

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Authorizing Earthjustice to File Litigation on Behalf of the Tohono O'odham  
Nation Regarding changes to Federal Clean Water Act Regulations)**

**RESOLUTION NO. 20-196**

1 **WHEREAS,** the Constitution of the Tohono O'odham Nation vests the Legislative Council with  
2 the power to “employee legal counsel for the protection and advancement of the  
3 rights of the Tohono O'odham Nation” (Constitution of the Tohono O'odham  
4 Nation, Article VI, Section 2(a)); and

5 **WHEREAS,** pursuant to Resolution No. 17-482, the Tohono O'odham Nation entered into an  
6 Attorney Contract with Earthjustice for matters relating to the proposed  
7 Rosemont Copper Mine in the Santa Rita Mountains; and

8 **WHEREAS,** by Resolution No. 18-041, the Tohono O'odham Nation authorized the filing of  
9 litigation to stop the proposed Rosemont Copper Mine (“Rosemont Litigation”)  
10 and authorized Earthjustice to represent the Nation in the litigation; and

11 **WHEREAS,** one of the claims asserted by the Nation in the Rosemont Litigation is that the  
12 Army Corps of Engineers erred in issuing a Clean Water Act Permit that would  
13 allow the proposed Rosemont Copper Mine to destroy miles of ephemeral  
14 streams in the region; and

15 **WHEREAS,** the U.S. Environmental Protection Agency recently issued revised regulations  
16 pursuant to the Federal Clean Water Act that would remove existing legal  
17 protections for ephemeral streams (the “2020 Clean Water Act regulations”) that  
18 would adversely impact the Nation’s ability to protect ephemeral streams in the  
19 area of the proposed Rosemont Copper Mine and thousands of additional miles  
20 of ephemeral streams in the southwest United States; and

21 **WHEREAS,** the 2020 Clean Water Act regulations are scheduled to go into effect June 22, 2020;  
22 and

23 **WHEREAS,** Earthjustice has prepared a draft Complaint on behalf of the Tohono O'odham  
24 Nation and recommends that the Tohono O'odham Nation file suit to challenge  
25 the 2020 Clean Water Act regulations; and

26 **WHEREAS,** the Agricultural and Natural Resources, Water Resources, and Cultural  
27 Preservation Committees have reviewed the draft Complaint and recommend  
28 that the Tohono O'odham Nation file suit to challenge the 2020 Clean Water Act  
29 regulations.

30 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council authorizes  
31 Earthjustice to file suit on behalf of the Tohono O'odham Nation in a United States  
32 District Court selected by Earthjustice in consultation with the Nation and other  
33 potential parties to challenge the 2020 Clean Water Act regulations.  
34

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**Page 2 of 3**

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 17<sup>TH</sup> day of JUNE, 2020 at a meeting at which a quorum was present with a vote of 3,175.7 FOR; -0- AGAINST; -0- NOT VOTING; and -0- ABSENT, pursuant to the powers vested in the Council by Article VI, Section 2(a) 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'ODHAM LEGISLATIVE COUNCIL

Timothy C. Joaquin Jr  
Timothy Joaquin, Legislative Chairman

19 day of June, 2020

ATTEST

Evonne Wilson  
Evonne Wilson, Legislative Secretary

18 day of June, 2020

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 19 day of June, 2020 at 10:30 o'clock, a.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 C. Joaquin Jr  
Timothy Joaquin, Legislative Chairman

APPROVED

DISAPPROVED

on the 19 day of June, 2020

at 10:32 o'clock, a.m.

Ned Norris, Jr.  
NED NORRIS, JR., CHAIRMAN  
TOHONO O'ODHAM NATION

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**Page 3 of 3**

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Returned to the Legislative Secretary on the 19 day of

June, 2020, at 10:31 o'clock, a.m.

Evonne Wilson

**Evonne Wilson, Legislative Secretary**

**ACTION: AUTHORIZING EARTHJUSTICE TO FILE LITIGATION ON BEHALF OF THE TOHONO O'ODHAM NATION REGARDING CHANGES TO FEDERAL CLEAN WATER ACT REGULATIONS**

**Moved: COUNCILWOMAN LUCINDA ALLEN**

**SECOND: COUNCILWOMAN ALBERTA RAY**

**DATE: JUNE 17, 2020**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 384.8	1. LEANDER MASE (Francine Schooling)	192.40	X			
	2. ALBERTA J. RAY (Frances G. Antone)	192.40	X			
CHUKUT KUK 347.5	1. VIVIAN JUAN-SAUNDERS (Juanita Homer)	173.75	X			
	2. MARLAKAY HENRY (Billman Lopez)	173.75	X			
GUACHI 279.3	1. VICTORIA HOBBS ( )	139.65	X			
	2. TIMOTHY L. JOAQUIN (Louis L. Johnson)	139.65	X			
GU VO 264.5	1. DALLAS LEWIS (Nacho Flores)	132.25	X			
	2. GRACE MANUEL ( )	132.25	X			
HICKIWAN 213.8	1. SANDRA D. ORTEGA ( )	106.90	X			
	2. LOUIS R. LOPEZ (Delma M. Garcia)	106.90	X			
PISINEMO 230.7	1. MONICA K. MORGAN ( )	115.35	X			
	2. MARIETTA MARTIN ( )	115.35	X			
SAN LUCY 235.6	1. GLORIA RAMIREZ ( )	117.80	X			
	2. JANA MONTANA (Lorraine M. Eiler)	117.80	X			
SAN XAVIER 238.9	1. JANICE FELIX (Adam Andrews)	119.45	X			
	2. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)	119.45	X			
SCHUK TOAK 189.0	1. QUINTIN C. LOPEZ (Agnes V. Joaquin)	94.50	X			
	2. TERESA F. DONAHUE (Alberta Espinoza)	94.50	X			
SELLS 547.1	1. EVELYN JUAN MANUEL ( )	273.55	X			
	2. ARTHUR WILSON ( )	273.55	X			
SIF OIDAK 244.5	1. LUCINDA ALLEN (Yolonda Garcia)	122.25	X			
	2. MARY LOPEZ (Absent) (Ann M. Garcia) (Present)	122.25	X			
<b>TOTAL</b>		<b>3,175.7</b>	<b>3,175.7</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>