 o'clock, P.M.



NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 19th day of

March, 2008, at 2:34 o'clock, P.M.



Lucille Lopez, Acting Legislative Secretary

ACTION: DECLINING TO PARTICIPATE IN JUDICIAL COURT REVIEW IN THE ABSENCE OF ADEQUATE NOTICE, INFORMATION, OR CONSULTATION

MOVED: COUNCILWOMAN KIMBERLY LISTO

SECOND: COUNCILWOMAN ETHEL GARCIA

DATE: MARCH 10, 2008

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 316.9	1. FRANCES MIGUEL (Roberta Harvey)	158.45	X			
	2. FRANCES G. ANTONE (Vernon Smith)	158.45	X			
CHUKUT KUK 264.8	1. ETHEL GARCIA ()	132.40	X			
	2. VERLON M. JOSE ()	132.40	X			
GU ACHI 227.9	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	113.95	X			
	2. CYNTHIA E. MANUEL ()	113.95	X			
GU VO 199.2	1. GRACE MANUEL ()	99.60				X
	2. MICHAEL FLORES ()	99.60				X
HICKIWAN 172.0	1. MICHELLE ORTEGA ()	86.00	X			X
	2. SANDRA ORTEGA ()	86.00	X			
PISINEMO 182.4	1. CHESTER ANTONE ()	91.20	X			
	2. GERALD FAYUANT ()	91.20	X			
SAN LUCY 181.1	1. LORRAINE EILER ()	90.55				X
	2. GLORIA RAMIREZ ()	90.55				X
SAN XAVIER 196.5	1. FELICIA NUÑEZ (Adam P. Andrews)	98.25	X			X
	2. OLIVIA VILLEGAS-LISTON (Eileen A. Estrada-Lopez)	98.25	X			
SCHUK TOAK 154.6	1. FRANCES B. CONDE (Frederick Jose)	77.30	X			
	2. PHYLLIS CACHORA (Agnes Joaquin)	77.30	X			
SELLS 444.7	1. KIMBERLY LISTO ()	222.35	X			
	2. EVELYN B. JUAN MANUEL ()	222.35	X			
SIF OIDAK 194.4	1. WAVALENE ROMERO ()	97.20	X			X
	2. MARY LOPEZ ()	97.20	X			
TOTAL		2,534.5	2,154.2	-0-	-0-	380.3[07]

**PASSED VOTES