

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Resolution in Opposition to the Establishment of Courts of
Federal Regulation Magistrates for the Tohono O'odham Nation)

RES. NO. 242-90

1 WHEREAS, on May 29, 1990 the United States Supreme Court in the
2 case of Duro v. Reina, No. 88-6546, held, Indian Tribes
3 cannot exercise criminal jurisdiction over non-member
4 Indians on the reservation; and

5 WHEREAS, in a memorandum dated June 1, 1990 the Assistant
6 Secretary-Indian Affairs, has determined that " . . . the
7 most expedient manner to address the jurisdictional void
8 to be expected as a result of the Duro decision is to
9 appoint special CFR magistrates on Indian reservations
10 currently exercising criminal jurisdiction over non-member
11 Indians."; and

12 WHEREAS, it is the position of the Tohono O'odham Legislative
13 Council that the United States Supreme Court decision in
14 Duro does not take into consideration the extreme negative
15 impact it will have on Indian tribes, and the tribes'
16 ability and self-determination to provide a safe living
17 environment to all persons, both members, non-members and
18 non-Indians who reside on the Tohono O'odham Nation; and

19 WHEREAS, contrary to the determination of the Assistant Secretary-
20 Indian Affairs, it would not be in the tribes' best
21 interest to establish CFR magistrates, for the mere fact
22 that in doing so, would be a major Bureau infringement on
23 the tribes' sovereign authority to self government, in
24 addition, it gives the appearance of a resolution to the
25 problem thereby impeding any efforts towards Congressional
26 legislative action; and

27 WHEREAS, the Tohono O'odham Legislative Council recognizes in the
28 majority opinion in Duro, that the Supreme Court held,
29 Indian tribes still retain broad civil regulatory
30 jurisdiction over persons on the reservation, including,
31 " . . . their traditional and undisputed power to exclude
32 persons whom they deem to be undesirable from tribal
lands."; and

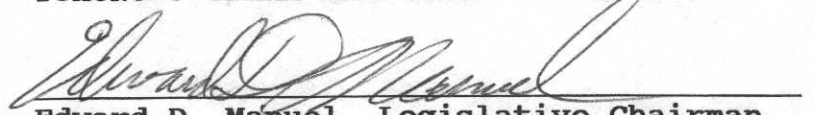
1 WHEREAS, the Tohono O'odham Legislative Council intends to solicit
2 tribal input from appropriate persons within the Legisla-
3 tive, Executive and Judicial Branches of the tribal
4 government to develop and make recommendations to the
5 Legislative Council on the civil regulatory jurisdiction
6 and the power to exclude non-members and non-member
7 Indians as a legal remedy to control non-member and non-
8 member Indian conduct on the Tohono O'odham Nation.

9 NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative
10 Council that it does hereby oppose the creation and/or
11 establishment of Courts of Federal Regulation Magistrates
12 on the Indian reservations currently exercising criminal
13 jurisdiction over non-member Indians and further oppose
14 the creation and/or establishment of CFR court magistrates
15 on the Tohono O'odham Nation.

16 BE IT FURTHER RESOLVED by the Tohono O'odham Legislative Council
17 that it opposes the use of any federal funds which would
18 be otherwise available to provide judicial or other
19 services to the Tohono O'odham Nation and opposes any
20 reduction in services or funding to the Nation, as a
21 consequence of the planning or implementation of plans to
22 establish a CFR court magistrates on any Indian
23 reservation.

24 The foregoing Resolution was passed by the Tohono O'odham Council
25 on the 12th day of July, 1990 at a meeting at which a quorum was
26 present with a vote of 1,724.0 for; -0- against; -0- not voting;
27 04 absent, pursuant to the powers vested in the Council by Section
28 1 (1) of Article VI of the Constitution of the Tohono O'odham
29 Nation, adopted by the Tohono O'odham Nation on January 18, 1986,
30 and approved by the Acting Deputy Assistant Secretary - Indian
31 Affairs (Operations) on March 6, 1986, pursuant to Section 16 of
32 the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Edward D. Manuel, Legislative Chairman
13th day of July, 1990.

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ATTEST:

Teresa M. Choyguha
Teresa M. Choyguha, Legislative Secretary

13th day of July, 19 90.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 13th day of July, 19 90, at 4:22 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

Edward D. Manuel
Edward D. Manuel, Legislative Chairman

[] APPROVED) on the 17th day of July, 19 90,
[] DISAPPROVED) at 3:19 o'clock, P.M.

Angelo J. Joaquin Sr.
ANGELO J. JOAQUIN, SR., Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 17th day of July, 19 90, at 3:35 o'clock, P.M.

Teresa M. Choyguha
Teresa M. Choyguha
Legislative Secretary

MOVED: WILLARD JUAN, SR.

SUBJECT: RESOLUTION IN OPPOSITION TO THE

SECOND: JOSEPH JOAQUIN

ESTABLISHMENT OF COURTS OF FEDERAL REGULATION

DATE: JULY 12, 1990

MAGISTRATES FOR THE TOHONO O'ODHAM NATION

RESOLUTION NO. 242-90

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 229.0	1. Earl A. Francisco (Kenneth Chico, Sr.)	114.5	X			
	2. Joann Garcia (Frances Miguel)	114.5	X			
CHUKUT KUK 163.0	1. Rosita Ruiz (Rosemary Lopez)	81.5	X			
	2. Kenneth G. Williams (Harriet Toro)	81.5	X			
GU ACHI 166.0	1. Percy Lopez ()	83.0	X			X
	2. Alex J. Ramon (Fernando Joaquin)	83.0	X			
GU VO 114.0	1. Cross Antone (Juan Joe Cipriano)	57.0	X			
	2. Virgil Lewis (Michael Flores)	57.0	X			
HICKIWAN 125.0	1. Lloyd Francisco (Billy C. Manuel)	62.5	X			
	2. Henry Ramon ()	62.5	X			
PISINEMO 119.0	1. Johnson Jose ()	59.5	X			
	2. Edward Manuel (Alex Antone)	59.5	X			
SAN LUCY 106.0	1. Albert Manuel, Jr. (Max P. Jose)	53.0	X			
	2. John Reno ()	53.0	X			X
SAN XAVIER 127.0	1. Eugene Enis, Sr. (Michael Rios)	63.5	X			X
	2. Joanne C. Preston (Carmelita Mattias)	63.5	X			
SCHUK TOAK 107.0	1. JoAnn Francisco (David Valenzuela Sr.)	53.5	X			
	2. Joseph Juan (Frances Francisco)	53.5	X			
SELLS 310.0	1. Joseph T. Joaquin (Larry Garcia)	155.0	X			
	2. Andrew Patricio (Daniel Lopez)	155.0	X			X
SIF OIDAK 158.0	1. Mary Ann Antone (Nina Jose)	79.0	X			
	2. Willard Juan, Sr. (Melissa Gregorio)	79.0	X			
TOTAL		1,724.0	1,724.0	-0-	-0-	04