

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Amending the Restated Plan of Operation of the Tohono O'odham  
Utility Authority)

RES. NO. 447-90

1 WHEREAS, by Resolution No. 328-90, the Tohono O'odham Legislative  
2 Council approved certain amendments to the Plan of  
3 Operation of the Tohono O'odham Utility Authority (the  
4 "Authority") which were incorporated in a Restated Plan  
5 of Operation (the "Restated Plan"); and  
6 WHEREAS, Section 5(A) of the Restated Plan purports to grant the  
7 Authority blanket approval of the Tohono O'odham Nation  
8 for any and all rights-of-way, easements and other similar  
9 land uses on tribal trust lands which the Authority deems  
10 necessary to conduct its operation, and to waive any right  
11 of the Nation to consider whether or to what extent the  
12 Nation should receive compensation for such use; and  
13 WHEREAS, Section 5(B) of the Restated Plan further purports to  
14 grant the Authority blanket approval of the Tohono O'odham  
15 Nation to use rights-of-way, easements and other similar  
16 land rights held by the Nation on any lands, and to waive  
17 any right of the Nation to consider whether or to what  
18 extent the Nation should receive compensation for such  
19 use; and  
20 WHEREAS, in order to enable the Tohono O'odham Legislative Council  
21 to control and manage the Nation's lands in accordance  
22 with Article XVI of the Nation's Constitution, the Council  
23 considers it necessary and advisable to amend Section 5  
24 to delete the blanket consent and compensation waiver, and  
25 to require Council review and approval of each land use  
26 sought by the Authority over unallotted tribal trust lands  
27 and other lands with respect to which the Nation has an  
28 interest, but to exempt from such requirements land use  
29 rights necessary to construct or install service lines  
30 pursuant to the provisions of 25 CFR §169.22; and  
31 WHEREAS, it is further advisable to require the written consent of  
32 the District Council and compliance with District land use  
plans, as now prescribed by Section 5(A).

1 NOW, THEREFORE, BE IT RESOLVED THAT:

2 1. Section 5 of the Restated Plan of Operation of the  
3 Tohono O'odham Utility Authority is hereby amended to  
4 read as follows:

5 The grant to the Authority of any and all rights-of-  
6 way, easements or other land use rights over  
7 unallotted lands of the Tohono O'odham Nation shall  
8 (a) require the prior review and approval of the  
9 Tohono O'odham Legislative Council, (b) comply with  
10 applicable federal laws and laws of the Tohono O'odham  
11 Nation, (c) comply with any applicable land use plan  
12 adopted by a District Council and approved by the  
13 Tohono O'odham Legislative Council, and (d) require  
14 the prior written consent of the District Council of  
15 the District in which such lands are located, which  
16 consent shall not unreasonably withheld; provided,  
17 however, that the requirements of clauses (a) and (d)  
18 shall not apply to any land use right necessary to  
19 construct or install service lines pursuant to the  
20 provisions of 25 CFR §169.22. The grant to the  
21 Authority of any and all land use rights over allotted  
22 lands within the Tohono O'odham Nation shall be  
23 subject to compliance by the Authority with all  
24 applicable federal laws and laws of the Tohono O'odham  
25 Nation.

26 2. Subject to prior review of the Attorney General, the  
27 Authority is authorized to prepare and use as its  
28 approved plan of operation a second restated plan of  
29 operation which shall represent the current restated  
30 plan of operation, as amended by the foregoing  
31 amendment.

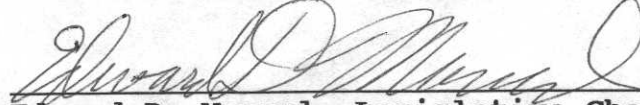
32 3. With the objective of conforming all comparable land  
use rights of the Authority to the foregoing

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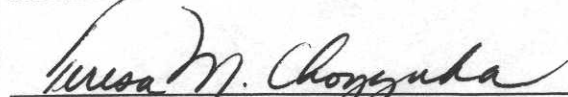
requirements, the Authority is directed to cooperate with and assist the Attorney General in identifying any lease or other document in which the Tohono O'odham Nation granted such land use rights, and the Attorney General is directed to recommend to the Tohono O'odham Legislative Council whether amendments to such documents would be advisable.

The foregoing Resolution was passed by the Tohono O'odham Council on the 10th day of December, 1990 at a meeting at which a quorum was present with a vote of 1,724.0 for; -0- against; -0- not voting; 03 absent, pursuant to the powers vested in the Council by of Article XVI 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

  
Edward D. Manuel, Legislative Chairman  
10<sup>th</sup> day of December, 1990.

ATTEST:

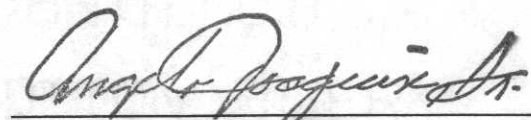
  
Teresa M. Choyguha, Legislative Secretary  
10<sup>th</sup> day of December, 1990.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 10<sup>th</sup> day of December, 1990, at 4:31 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, Legislative Chairman

[  ] APPROVED ) on the 12<sup>th</sup> day of December, 1990,  
[  ] DISAPPROVED ) at 4:21 o'clock, P.M.

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

1 Returned to the Legislative Secretary on the 12<sup>th</sup> day of  
2 December, 19 90, at 4:29 o'clock, P.M.

3 Teresa M. Choyguha  
4 Teresa M. Choyguha  
5 Legislative Secretary

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MOVED: VIRGIL LEWIS

SUBJECT: AMENIDNG THE RESTATED PLAN OF

SECOND: JOSEPH JUAN

OPERATION OF THE TOHONO O'ODHAM UTILITY

DATE: DECEMBER 12, 1990

AUTHORITY

RESOLUTION NO. 447-90

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			X
	2. Virgil Lewis (Michael Flores)	57.0	X			
HICKIWAN 125.0	1. Lloyd Francisco (Billy C. Manuel)	62.5	X			
	2. Lenora Montana ( )	62.5	X			
PISINEMO 119.0	1. Johnson Jose ( )	59.5	X			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			
SAN XAVIER 127.0	1. Eugene Enis. Sr. (Michael Rios)	63.5	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			
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-	03