

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Reaffirming Objections to Proposed Reallocations of CAP Water
until Final Settlement of the Water Rights of the Nation)

RES. NO. 91-005

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3 WHEREAS, on January 10, 1983 the Secretary of Interior entered a
4 decision allocating Central Arizona Project (CAP) water
5 to Indian and non-Indian users; and

6 WHEREAS, by letter dated April 29, 1983 from Chairman Max Norris
7 to the Arizona Department of Water Resources (ADWR), a
8 copy of which is attached, the Tohono O'odham Nation
9 requested a contract for 12,000 acre feet of CAP water for
10 agricultural use in the Chuichu area of the Sif Oidak
11 District; and

12 WHEREAS, certain non-Indian entities have declined to contract for
13 the CAP water originally allocated to them for both
14 agricultural and municipal and industrial (M&I) uses; and

15 WHEREAS, additional declinations are expected in the future with
16 respect to agricultural and M&I CAP water; and

17 WHEREAS, significant portions of the declined CAP water were
18 originally allocated for use within the Tucson Active
19 Management Area (AMA) and the Pinal County AMA; and

20 WHEREAS, by notice issued on November 21, 1990 (copy attached), the
21 ADWR issued for comment its proposed recommendations for
22 reallocation of declined CAP water for agricultural use;
23 and

24 WHEREAS, ADWR's proposal rejects the Chuichu request for 12,000
25 acre feet of CAP water and reallocates to users outside
26 the Tucson and Pinal AMA's CAP water originally designated
27 for such AMA's; and
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2 WHEREAS, ADWR intends to submit its final recommendations to the
3 Secretary of Interior on January 7, 1991; and

4 WHEREAS, under Section 305(a) of the Southern Arizona Water Rights
5 Settlement Act (SAWRSA), the Nation received a right to
6 28,200 acre feet of reclaimed water; and

7 WHEREAS, under section 305(C) of SAWRSA the Secretary of Interior
8 may satisfy the obligation to deliver reclaimed water by
9 contracting for the delivery of an equivalent amount of
10 declined CAP water; and

11 WHEREAS, since CAP water is of a better quality than reclaimed
12 water, the Secretary has a trust obligation to the Nation
13 to do everything possible to secure substitute CAP water;
14 and

15 WHEREAS, by letter dated December 13, 1990 (copy attached), the
16 Nation objected to ADWR's proposed recommendations on
17 several grounds, including the adverse impact to the
18 Nation's water rights in the Chuichu area and under SAWRSA
19 which would result from the elimination of declined CAP
20 water as a potential source of settlement water, contrary
21 to the Secretary's trust obligations to the Nation; and

22 WHEREAS, the Nation's December 13 letter requested a suspension of
23 reallocations of any CAP water in the Tucson or Pinal AMA
24 until the Nation's water rights are finally resolved; and

25 WHEREAS, representatives of the Nation conveyed these objections
26 and recommended suspension to officials of the Department
27 of Interior during meetings held in Washington, D.C. on
28 December 13 and 14, 1990; and

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2 WHEREAS, legislation was introduced in the last session of the
3 United States Congress (H.R. 5223 and 5539) to settle the
4 water rights of the San Carlos Apache Tribe; and

5 WHEREAS, the San Carlos bills each contained a provision whereby
6 declined M&I CAP water originally allocated to Phelps
7 Dodge Corporation for use in the Tucson AMA would become
8 part of the San Carlos settlement and reallocated outside
9 the Tucson AMA; and

10 WHEREAS, the San Carlos legislation is expected to be reintroduced
11 in 1991; and

12 WHEREAS, for the reasons stated above, reallocation of the Phelps
13 Dodge CAP water as proposed would adversely affect a fair
14 and final settlement of the Nation's water rights under
15 SAWRSA; and

16 WHEREAS, the Water Resources Committee has recommended approval of
17 this resolution by the Legislative Council.

18 NOW, THEREFORE, BE IT RESOLVED that:

19 1. The Tohono O'odham Legislative Council reaffirms the
20 position of the Tohono O'odham Nation that all declined
21 CAP water in the Pinal AMA and Tucson AMA should be made
22 available for purposes of settlement of the Nation's
23 Chuichu water claims and a final settlement and imple-
24 mentation of the Nation's rights under SAWRSA; and that
25 until such time as those events occur, there should be a
26 suspension of any reallocation of such water for other
27 purposes or users, within the outside these AMA's.
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2. The Chairman of the Tohono O'odham Nation, in consultation with the Water Resources Committee and the Attorney General, is authorized and directed to confirm in writing to the Secretary of Interior, the Arizona Congressional Delegation, the San Carlos Apache Tribe and other appropriate officials the positions of the Tohono O'odham Nation regarding CAP water reallocations.

The foregoing Resolution was passed by the Tohono O'odham Council on the 7th day of January, 1991 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 Section 1 (i)(2) and 2 (d) of Article VI and Section 2 of Article XVII 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
Edward D. Manuel, Legislative Chairman
16th day of January, 1991.

ATTEST:

Teresa M. Choyguha
Teresa M. Choyguha, Legislative Secretary
16th day of January, 1991.

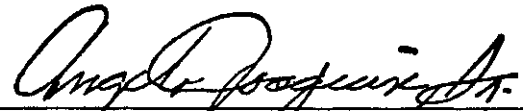
Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 16th day of January, 1991, at 10:34 o'clock, A.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

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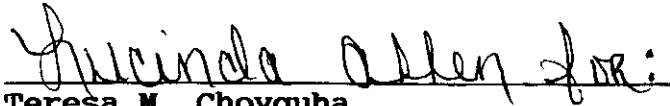
TOHONO O'ODHAM LEGISLATIVE COUNCIL


Edward D. Manuel, Legislative Chairman

[] APPROVED) on the 18th day of January, 19 91.
[] DISAPPROVED) at 9:13 o'clock, A.M.


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

Returned to the Legislative Secretary on the 18th day of
January, 19 91, at 9:18 o'clock, A.M.


Teresa M. Choyguha
Legislative Secretary

MOVED: Councilwoman Mary Ann AntoneSUBJECT: Reaffirming Objections to Proposed Realloca-SECOND: Councilman Willard Juan, Sr.tions of CAP Water until Final Settlement of theDATE: January 7, 1991Water Rights of the Nation

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 229.0	1. Earl A. Francisco (Kenneth Chico)	114.5	X			
	2. Joann Garcia (Frances Miquel)	114.5	X			
CHUKUT KUK 163.0	1. Rosita Ruiz (Rosemary Lopez)	81.5	X			
	2. Kenneth Williams (Harriet Toro)	81.5	X			
GU ACHI 166.0	1. Percy Lopez ()	83.0	X			
	2. Alex 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			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			
	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

**PASSED VOTES