

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Allocation of CAP Water for San Xavier Cooperative Farm Use)

RES. NO. 348-88

1 WHEREAS, the San Xavier Cooperative Association, Inc. (herein-
2 after referred to as the "Association") has for many
3 years operated a farming entity located on certain
4 allottees' lands; and

5 WHEREAS, under the provision of P.L. 97-293 (Southern Arizona
6 Water Rights Settlement Act of 1982) the Secretary of
7 the Interior, acting through the Bureau of Reclamation,
8 is mandated to improve and extend the existing
9 irrigation system that is located on the allottees'
10 lands utilized by the San Xavier Cooperative
11 Association, Inc. for farming purposes; and

12 WHEREAS, the San Xavier Cooperative Association, Inc. and the
13 Secretary need to be assured of a sufficient CAP water
14 supply prior to the actual rehabilitation of the
15 allottees' lands utilized by the San Xavier Cooperative
16 Association, Inc. for farming purposes; and

17 WHEREAS, under the provisions of Article XVII, "Water Policies,"
18 of the Constitution of the Tohono O'odham Nation, all
19 waters which originate in or flow in or through the
20 Tohono O'odham Nation, or which are stored in the Tohono
21 O'odham Nation, whether found on the surface or
22 underground, are a public resource of the Nation and the
23 Tohono O'odham Council has the power to determine how
24 these waters shall be used; and

25 WHEREAS, under the provisions of P.L. 97-293, the Nation will
26 receive 50,000 acre feet of water to be delivered
27 through the Central Arizona Project delivery system to
28 the San Xavier Reservation as soon as possible but not
29 later than October 12, 1992; and

30 WHEREAS, the San Xavier Cooperative Association, Inc. has a
31 present need for 4000 acre feet of CAP water and future
32

1 need of up to 6,000 acre feet of CAP water to be
2 delivered to the allottees' lands utilized by the
3 Association for farming purposes; and

4 WHEREAS, under the provision of Article XVII, Section 2(c) the
5 Tohono O'odham Legislative Council has the power to
6 regulate all water use within the Tohono O'odham Nation
7 through a system of non-perpetual permits; and maintain
8 a registry of such permits; and

9 WHEREAS, at the present time, no permitting ordinance has been
10 enacted by the Legislative Council, and therefore there
11 is no mechanism in place for the issuance of a non-
12 perpetual permit for CAP water use by the San Xavier
13 Cooperative Association, Inc.; and

14 WHEREAS, it is essential for the continued development of the
15 lands utilized by the San Xavier Cooperative
16 Association, Inc., that this Council assure the
17 Association that a non-perpetual permit will be issued
18 to the Association for the use of 4000 acre feet of CAP
19 water as soon as the water permitting ordinance is
20 enacted by this Council and in the event a water
21 permitting ordinance is not enacted prior to the need of
22 this water by the Association the Association shall have
23 the right to the use of 4000 acre feet of CAP water for
24 farming purposes until this ordinance is enacted and the
25 appropriate permit issued; and

26 WHEREAS, to continue a successful farming operation, it is the
27 intention of the San Xavier Cooperative Association to
28 acquire new leases from allottees in close proximity to
29 its farming area for the expansion of its farming
30 operation, and if successful, it will have a need for an
31 additional 2000 acre feet of CAP water; and as these
32

1 lands are developed, it is essential that this Council
2 assure the Association that a non-perpetual permit will
3 be issued to the Association for the use of additional
4 CAP water in an amount not to exceed 2000 acre feet. In
5 the event a water permitting ordinance is not enacted
6 prior to the need of this water by the Association, the
7 Association shall have the right to the use of up to an
8 additional 2000 acre feet of CAP water for farming
9 purposes until the ordinance is enacted and the
10 appropriate permit or permits are issued; and

11 WHEREAS, the San Xavier Cooperative Association, Inc., its
12 members/allottees, and the Tohono O'odham Nation do not
13 wish to waive any water rights or entitlement claims
14 that each may have against the other; and

15 WHEREAS, the Tohono O'odham Nation, in a spirit of compromise,
16 believes it to be in the best interest of the Nation and
17 the District to authorize the San Xavier Cooperative
18 Association, Inc. to receive not less than 4,000 acre
19 feet of CAP water nor more than 6,000 acre feet of CAP
20 water annually for a period of twenty-five (25) years
21 and for the period of any extension or renewal of the
22 allottees' leases to the Association of their lands for
23 farming purposes; and

24 WHEREAS, the San Xavier Cooperative Association, Inc., in a
25 spirit of compromise, has agreed to accept the CAP water
26 granted pursuant to a permit issued by the Tohono
27 O'odham Nation; and

28 WHEREAS, the Tohono O'odham Nation recognizes that the acceptance
29 of the CAP water distributed to the San Xavier
30 Cooperative Association, Inc., does not constitute a
31 waiver of any water right or entitlement claims the San
32

1 Xavier Cooperative Association, Inc. and its
2 members/allottees may have against the Nation and
3 further recognizes that such acceptance does not in any
4 way prejudice any water right entitlement claims the San
5 Xavier Cooperative Association, Inc. and its
6 members/allottees may have against the Nation.

