RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Adopting 2019 Amendments to 25 Tohono O'odham Code Chapter 3 –
Tohono O’odham Nation Water Code)

RESOLUTION NO. 19-103

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

WHEREAS, the Nation’s Constitution provides that the Tohono O’odham Legislative Council “shall have, consistent with federal law, the control and management of these waters and shall have the power to: (a) Determine how these waters shall be developed, used and conserved for the greatest public benefit...” and “[t]o administer land and other public property, and by law, ordinance or resolution...to manage protect, preserve and regulate the use of the property, wildlife, land, air and natural resources (including surface and ground waters) of the Tohono O’odham Nation.” (Constitution, Article XVII, Section 2(a) and Article VI, Section 1(l)(2)); and

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

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

WHEREAS, the Tohono O’odham Legislative Council enacted the Title 25, Tohono O’odham Nation Code, Chapter 3, the Tohono O’odham Water Rights Code on May 15, 2007 and adopted conforming edits on July 30, 2007 (Resolution No. 07-257 and Resolution No. 07-485); and

WHEREAS, the SAWRSA Amendments also required the adoption of a comprehensive water code that retained certain provisions contained in the Interim Allottee Water Rights Code concerning the rights of Allottees to use water; and

WHEREAS, by Resolution No. 11-198, the Nation enacted and codified the Tohono O’odham Nation Water Code (“Water Code”) as 25 Tohono O’odham Code Chapter 3; and

WHEREAS, the SAWRSA Amendments require certain sections of the Water Code be submitted to the Secretary of the Interior for approval; and
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WHEREAS, after the Water Code was submitted for review to the Secretary of the Interior through the Bureau of Indian Affairs ("BIA") on August 22, 2011, the BIA delivered to the Nation its draft analysis of the Water Code on May 13, 2015 stating concerns over the disagreement between the Nation and the San Xavier District on certain provisions of the Water Code; and

WHEREAS, representatives of the Nation and the San Xavier District have discussed and drafted amendments, which are dated for reference April 2019 and incorporated by this reference, to the Water Code that resolve the disagreement; and

WHEREAS, the April 2019 Tohono O'odham Nation Water Code Amendments address the notice and public comment provisions for adoption of any regulations by the Water Resources Department Director, the factors to consider when determining the quantities of water to be delivered to the San Xavier Reservation and eastern Schuk Toak District during a deficiency year, and other SAWRSA CAP Water shortage provisions; and

WHEREAS, the Water Resources Committee held four public hearings to present the 2019 Tohono O'odham Nation Water Code Amendments; and

WHEREAS, the Water Resources Committee recommends in the best interests of the Nation the adoption of the April 2019 Tohono O'odham Nation Water Code Amendments, as attached hereto.

NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council:

1. Adopts the April 2019 Tohono O'odham Nation Water Code Amendments.
2. Authorizes the Chairperson of the Tohono O'odham Nation to submit the Tohono O'odham Nation Water Code, as amended, to the Secretary of the Interior for approval, and to take all other reasonable and necessary steps to implement this Resolution.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 02ND day of APRIL, 2019 at a meeting at which a quorum was present with a vote of 1,922.65 FOR; 1,161.95 AGAINST; [01] NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by Article XVII, Section 1 and Section 2(a) and Article VI, Section 1(b)(2) of the Constitution of the Tohono O'odham Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat.984).

TOHONO O'ODOHMAN LEGISLATIVE COUNCIL

[Signature]
Timothy Joaquin, Legislative Chairman
5 day of April, 2019
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APTEST:

Evonne Wilson, Legislative Secretary
5 day of April, 2019

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 5 day of April, 2019 at 4:00 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

Timothy Joaquin, Legislative Chairman

[ ] APPROVED on the 9 day of April, 2019
at 5:11 o'clock, p.m.

Edward D. Manuel, CHAIRMAN
TOHONO O'ODHAM NATION

EXCEEDED 48 HOURS

Returned to the Legislative Secretary on the 10 day of April, 2019, at 8:42 o'clock, a.m.

