

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving Menagers Dam Rehabilitation Project Subject to Nation's Conditions)**

RESOLUTION NO. 24-212

1 **WHEREAS, the Tohono O'odham Legislative Council is vested with the authority to "promote,**
2 **protect and provide for public health, peace, morals, education and general**
3 **welfare of the Tohono O'odham Nation and its members," to "manage, protect,**
4 **preserve and regulate the use of property, wildlife, land, air and natural**
5 **resources (including surface and ground waters) of the Tohono O'odham Nation,"**
6 **and to "consult with the Congress of the United States and appropriate federal**
7 **agencies regarding federal activities that affect the Tohono O'odham Nation"**
8 **(Tohono O'odham Nation Constitution, Article VI, Section 1(c)(2), Section 1(i)(2),**
9 **and Section 1(j)); and**

10 **WHEREAS, it is the policy of the Tohono O'odham Nation to promote "productive and**
11 **enjoyable harmony between members of the [N]ation and their environment; to**
12 **promote efforts which will preserve and protect the natural and cultural**
13 **environment of the Tohono O'odham Nation" for present and future generations**
14 **of Nation's members (Constitution, Article XVIII, Section 1); and**

15 **WHEREAS, "[t]he sovereign powers, authority and jurisdiction of the Tohono O'odham**
16 **Nation and of its government shall extend to all lands within the boundaries of**
17 **the Tohono O'odham Nation" and "[t]he unallotted lands of the Tohono O'odham**
18 **Nation and all lands hereafter acquired by the [N]ation, or held for the use of the**
19 **[N]ation or its members, are a valuable public resource and shall be held as**
20 **national lands forever" and (Constitution, Article I, Section 1 and Article XVI,**
21 **Section 1); and**

22 **WHEREAS, the United States Department of the Interior ("DOI") Bureau of Indian Affairs**
23 **("BIA") has a trust obligation to the Nation and its members for its role in**
24 **managing Nation's resources, and a duty to consult with the Nation on a**
25 **government-to-government basis whenever BIA plans or actions have tribal**
26 **implications (U.S. Department of the Interior, Department Manual,**
27 **Intergovernmental Relations Series, Part 512, Chapter 4, Section 4.4); and**

28 **WHEREAS, Menagers Dam is an embankment dam located in the Nation's Gu Vo District that**
29 **was constructed between 1913-1927, and presently has a very high risk of failure**
30 **due to embankment overtopping; and**

31 **WHEREAS, major flooding events adjacent to Menagers Dam have severely impacted the**
32 **nearby community of Ali Chugk; and**

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1 **WHEREAS, the BIA Office of Dam Safety presented several options for the Menagers Dam**
2 **rehabilitation project to the Nation, Ali Chugk Community, and the Gu Vo District,**
3 **including a rock fill dam with earth core option; and**

4 **WHEREAS, the Ali Chugk Community and Gu Vo District Governing Council support the rock**
5 **fill dam with earth core option for the Menagers Dam rehabilitation project (Gu**
6 **Vo Community Council Resolution No. GV-22-022); and**

7 **WHEREAS, the Menagers Dam rehabilitation project includes removal of ha:san (saguaros),**
8 **which are sacred and an integral part of the O'odham himdag, and the protection**
9 **and treatment of the ha:san during the project are of extreme importance**
10 **(Resolution No. 21-137); and**

11 **WHEREAS, the Nation's Natural Resources Department engaged in consultation with the Gu**
12 **Vo District and Ali Chugk Community regarding the protection and treatment of**
13 **ha:san and received the following requests:**

- 14 1. **that a portion of the ha:san be relocated to locations decided in**
15 **consultation with the District;**
- 16 2. **ha:san damaged during the transplant process shall not be transplanted,**
17 **but shall be placed in a staging area to decompose naturally; and**
- 18 3. **Nation's members shall have access to the staging area for harvesting; and**

19 **WHEREAS, the Water Resources Committee recommends that the Nation approve the**
20 **Menagers Dam rehabilitation project that is supported by Ali Chugk Community**
21 **and Gu Vo District Governing Council; and**

22 **WHEREAS, the Nation's Cultural Affairs Office ("CAO") has reviewed the archeological**
23 **resource management report produced by BRIC for the Menagers Dam**
24 **rehabilitation project and has recommended the project go forward with the**
25 **following provisions:**

- 26 1. **All archaeological site boundaries will be flagged and staked prior to the**
27 **start of construction so the construction activities will avoid impacting on**
28 **those sites;**
- 29 2. **Two archaeologists from BRIC will be hired to be onsite as archaeological**
30 **monitors during the construction phase;**
- 31 3. **Two Nation's members will be hired to be onsite during construction as**
32 **cultural monitors;**
- 33 4. **Menagers Dam is a site eligible for the National Register and since the**
34 **repair and rebuild of the dam will alter its appearance, a Historic**

American Engineering Record ("HAER") should be completed as part of this project;

5. Cultural sensitivity training will be required for all the construction workers hired for this project;

6. Care should be taken to keep the Ali Chugk Community informed on construction activities and scheduling so a time period of ceremonial importance to the community will be avoided by any construction activity;

