RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL (Recognition and Protection of the Sacred Ha:san)

RESOLUTION NO. 21-137

1	WHEREAS,	it is the policy of the Tohono O'odham Nation to promote "enjoyable harmony
2		between members of the [N]ation and their environment; to promote efforts
3		which will preserve and protect the natural and cultural environment of the
4		Tohono O'odham Nation, including its lands, air, water, flora and fauna, its
5		ecological systems, and natural resources, and its historic and cultural artifacts
6		and archeological sites; and to create and maintain conditions under which
7		members of the [N]ation and nature can exist in productive harmony and fulfill
8		the social, economic, and other requirements of present and future generations
9		of members of the Tohono O'odham Nation" (Constitution, Article XVIII, Section
10		1); and
11	WHEREAS,	Indigenous peoples have made the compelling argument that the trees, wildlife,
12		rivers, and mountains are sacred and should be granted "personhood" and the
13		legal rights associated with it; and
14	WHEREAS,	the Tohono O'odham and sister O'odham tribes, hold the Ha:san in the highest
15		regard and consider the Ha:san as an O'odham person; and
16	WHEREAS,	some of the commentaries on saguaros as "people" or "kindred spirits" come
17		directly from O'odham scholars, including, José Luis Brennan, Juan Smith,
18		Francis Vagages, Ofelia Zepeda, Danny Lopez, and Camillus Lopez, while others
19		come from competent historians -most of them working for the federal
20		government-who corroborate in written form the oral histories long
21		transmitted as part of the O'odham himdag (Way of Life) — the traditional
22		knowledge and values of O'odham; and
23	WHEREAS,	Tohono O'odham scholar José Luis Brennan aka José Lewis worked with the U.S.
24		federal Bureau of American Ethnology recording traditional O'odham narratives
25		and translating them, including one in which an O'odham boy prophesizes that,
26		"I will turn myself into a saguaro, so I shall last forever, and bear fruit each
27		summer," the O'odham have been gifted with such up to this day; and
28	WHEREAS,	the Ha:san is an integral part of the O'odham himdag (Way of Life) and early
29		teachings and stories have taught that the Ha:san should never be harmed or
30		disrespected; and
31	WHEREAS,	the saguaro fruit has been used by the O'odham since time immemorial to make
32	,	saguaro fruit wine for the important rain-making ceremonies; and
33	WHEREAS,	the saguaro fruit are as essential to O'odham spirituality as sacramental bread
34		and wine are to the Holy Eucharist in Christian traditions; and

1	WHEREAS,	the spiritual use of desert plants fits the definition of unalienable rights in the
2		draft release of Secretary Pompeo's Commission on Unalienable Rights in July
3		2020, in the sense that saguaro fruit are "essential" to the religious practices of
4		the O'odham engaged in rain-making ceremonies, and are therefore an
5		unalienable "cultural property"; and
6	WHEREAS,	the majority of O'odham lands in the Sonoran Desert were transferred without
7		the consent of the Tohono O'odham from México to the U.S. following the Gadsden
8		Purchase, Treaty of Guadalupe Hidalgo, and the Gadsden Treaty, which
9		guaranteed the O'odham all the religious and property rights they had enjoyed as
10		Mexican citizens; and
11	WHEREAS,	the Agricultural and Natural Resources and Cultural Preservation Committees
12		recommend recognition and protection of the ha:san.
13	NOW, THERE	FORE, BE IT RESOLVED that the Tohono O'odham Legislative Council condemns
14		the destruction, damage, and poorly executed transplanting of saguaros during
15		the border wall construction and other Department of Homeland Security, (DHS)
16		projects on tribal and federal lands that are aboriginal homelands of the
17		O'odham.
18	BE IT FURT	HER RESOLVED by the Tohono O'odham Legislative Council that this wanton
19		destruction of a scared plant amounts to a violation of the religious liberties of
20		the Tohono O'odham Nation and its members.
21	BE IT FINAL	LY RESOLVED that the Tohono O'odham Legislative Council calls on all entities,
22		state, and federal agencies to reverse the destruction of sacred plants associated
23		with O'odham traditions and to that:
24		1. Enter into proper government-to-government consultation with the
25		Tohono O'odham Nation whenever projects or federal or state projects
26		may potentially affect saguaros on the Tohono O'odham Nation or on or
27		around the O'odham aboriginal lands.
28		2. Adhere to the spirit and detail of the December 5, 2012 memorandum
29	,	signed by the Department of Defense along with five other federal entities,
30		pledging to Native Americans full government-to government
31		consultation and training for employees to do no or least harm, to sacred
32		sites, ceremonial plants, pilgrimage trails and shrines on federal lands
33		and that these agencies (including the Department of Homeland Security,
34		Customs and Border Protection and the Army Corps of Engineers)
35		explicitly recognize that they must avoid destruction of access to sacred
36		sites and their culturally significant plants.