Evonne Wilson, Legislative Secretary
## Resolution No. 19-103

**Action:** ADOPTING 2019 AMENDMENTS TO 25 TOHONO O'ODHAM CODE CHAPTER 3 – TOHONO O'ODHAM NATION WATER CODE

**Moved:** COUNCILMAN DANIEL L.A. PRESTON III  
**Second:** COUNCILMAN ANTHONY J. FRANCISCO JR.

**Date:** APRIL 02, 2019

<table>
<thead>
<tr>
<th>District</th>
<th>Legislative Representatives</th>
<th># of Votes</th>
<th>For</th>
<th>Against</th>
<th>Not Voting</th>
<th>Absent</th>
</tr>
</thead>
</table>
| SIF OIDAK      | 1. MARY LOPEZ (Present)  
2. LUCINDA ALLEN (Yolonda Garcia)                                                           | 117.9      | X   |         |            |        |
|                |                                                                                             | 117.9      | X   |         |            |        |
| SELLS 527.2    | 1. ARTHUR WILSON (Absent)  
2. ADRIANNE TILLER                                                                            | 263.6      |     | X       |            |        |
|                | (Evelyn Juan Manuel)  
(Teresa F. Donahue)  
(Adam Andrews)                                                                                   | 263.6      |     | X       |            |        |
| SCHUK TOAK 185.7 | 1. ANTHONY J. FRANCISCO JR.  
2. QUINTIN C. LOPEZ (Absent)                                                                       | 92.85      |     | X       |            |        |
|                | (Teresa F. Donahue)  
(Agnes V. Joaquin) (Present)                                                                     | 92.85      |     | X       |            |        |
| SAN XAVIER 232.3 | 1. DANIEL L.A. PRESTON III  
2. JANICE FELIX (Present)                                                                     | 116.15     |     | X       |            |        |
|                | (Felicia Nunes)  
(Adam Andrews)                                                                                   | 116.15     |     | X       |            |        |
| SAN LUCY 231.1 | 1. JANA MONTANA (Absent)  
2. GLORIA RAMIREZ (Lorraine Eiler)                                                                  | 115.55     |     | X       |            |        |
|                | (Diana Mannel)  
(Present)                                                                                       | 115.55     |     | X       |            |        |
| PISINEMO 225.9 | 1. CHESTER ANTONE  
2. MONICA K. MORGAN                                                                               | 112.95     |     | X       |            |        |
|                | (Caroline D. Garcia)  
(Amos Andrews)                                                                                   | 112.95     |     | X       |            |        |
| HICKIWAN 209.0 | 1. LOUIS R. LOPEZ (Absent)  
2. SANDRA D. ORTEGA (Present)                                                                    | 104.5      |     | X       |            |        |
|                | (Shirley Molina)  
(Present)                                                                                      | 104.5      |     | X       |            |        |
| GUVO 256.9     | 1. GRACE MANUEL (Absent)  
2. DALLAS LEWIS (Absent)                                                                         | 128.45     |     | X       |            |        |
|                | (Caroline Nune)  
(Nacho Flores)                                                                                   | 128.45     |     | X       |            |        |
| GUACHI 270.9   | 1. TIMOTHY L. JOAQUIN  
2. LORETTA LEWIS (Absent)                                                                         | 135.45     |     | X       |            |        |
|                | (Louis L. Johnson)  
(Victoria Hobbs)                                                                                   | 135.45     |     | X       |            |        |
| CHUKUTKUK 337.7 | 1. BILLMAN LOPEZ  
2. VIVIAN JUAN-SAUNDERS (Absent)                                                                  | 168.85     |     | X       |            |        |
|                | (Patricia Antone)  
(Juanita Homer)                                                                                   | 168.85     |     | X       |            |        |
| BABOQUIVARI 372.1 | 1. FRANCES MIGUEL (Absent)  
2. LEANDER MASE (Present)                                                                            | 186.05     |     | X       |            |        |
|                | (Robert E. Harvey)  
(Francine Schooling)                                                                                | 186.05     |     | X       |            |        |
| **Total**      |                                                                                             | 3,084.6    | 1,922.65 | 1,161.95 | [01]       | [02]    |