7. The CAO shall be kept informed of project progress and scheduling; and

8. The CAO shall be invited to attend all pre-construction meetings; and

WHEREAS, by the Gu Vo District Governing Council Resolution No. GV-24-076, which amended Resolution No. GV-24-045, the Gu Vo District Governing Council approves the Ali Chugk Community's requests regarding the handling of ha:san and the Menagers Dam rehabilitation project, subject to the conditions stated in the final resolved clause of this resolution; and

WHEREAS, provided that the BIA follows the CAO's recommendations, the Water Resources, Agricultural and Natural Resources, and Cultural Preservation Committees recommend that the Legislative Council approve the BIA's Menagers Dam rehabilitation project utilizing the rock fill dam with earth core option, subject to the conditions set forth in this resolution.

NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council approves the Gu Vo District and Ali Chugk Community's requests:

1. that a portion of the ha:san be relocated to locations decided in consultation with the District;
2. ha:san damaged during the transplant process shall not be transplanted, but shall be placed in a staging area to decompose naturally; and
3. Nation's members shall have access to the staging area for harvesting.

BE IT FINALLY RESOLVED that the Tohono O'odham Legislative Council approves the Menagers Dam rehabilitation project on the Nation's lands subject to the following conditions:

1. Access for Nation's members and ability to cross the dam;
2. Cultural monitors during all phases of construction;
3. Relocating and transplanting impacted ha:san;
4. Implementation of the Cultural Affairs Office recommendations contained in this resolution; and

5. Compliance with Nation's Archeological Resources Protection Ordinance and all other applicable Nation's laws.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 11th day of JULY 2024 at a meeting at which a quorum was present with a vote of 3,263.3 FOR; -0- AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by Article 1, Section 1; Article VI, Section 1(j); Article XVI, Section 1; Article XVIII, Section 1 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

Wawalene M. Saunders, Legislative Chairwoman

18 day of July, 2024

ATTEST:

Evonne Wilson, Legislative Secretary

18th day of July, 2024

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 18 day of July, 2024 at 9:40 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

Wawalene M. Saunders, Legislative Chairwoman

[X] APPROVED

on the 19 day of July, 2024

[] DISAPPROVED

at 12:58 o'clock, p.m.

VERLON M. JOSE, CHAIRMAN TOHONO O'ODHAM NATION

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Returned to the Legislative Secretary on the 19 day of
July, 2024, at 2:45 o'clock, P.m.

Deanna J. Wilson
Evonne Wilson, Legislative Secretary

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ACTION: APPROVING MANAGERS DAM REHABILITATION PROJECT SUBJECT TO NATION'S CONDITIONS

Moved: COUNCILWOMAN LUCINDA ALLEN

SECOND: COUNCILMAN DANIEL L.A. PRESTON III

DATE: JULY 11, 2024

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 394.2	1. LEANDER MASE (<i>Absent</i>) (Francine Schooling) (<i>Present</i>) 2. JESSE NAVARRO (Alberta J. Ray)	197.1 197.1	X X			X
CHUKUT KUK 354.7	1. VIVIAN JUAN-SAUNDERS (Cornelius Antone) 2. MARLAKAY HENRY ()	177.35 177.35	X X			
GUACHI 282.7	1. VICTORIA HOBBS (Tonya L. Joaquin) 2. JEROME F. JOAQUIN ()	141.35 141.35	X X			
GU VO 276.0	1. DALLAS LEWIS () 2. LESLIE LUNA ()	138.0 138.0	X X			
HICKIWAN 220.5	1. DELMA M. GARCIA () 2. LOUIS R. LOPEZ (Loretta A. Ortega)	110.25 110.25	X X			
PISINEMO 236.2	1. EDWARD D. MANUEL (Monica Morgan) 2. PAMELA J. BENAVIDEZ (<i>Absent</i>) (Nora J. Ruelas) (<i>Present</i>)	118.1 118.1	X X			X
SAN LUCY 257.6	1. ROGER MANUEL (<i>Absent</i>) (Christina Andrews) (<i>Present</i>) 2. GLORIA M. RAMIREZ (<i>Absent</i>) (Lorraine M. Eller) (<i>Present</i>)	128.8 128.8	X X			
SAN XAVIER 244.5	1. JANICE FELIX () 2. DANIEL L.A. PRESTON III ()	122.25 122.25	X X			
SCHUK TOAK 191.8	1. DELISA M. RAMON (<i>Absent</i>) (Sharon A. Francisco) (<i>Present</i>) 2. THEORIA CAMPILO (Rebecca Ann Valentine)	95.9 95.9	X X			
SELLS 558.0	1. EVELYN JUAN MANUEL (Arvada Liston) 2. JANET B. ELEANDO ()	279.0 279.0	X X			
SIF OIDAK 247.1	1. LUCINDA ALLEN (Francis Homewytewa) 2. WAVALENE M. SAUNDERS (Mary Lopez)	123.55 123.55	X X			
TOTAL		3,263.30	3,263.3	-0-	-0-	[02]