1		in from any bulldozing, damage, defacing, or attachment of wiring
2	or oth	ner manmade objects to saguaros anywhere on the Tohono O'odham
3	Natio	n or in traditional cultural properties of the O'odham on lands
4	mana	ged by the National Park Service, Bureau of Land Management,
5	USDA	Forest Service, Bureau of Land Management or US Air Force.
6	4. Begin	"healing the cultural, spiritual and ecological wounds" caused by
7	sagua	aro destruction on the Nation and the border wall construction off the
8	Natio	n by the following actions:
9	(a)	removal of the border wall away from sacred sites and sacramental
10		plants;
11	(b)	re-consecration by O'odham spiritual leaders of damaged sacred
12		plants and sacred sites (and payment to those involved);
13	(c)	restoration of native vegetation damaged along the border to
14		include saguaros, organ pipe cactus and their nurse plants such as
15		Ironwoods, Mesquites, and Palo Verde, and DHS or appropriate
16		entity compensate, O'odham youth work crews to be involved in
17		this restoration and replanting along with appropriate
18		professionals or companies;
19	(d)	restitutional compensation for tribal, National Park Service, and
20		National Wildlife Refuge professionals who flagged and mapped all
21		sacred sites and plants of concern areas at the request of the DHS;
22		and
23	(e)	cultural sensitivity training for all DHS employees working on the
24		border and on or around O'odham aboriginal lands to ensure that
25		they understand and will not violate the Native American Religious
26		Freedoms and other appropriate laws, customs, or traditions.
27	The foregoing Resolution	was passed by the Tohono O'odham Legislative Council on the 04^{TH} eting at which a quorum was present with a vote of 3,175.7 FOR; -0-
28 29	ACAINST: _O_ NOT VOTING	G: and -0- ABSENT, pursuant to the powers vested in the Council by
30	Article VVIII Section 1 of	of the Constitution of the Tohono O'odham Nation, adopted by the on January 18, 1986; and approved by the Acting Deputy Assistant
31 32	Secretary - Indian Affairs	(Operations) on March 6, 1986, pursuant to Section 16 of the Act of June
33	18, 1934 (48 Stat.984).	
34 35		TOHONO O'ODHAM LEGISLATIVE COUNCIL
36 37		Land the land
38		All My States Chairman
39 40		Fimothy Joaquin, Legislative Chairman
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RESOLUTION NO. 21-137 (Recognition and Protection of the Sacred Ha:san) Page 4 of 4

1	ATTEST:
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	(Ill/Millian
3	The Secretary
4	Evonne Wilson, Legislative Secretary
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7	the later approved to the office of the Chairman of the Tohono
8	Said Resolution was submitted for approval to the office of the office o
9	Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the day of, 2021 at 2 2 3 o'clock,m.,
10	4. 4kg provisions of Section 5 of Article VII of the Constitution and win/occome
11	effective upon his approval or upon his failure to either approve or disapprove it within 48
11	effective upon his approval of upon his landice to establish approval of
12	hours of submittal.
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14	TOHONO O'ODHAM LEGISLATIVE COUNCIL
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18	Fimothy Joaquin, Legislative Chairman
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22	APPROVED on the
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24	I DISAPPROVED at 2:00 o'clock,m.
25	[] DISAPPROVED at Z. W o'clock, _ Im.
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28	NED NORRIS, JR., CHAIRMAN
29	NED NOWING, JA., CAMARIAN
30	TOHONO O'ODHAM NATION
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35	Returned to the Legislative Secretary on theday of
36	200
37	7 / 2021, at 3/10 o'clock, _ f.m.
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39	Colin Ulla
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41	Evonne Wilson, Legislative Secretary
	110441
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ACTION: RECOGNITION AND PROTECTION OF THE SACRED HA:SAN

MOVED: VICE CHAIRMAN QUINTIN C. LOPEZ SECOND: COUNCILMAN DANIEL L.A. PRESTON III

DATE: MAY 04, 2021

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 384.8	(Francine Schooling)	192.40 192.40	X			
00210	2. ALBERTA J. RAY (Frances G. Antone)	192.40	X			
CHUKUT KUK 347.5		173.75	X			
347.3	2. MARLAKAY HENRY (Billman Lopez)	173.75	X			
GUACHI		139.65	X			
279.3	2. TIMOTHY L. JOAQUIN	139.65	X			
GU VO 264.5	A CONTRACT OF THE CONTRACT OF	132.25	X			
264.5	2. GRACE MANUEL ()	132.25	X			
HICKIWAN		106.90	X			
213.8	2. LOUIS R. LOPEZ (Delma M. Garcia)	106.90	X			
PISINEMO		115.35	X			
230.7	2. MARIETTA MARTIN	115.35	X			
SAN LUC		117.80	X			
235.6	5 () 2. JANA MONTANA (Lorraine M. Eiler)	117.80	X			
SAN XAVIE		119.45	X			
238.	9 (Adam Andrews) 2. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)	119.45	Х			
	K 1. QUINTIN C. LOPEZ	94.50	X			
189.0	(Agnes V. Joaquin) 2. TERESA F. DONAHUE (Alberta Espinoza)	94.50	X			
SELI	96-347 (1-14) (1-14) (1-14) (1-14) (1-14)	273.55	X			
547.	1 () 2. ARTHUR WILSON ()	273.55	X			2
SIF OIDA	The state of the s	122.25	X			
244	5 (Yolonda Garcia) 2. MARY LOPEZ (Ann M. Garcia)	122.25	X			
	TOTAL	3,175.7	3,175.7	-0-	-0-	-0-