

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Directing Study of Underground Water Storage Facilities on the Nation and
Authorizing Accrual of Marketable Long-Term Storage Credits)**

RESOLUTION NO. 08-592

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

6 **WHEREAS, on December 10, 2004 Congress enacted the Arizona Water Settlements Act, P.L. 108-**
7 **451 (the "Act"), including Title III, the Southern Arizona Water Rights Settlement Act**
8 **Amendments ("SAWRSA Amendments"); and**

9 **WHEREAS, the SAWRSA Amendments became effective December 14, 2007 and direct the**
10 **Secretary of the Interior to deliver a total of 66,000 acre feet of water from the Central**
11 **Arizona Project ("CAP") main aqueduct to one or more locations that are agreed to by**
12 **the Secretary, the operator of the CAP, and the Nation (SAWRSA Amendments Section**
13 **305(a)(1) and 305(a)(2)); and**

14 **WHEREAS, the Nation is not currently using, and is therefore not deriving a benefit from, its full**
15 **allocation of CAP water; and**

16 **WHEREAS, the unused allocation of the Nation's CAP water remains in the CAP system and**
17 **becomes part of the "excess pool" that is then available to other entities who do not**
18 **compensate the Nation for the use of such water; and**

19 **WHEREAS, instead of allowing other entities to use the Nation's water without compensation, the**
20 **Nation may earn marketable long-term storage credits for storing a portion of its**
21 **allocation of CAP water in one or more permitted underground storage facilities**
22 **within Arizona (A.R.S. § 45-841.01, et seq.; SAWRSA Amendments Section 309(a),**
23 **309(b)(1)(C) and 308(e)); and**

24 **WHEREAS, such credits possess significant value and the Nation has reserved the exclusive right**
25 **"to transfer or otherwise dispose of all Marketable Long-Term Storage Credits that**
26 **may be lawfully transferred or otherwise disposed of to Persons for recovery outside**
27 **the Nation's Reservation." (25 Tohono O'odham Code Chapter 3, Section 3201(B)(3));**
28 **and**

29 **WHEREAS, to receive marketable long-term storage credits, the Nation must obtain water storage**
30 **permits for facilities where it intends to store a portion of its CAP allocation or**
31 **construct permitted storage facilities for this purpose; and**

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1 **WHEREAS, the Water Resources Committee has determined that the best method for accruing**
2 **marketable long-term storage credits in the near future is to store unused CAP water**
3 **at existing, permitted underground storage facilities; and**

4 **WHEREAS, the Water Resources Committee has also recommended that the Nation explore the**
5 **feasibility of constructing and operating one or more water storage facilities on the**
6 **Nation's lands in order to both recharge the Nation's aquifers and obtain additional**
7 **marketable long-term storage credits.**

8 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council hereby**
9 **authorizes and directs the Nation's Chairperson and any departments at his disposal,**
10 **in consultation with affected districts, to study and make recommendations to the**
11 **Water Resources Committee on**

- 12 **(1) The feasibility and potential benefits of constructing and operating**
13 **underground storage facilities on the Nation that will allow the Nation to**
14 **accumulate marketable long-term storage credits.**
- 15 **(2) The feasibility and potential benefits of other storage opportunities off the**
16 **Nation.**
- 17 **(3) A draft plan for future storage and the marketing of credits.**

18 **BE IT FINALLY RESOLVED that the Tohono O'odham Legislative Council**

- 19 **(1) Authorizes and directs the Nation's Chairperson, in consultation with the Water**
20 **Resources Committee and Office of the Attorney General, to apply to the Arizona**
21 **Department of Water Resources for water storage permits on behalf of and in the**
22 **name of the Tohono O'odham Nation for underground storage facilities; to apply**
23 **for consents to store at those facilities and to annually store at one or more**
24 **permitted underground storage facilities a maximum of 15,000 acre feet of**
25 **unused CAP water to which the Nation is entitled; and to enter storage**
26 **agreements for that purpose.**
- 27 **(2) Subject to a duly approved budget, authorizes the Nation's Chairperson to pay**
28 **water storage permit application fees and other storage-related fees from the**
29 **SAWRSA Trust Fund.**
- 30 **(3) Authorizes the Nation's Chairperson to execute the water storage permit**
31 **application, to direct the delivery of CAP water to such storage facilities, and to**
32 **take any additional actions necessary to accrue marketable long-term storage**
33 **credits and otherwise carry out the intent of this resolution.**

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1 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 24TH Day
2 of SEPTEMBER, 2008 at a meeting at which a quorum was present with a vote of 2,089.8 FOR; -0-
3 AGAINST; 444.7 NOT VOTING; and [04] ABSENT, pursuant to the powers vested in the Council by
4 Section 1 (D(i)) of Article VI, Article XVII of the Constitution of the Tohono O'Odham Nation, adopted
5 by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant
6 Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June
7 18, 1934 (48 Stat. 984).

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9 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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13 Verlon M. Jose, Legislative Chairman

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15 29th day of Sept., 2008


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17 ATTEST:

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21 Lucille Lopez, Acting Legislative Secretary

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23 24 day of Sept, 2008.

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25 Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham
26 Nation on the 29th day of Sept, 2008 at 12:27 o'clock, P.M.,
27 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective
28 upon his approval or upon his failure to either approve or disapprove it within 48 hours of
29 submittal.

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31 TOHONO O'ODHAM LEGISLATIVE COUNCIL

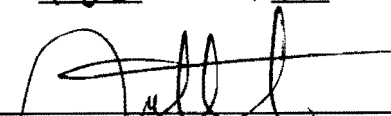
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35 Verlon M. Jose, Legislative Chairman

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39 APPROVED

on the 30 day of September, 2008

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41 DISAPPROVED

at 9:28 o'clock, A.M.

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45 NED NORRIS, JR., CHAIRMAN
46 TOHONO O'ODHAM NATION
47 VICE CHAIRMAN

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Returned to the Legislative Secretary on the 30 day of

September, 2008, at 10:55 o'clock, A.M.

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

ACTION: DIRECTING STUDY OF UNDERGROUND WATER STORAGE FACILITIES ON THE NATION AND AUTHORIZING ACCRUAL OF MARKETABLE LONG-TERM STORAGE CREDITS**MOVED: COUNCILWOMAN WAVALENE ROMERO****SECOND: COUNCILWOMAN PHYLLIS CACHORA****DATE: SEPTEMBER 24, 2008**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 316.9	1. FRANCES MIGUEL (Roberta Harvey)	158.45	X			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			X
GU VO 199.2	1. GRACE MANUEL ()	99.60	X			
	2. RAYMOND VICTOR ** ()	99.60	X			
HICKIWAN 172.0	1. MICHELLE ORTEGA ()	86.00	X			
	2. SANDRA ORTEGA ()	86.00	X			
PISINEMO 182.4	1. CHESTER ANTONE (Tony Murrietta)	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	X
SIF OIDAK 194.4	1. WAVALENE ROMERO ()	97.20	X			
	2. MARY LOPEZ ()	97.20	X			
TOTAL		2,534.5	2,089.8	-0-	444.7	[04]

**PASSED VOTES