7 NOW, THEREFORE, BE IT RESOLVED that this Council does hereby
8 authorize the allocation of CAP water for farming
9 purposes, of not less than 4000 acre feet nor more than
10 6000 acre feet of the 50,000 acre feet of water to be
11 delivered to the San Xavier Reservation under the
12 provisions of P.L. 97-293, to the San Xavier Cooperative
13 Association, Inc. for a period of twenty-five (25) years
14 and for the period of any extension or renewal of the
15 allottees' leases to the Association of their lands for
16 farming purposes.

17 BE IT FURTHER RESOLVED that a water permit for the use and the
18 term contained herein be issued to the Association for
19 the 4000 acre feet of CAP water as soon as a water
20 permitting ordinance is enacted by this Council and in
21 the event a water permitting ordinance is not enacted
22 prior to the need of this water by the Association, this
23 Council does hereby authorize the use of this CAP water
24 for farming purposes by the Association until a water
25 permitting ordinance has been enacted by this Council
26 and the appropriate permit issued.

27 BE IT FURTHER RESOLVED that if the Association is successful in
28 obtaining new leases from allottees in close proximity
29 to it farming area for the expansion of its farming
30 operation, additional water permit or permits shall be
31 issued to the Association for an amount of water not to
32

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

exceed 2000 acre feet of the 50,000 acre feet of the water to be delivered to the San Xavier Reservation under the provisions of P.L. 97-293, to the Association for a period of time equal to the term of any new water acquired for farming expansion for the period of any extension or renewal thereof; and in the event a water permitting ordinance is not enacted prior to the need of this water by the Association, this Council does hereby authorize the use of this water for farming purposes by the Association until a water permitting ordinance has been enacted by this Council and the appropriate permit or permits are issued.

BE IT FURTHER RESOLVED that nothing in this resolution is to be construed as a waiver of any water right or entitlement claims any party involved may have against each other, including the Tohono O'odham Nation, the San Xavier Cooperative Association and the Allottees.

The foregoing Resolution was passed by the Tohono O'odham Council on the 8th. day of December, 1988 at a meeting at which a quorum was present with a vote of 1,640.0 for; -0- against; -0- not voting; and 01 absent, pursuant to the powers vested in the Council by Section 1 (i)(2) of Article VI 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).

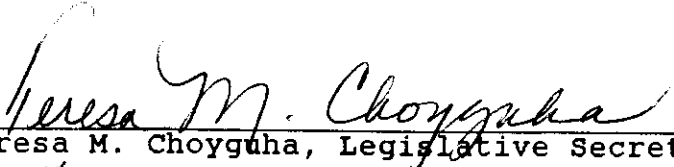
TOHONO O'ODHAM LEGISLATIVE COUNCIL



Harriet Toro, Legislative Chairperson

9th day of December, 1988.

ATTEST:



Teresa M. Choyguha, Legislative Secretary

9th day of December, 1988.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 9th day of December, 19 88, at 5:04 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

Harriet Toro
Harriet Toro, Legislative Chairperson

[] APPROVED) on the 14th day of December, 19 88,
[] DISAPPROVED) at 8:23 o'clock, A.M.

Enos J. Francisco, Jr.
ENOS J. FRANCISCO, JR., Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 14th day of December, 19 88, at 9:01 o'clock, A.M.

Aucinda Allen for
Teresa M. Choyguha
Legislative Secretary

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

MOVED: Edward Manuel

SUBJECT: Allocation of CAP

SECOND: Tony Felix

Water for San Xavier

DATE: December 08, 1988

Cooperative Farm Use

RESOLUTION #348-88

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 138.0	1. Nicholas Jose (Letitia Garcia)	69.0	X			
	2. Willard Juan, Sr. (Melissa Gregorio)	69.0	X			
SELLS 257.0	1. Andrew Patricio (Daniel Lopez)	128.5	X			
	2. Fred Stevens ()	128.5	X			
SCHUK TOAK 105.0	1. Julia Carrillo (JoAnn Francisco)	52.5	X			
	2. Joseph Juan (Frances Francisco)	52.5	X			
SAN XAVIER 126.0	1. Eugene Enis (Michael Rios)	63.0	X			
	2. Tony Felix (Carmelita Mattias)	63.0	X			
BABOQUIVARI 241.0	1. Kenneth Chico, Sr. ()	120.5	X			
	2. Joann Garcia (Frances Miguel)	120.5	X			
GU ACHI 158.0	1. Percy Lopez ()	79.0	X			
	2. Fernando Joaquin ()	79.0	X			
PISINEMO 116.0	1. Johnson Jose ()	58.0	X			
	2. Edward Manuel ()	58.0	X			
SAN LUCY 85.0	1. Max Jose (Dewey Ortega)	42.5	X			
	2. John Reno ()	42.5	X			
GU VO 117.0	1. Virgil Lewis (Roy Montana)	58.5	X			
	2. Cross Antone (Juan Joe Cipriano)	58.5	X			
HICKIWAN 128.0	1. Henry Ramon (Billy Manuel)	64.0	X			
	2. Lloyd Francisco (Eleanor Santos)	64.0	X			
CHUKUT KUK 169.0	1. Rosita Ruiz (Rosemary Lopez)	84.5	X			X
	2. Harriet Toro ()	84.5	X			
TOTAL		1,640.0	1,640.0	-0-	-0-	01