

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Calling on the Secretary of the Department of the Interior to End Practice of Drafting Anti-Tribal Legislation for Members of Congress in Violation of Presidential Orders Mandating Government-to-Government Consultation)

RESOLUTION NO. 10-481

- 1 **WHEREAS, the Constitution of the Tohono O'odham Nation was established "in order to affirm**
2 **our sovereign powers of self-government" (Constitution, Preamble); and**
- 3 **WHEREAS, sovereign Indian tribes share a unique trust relationship with the United States of**
4 **America, which is embodied in the Constitution of the United States, numerous court**
5 **opinions, statutes, executive orders, and federal agency policies; and**
- 6 **WHEREAS, as a direct result of various federal policies designed to break up tribal governments**
7 **and Indian land bases, Indian land holdings in the United States fell from 138 million**
8 **acres in 1887 to 48 million acres in 1934, a loss that severely damaged tribes' ability**
9 **to provide employment, fundamental government services, and economic**
10 **opportunities; and**
- 11 **WHEREAS, these nineteenth century policies were repudiated and replaced by the land-into-**
12 **trust acquisition provisions of the Indian Reorganization Act of 1934 (25 U.S.C. § 465)**
13 **and other land acquisition authorities which authorize the Secretary of the Interior**
14 **to acquire lands in trust for the benefit of Indian tribes, thereby providing for the**
15 **acquisition of land bases that are essential to meet the needs of tribal governments;**
16 **and**
- 17 **WHEREAS, today tribes have succeeded in establishing tribal gaming operations that have**
18 **created more than 628,000 jobs and that now fund essential government services and**
19 **programs including education, health care, law enforcement, fire protection, water,**
20 **sewer, sanitation, transportation, child care and elder care, museums and cultural**
21 **centers; and**
- 22 **WHEREAS, in 1988 the United States Congress enacted the Indian Gaming Regulatory Act**
23 **("IGRA"), which restricts tribes' independent authority to conduct and regulate tribal**
24 **gaming, and which limits tribes' ability to game on lands acquired in trust after the**
25 **date IGRA was enacted ("after acquired" trust lands); and**
- 26 **WHEREAS, Tohono O'odham Nation, numerous other Indian tribes, the National Indian Gaming**
27 **Association ("NIGA"), and National Congress of American Indians ("NCAI") have**
28 **consistently opposed efforts to amend IGRA through appropriations riders or other**
29 **means that do not provide for congressional hearings, tribal input, and full**

RESOLUTION NO. 10-481

(Calling on the Secretary of the Department of the Interior to End Practice of Drafting Anti-Tribal Legislation for Members of Congress in Violation of Presidential Orders Mandating Government-to-Government Consultation)

Page 2 of 4

1 **government-to-government consultation (TOLC Resolution No. 06-044; NIGA**
2 **Resolution 2 ABQ 4-4-06; NCAI Resolution #GBW-05-009); and**

3 **WHEREAS, in response to efforts in 2006 to amend the IGRA and undermine the authority of**
4 **tribes as the primary regulators of Indian gaming, a NIGA-NCAI Joint Task Force held**
5 **five tribal leaders' meetings across the country to discuss gaming on after-acquired**
6 **lands; and**

7 **WHEREAS, in those meetings, the overwhelming majority of participating tribal leaders voiced**
8 **their opposition to amending IGRA to address gaming on after-acquired lands (NIGA**
9 **Resolution 2 ABQ 4-4-06); and**

10 **WHEREAS, federal legislation to amend the IGRA was subsequently defeated; and**

11 **WHEREAS, Senator Diane Feinstein has recently launched a new effort to insert legislative**
12 **language in a federal appropriations rider or other legislative vehicle that would**
13 **severely restrict or eliminate tribes' ability to game on after-acquired trust lands**
14 **("Feinstein Language"); and**

15 **WHEREAS, while media sources reported that the Department of the Interior had secretly**
16 **assisted Senator Feinstein draft this language, the Department refused written**
17 **requests to meet with tribal leaders on land-into-trust issues and initially failed to**
18 **respond to requests to disclose the Feinstein Language; and**

19 **WHEREAS, Interior officials ultimately acknowledged during the National Congress of American**
20 **Indians' November 15-19, 2010 Annual Session that the Department had assisted in**
21 **drafting the Feinstein Language, while also claiming it opposed enactment of the**
22 **resulting draft by appropriations riders or other methods lacking complete tribal**
23 **consultation; and**

24 **WHEREAS, the Department defended the assistance it secretly provided, in part, by claiming the**
25 **Department Manual authorizes Interior staff to draft legislation for members of**
26 **Congress and that presidential orders and memoranda mandating consultation do**
27 **not apply; and**

28 **WHEREAS, secretly drafting anti-tribal legislation directly violates Executive Order 13175 and**
29 **President Obama's Executive Memorandum of November 5, 2009, which directs the**
30 **Department of the Interior and other federal agencies to consult with tribes in**

RESOLUTION NO. 10-481

(Calling on the Secretary of the Department of the Interior to End Practice of Drafting Anti-Tribal Legislation for Members of Congress in Violation of Presidential Orders Mandating Government-to-Government Consultation)

