

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Enacting Title 25, Tohono O'odham Code, Chapter 3 - Tohono O'odham Nation
Water Code and Repealing Title 25, Tohono O'odham Code, Chapter 3 - Interim
Allottee Water Rights Code)**

RESOLUTION NO. 10-460

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, 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 waters**
8 **and shall have the power to: (a) Determine how these waters shall be developed, used**
9 **and conserved for the greatest public benefit. . ." (Constitution, Article XVII, Section**
10 **2, (a)); and**

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

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

17 **WHEREAS, the Tohono O'odham Legislative Council enacted the Title 25, Tohono O'odham Code,**
18 **Chapter 3, the Interim Allottee Water Rights Code on May 15, 2007 and adopted**
19 **conforming edits on July 30, 2007 (Resolution No. 07-257 and Resolution No. 07-485);**
20 **and**

21 **WHEREAS, the SAWRSA Amendments also require the adoption of a comprehensive water code**
22 **that retains certain provisions contained in the Interim Allottee Water Rights Code**
23 **concerning the rights of Allottees to use water; and**

24 **WHEREAS, from 2007 to the present, the Legislative Water Resources Committee, with assistance**
25 **from the Water Resources Department, has held numerous public hearings, met with**
26 **members of the Nation, ASARCO, Cyprus Tohono Corporation and other water users,**
27 **considered verbal and written comments, and incorporated suggestions into the**
28 **proposed Tohono O'odham Nation Water Code; and**

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1 **WHEREAS, the proposed Tohono O'odham Nation Water Code is a comprehensive water code**
2 **that addresses all of the Nation's water resources; and**

3 **WHEREAS, it is in the best interest of the Nation to adopt and enact 25 Tohono O'odham Code,**
4 **Chapter 3 - Tohono O'odham Nation Water Code and to repeal the current 25 Tohono**
5 **O'odham Code, Chapter 3 - Interim Allottee Water Rights Code; and**

6 **WHEREAS, 25 Tohono O'odham Code, Chapter 4 - Implementation Provisions Regarding SAWRSA**
7 **is not being repealed and is being retained.**

8 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council enacts 25**
9 **Tohono O'odham Code, Chapter 3 - Tohono O'odham Nation Water Code.**

10 **BE IT FURTHER RESOLVED by the Tohono O'odham Legislative Council that the Interim Allottee**
11 **Water Rights Code, as codified at 25 Tohono O'odham Code, Chapter 3, shall be**
12 **repealed and superseded in accordance with Sections 31003 and 31004 of the Tohono**
13 **O'odham Nation Water Code.**

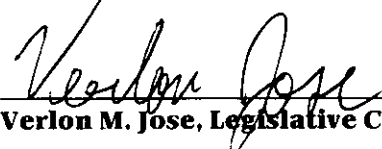
14 **BE IT FINALLY RESOLVED by the Tohono O'odham Legislative Council that 25 Tohono O'odham**
15 **Code, Chapter 4 - Implementation Provisions Regarding SAWRSA, shall remain in**
16 **effect; provided that upon the effective date of the Tohono O'odham Nation Water**
17 **Code, 25 Tohono O'odham Code, Chapter 4, Section 4102 shall be amended as follows:**

18 **"Section 4102 Definitions**

19 **Unless specifically stated otherwise, the definitions contained in the Tohono**
20 **O'odham Nation Water Code, 25 Tohono O'odham Code, Chapter 3, Section 3103**
21 **shall apply to this Chapter."**

22 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 23RD Day**
23 **of NOVEMBER, 2010 at a meeting at which a quorum was present with a vote of 1,366.05 FOR;**
24 **1,229.45 AGAINST; -01- NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council**
25 **by Article XVII, Section 1 and Section 2 of the Constitution of the Tohono O'odham Nation, adopted**
26 **by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
27 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**
28 **18, 1934 (48 Stat. 984).**

30 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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

35
36 24 day of November, 2010
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1 **ATTEST:**

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3 *Evonne Wilson*

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5 **Evonne Wilson, Legislative Secretary**

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7 23 day of November, 2010.

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9 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham**
10 **Nation on the** 24 **day of** November, 2010 **at** 2:58 **o'clock,** p. **M.,**
11 **pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective**
12 **upon his approval or upon his failure to either approve or disapprove it within 48 hours of**
13 **submittal.**

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15 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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17 *Verlon M. Jose*

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

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23 **APPROVED**

on the 30th day of November, 2010

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25 **DISAPPROVED**

at 2:44 o'clock, p. M.

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28 *Ned Norris, Jr.*

29 **NED NORRIS, JR., CHAIRMAN**
30 **TOHONO O'ODHAM NATION**

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35 **Returned to the Legislative Secretary on the** 30 **day of**

36 November, 2010, **at** 2:47 **o'clock,** p. **M.**

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39 *Evonne Wilson*

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41 **Evonne Wilson, Legislative Secretary**

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ACTION: ENACTING TITLE 25, TOHONO O'ODHAM CODE, CHAPTER 3 - TOHONO O'ODHAM NATION WATER CODE AND REPEALING TITLE 25, TOHONO O'ODHAM CODE, CHAPTER 3 - INTERIM ALLOTTEE WATER RIGHTS CODE

MOVED: COUNCILMAN TIMOTHY JOAQUIN

SECOND: COUNCILMAN EDWARD MANUEL

DATE: NOVEMBER 23, 2010

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF Oidak 198.7	1. WAVALENE ROMERO (Nicholas Jose)	99.35	X			
	2. MARY LOPEZ ()	99.35	X			
SELLS 449.6	1. KIMBERLY LISTO ()	224.80		X		X
	2. EVELYN B. JUAN MANUEL ()	224.80		X		
SCHUK TOAK 159.0	1. FRANCES B. CONDE (Fredrick Jose)	79.50		X		
	2. LINDA PARLEY (Agnes Joaquin)	79.50		X		X
SAN XAVIER 204.7	1. FELICIA NUÑEZ ()	102.35		X		
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	102.35		X	X	
SAN LUCY 187.1	1. LORRAINE EILER ()	93.55	X			
	2. GLORIA RAMIREZ ()	93.55	X			
PISINEMO 184.5	1. CHESTER ANTONE <i>(Absent)</i> (Tony Murrietta) <i>(Present)</i>	92.25	X			
	2. EDWARD MANUEL (Gerald Fayuant)	92.25	X			
HICKIWAN 174.5	1. MICHELLE ORTEGA ()	87.25		X		
	2. SANDRA ORTEGA ()	87.25		X		X
GU VO 206.3	1. GRACE MANUEL ()	103.15		X		
	2. PAMELA ANGHILL <i>(Absent)</i> (Angela Ortiz) <i>(Present)</i>	103.15	X			
GU ACHI 230.1	1. TIMOTHY L. JOAQUIN ()	115.05	X			
	2. CYNTHIA E. MANUEL (Louis J. Johnson)	115.05	X			
CHUKUT KUK 277.0	1. ETHEL GARCIA (Sara Mae Williams)	138.50	X			
	2. VERLON M. JOSE ()	138.50		X		
BABOQUIVARI 324.0	1. FRANCES MIGUEL (Roberta Harvey)	162.0	X			
	2. FRANCES G. ANTONE (Vernon Smith)	162.0	X			
TOTAL		2,595.50	1,366.05	1,229.45	-01-	[03]