Page 3 of 4

1 **drafting legislative comments or proposed legislation that have “substantial direct**
2 **effects on one or more Indian tribes” or “on the relationship between the Federal**
3 **Government and Indian tribes” (Executive Order 13175, Section 1(a)); and**

4 **WHEREAS, these presidential orders do not exempt a federal department from consulting with**
5 **tribes when the department is drafting anti-tribal legislation for a member of**
6 **Congress; and**

7 **WHEREAS, the Department’s assistance in secretly drafting anti-tribal legislation violates the**
8 **federal government’s express commitment to support the right to tribal self-**
9 **government and self-determination ((Executive Order 13175, Section 2(c)).**

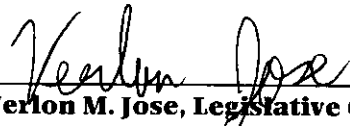
10 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O’odham Legislative Council calls upon the**
11 **Secretary of the Department of the Interior to comply with Executive Order 13175 and**
12 **President Obama’s Executive Memorandum of November 5, 2009 by immediately**
13 **ending the Department’s practice of drafting anti-tribal legislation without tribal**
14 **consultation.**

15 **BE IT FINALLY RESOLVED that the Tohono O’odham Legislative Council calls upon the Secretary**
16 **of the Department of the Interior to strongly oppose the Feinstein Language and any**
17 **other effort to amend IGRA absent meaningful and comprehensive tribal**
18 **consultation on such amendments, and to oppose all amendments that would**
19 **restrict tribes’ sovereign right to pursue economic development and self**
20 **determination through gaming on tribal trust lands.**

21 **The foregoing Resolution was passed by the Tohono O’odham Legislative Council on the 06TH Day**
22 **of DECEMBER, 2010 at a meeting at which a quorum was present with a vote of 2,595.50 FOR; -0-**
23 **AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by**
24 **Article VI, Section 1 (i) of the Constitution of the Tohono O’odham Nation, adopted by the Tohono**
25 **O’odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary -**
26 **Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48**
27 **Stat. 984).**

28
29
30
31
32
33
34
35
36

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Verlon M. Jose, Legislative Chairman

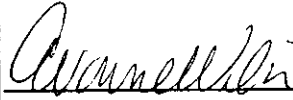
9 day of December, 2010

RESOLUTION NO. 10-481

(Calling on the Secretary of the Department of the Interior to End Practice of Drafting Anti-Tribal Legislation for Members of Congress in Violation of Presidential Orders Mandating Government-to-Government Consultation)

Page 4 of 4

1 **ATTEST:**


2
3 

4 _____
5 **Evonne Wilson, Legislative Secretary**

6
7 9th day of December, 2010.

8
9 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham**
10 **Nation on the 9 day of December, 2010 at 5:09 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.**

14
15 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

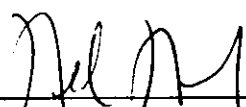
16 
17 _____
18 **Verlan M. Jose, Legislative Chairman**

19
20
21
22
23 **APPROVED**

on the 10 day of December, 2010

24
25 **DISAPPROVED**

at 10:35 o'clock, h. .M.

26
27 
28 _____
29 **NED NORRIS, JR., CHAIRMAN**
30 **TOHONO O'ODHAM NATION**

31
32
33
34 **Returned to the Legislative Secretary on the 10 day of**

35 December, 2010, at 10:50 o'clock, a. .M.

36
37
38 
39 _____
40 **Evonne Wilson, Legislative Secretary**

41
42
43
44
45
46
47
48

ACTION: CALLING ON THE SECRETARY OF THE DEPARTMENT OF THE INTERIOR TO END PRACTICE OF DRAFTING ANTI-TRIBAL LEGISLATION FOR MEMBERS OF CONGRESS IN VIOLATION OF PRESIDENTIAL ORDERS MANDATING GOVERNMENT-TO-GOVERNMENT CONSULTATION

MOVED: COUNCILWOMAN FRANCES MIGUEL

SECOND: COUNCILWOMAN EVELYN JUAN MANUEL

DATE: DECEMBER 06, 2010

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 198.7	1. WAVALENE ROMERO (Nicholas Jose)	99.35	X			X
	2. MARY LOPEZ ()	99.35	X			
SELLS 449.6	1. KIMBERLY MULL ()	224.80	X			
	2. EVELYN B. JUAN MANUEL ()	224.80	X			
SCHUK TOAK 159.0	1. FRANCES B. CONDE <i>(Absent)</i> (Fredrick Jose) <i>(Present)</i>	79.50	X			
	2. LINDA PARLEY (Agnes Joaquin)	79.50	X			
SAN XAVIER 204.7	1. FELICIA NUÑEZ ()	102.35	X			
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	102.35	X			
SAN LUCY 187.1	1. LORRAINE EILER ()	93.55	X			
	2. GLORIA RAMIREZ ()	93.55	X			
PISINEMO 184.5	1. CHESTER ANTONE (Tony Murrietta)	92.25	X			X
	2. EDWARD MANUEL (Gerald Fayuant)	92.25	X			
HICKIWAN 174.5	1. MICHELLE ORTEGA ()	87.25	X			
	2. SANDRA ORTEGA ()	87.25	X			
GU VO 206.3	1. GRACE MANUEL ()	103.15	X			
	2. PAMELA ANGHILL (Angela Ortiz)	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	2,595.50	-0-	-0-	[02]