

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Amendment to Resolution No. 91-005, "Reaffirming Objections to  
Proposed Reallocations of CAP Water until Final Settlement  
of the Water Rights of the Nation)

RES. NO. 91-105

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3 WHEREAS, subsequent to the approval of Resolution No. 91-005,  
4 information has come to the attention of the Tohono  
5 O'odham Legislative Council which makes it advisable to  
6 amend the preamble and text of such Resolution in the form  
7 hereinafter set forth; and

8 WHEREAS, on January 10, 1983 the Secretary of Interior entered a  
9 decision allocating Central Arizona Project (CAP) Water  
10 to Indian and non-Indian users; and

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

17 WHEREAS, Chuichu is within the Pinal Active Management Area (AMA);  
18 and

19 WHEREAS, certain non-Indian entities have declined to contract for  
20 the CAP water originally allocated to them for agri-  
21 cultural or municipal and industrial (M&I) uses; and

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

24 WHEREAS, significant portions of the current and prospective CAP  
25 water declinations were originally allocated for use  
26 within the Tucson AMA; and

27 WHEREAS, by notice issued on November 21, 1990 (copy attached),  
28 ADWR issued for comment its proposed recommendations for

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reallocation of declined CAP water for agricultural use;  
and

WHEREAS, ADWR's proposal reallocates to users outside the Tucson AMA CAP water originally designated for such AMA; and

WHEREAS, ADWR's proposal rejected the Chuichu allocation of 12,000 acre feet of CAP water, but reallocated additional CAP water to non-Indian users in the Pinal AMA; and

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

WHEREAS, under Section 305(c) of SAWRSA the Secretary of Interior is authorized to satisfy the obligation to deliver reclaimed water by contracting for the delivery of an equivalent amount of declined CAP water, including water originally allocated to areas outside the Tucson AMA; and

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

WHEREAS, the Nation's water rights and damage claims in the Sif Oidak District (encompassing the Chuichu area) have not been resolved, including damages for dramatic groundwater depletion as a result of pumping by non-Indian users; and

WHEREAS, CAP water declined by the initial allottees of such water is a potential source of water to satisfy the Nation's

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rights and claims in the Sif Oidak District; and

WHEREAS, the Secretary has a trust obligation to assure that adequate water resources are available to satisfy the Nation's water rights in the Sif Oidak District; and

WHEREAS, by letter dated December 13, 1990 (copy attached), the Nation objected to ADWR's proposed recommendations on several grounds, including the adverse impact to the Nation's water rights in the Sif Oidak District and under SAWRSA which would result from the elimination of declined CAP water as a potential source of settlement water, contrary to the Secretary's legal obligations to the Nation; and

WHEREAS, the Nation's December 13 letter requested a suspension of allocations of any CAP water until the Nation's water rights are finally resolved; and

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

WHEREAS, by letter to the Secretary dated January 7, 1991 (copy attached), ADWR conveyed its final recommendations regarding reallocation of declined agricultural CAP water; and

WHEREAS, by letter to the Secretary dated January 15, 1991, the Arizona Department of Water Resources submitted its report

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in support of the final recommendations (copies of letter and report attached); and

WHEREAS, ADWR's final recommendations contained the same deficiencies to which the Nation had previously objected; and

WHEREAS, the Water Resources Committee has recommended approval of this Resolution by the Legislative Council.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Tohono O'odham Legislative Council reaffirms the position of the Tohono O'odham Nation that all CAP water which has been declined by the original allottees in the Pinal AMA, Tucson AMA or other areas, or which is proposed for reallocation within or to such areas, should be made available for purposes of satisfying the Nation's water rights in the Sif Oidak District and securing a final settlement and implementation of the Nation's rights under SAWRSA; and that until such time as those events occur, there should be a suspension of any reallocation of such water for other purposes or users, within or outside these AMA's.

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


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Arizona Congressional delegation and other appropriate officials, the position of the Tohono O'odham Nation regarding CAP water reallocations.


3. This resolution amends Resolution No. 91-005 in its entirety.

The foregoing Resolution was passed by the Tohono O'odham Council on the 27th day of March, 1991 at a meeting at which a quorum was present with a vote of 1,724.0 for; -0- against; -0- not voting; 04 absent, pursuant to the powers vested in the Council by 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, Legislative Chairman  
28<sup>th</sup> day of March, 1991.

ATTEST:

  
Teresa M. Choyguha, Legislative Secretary  
28<sup>th</sup> day of March, 1991.

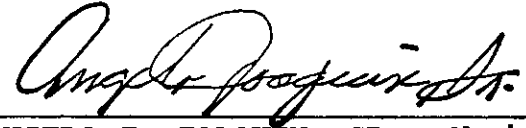
Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 28<sup>th</sup> day of March, 1991, at 11:39 o'clock, A.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

  
Edward D. Manuel, Legislative Chairman

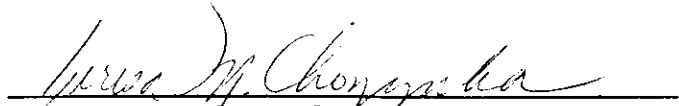
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[  ] APPROVED ) on the 2<sup>nd</sup> day of April, 1991.  
[  ] DISAPPROVED) at 9:44 o'clock, A.M.



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

Returned to the Legislative Secretary on the 2<sup>nd</sup> day of  
April, 1991, at 9:51 o'clock, A.M.

  
Teresa M. Choyguha  
Legislative Secretary

MOVED: COUNCILWOMAN MARY ANN ANTONESUBJECT: AMENDMENT TO RESOLUTION NO. 91-005, "REAFFIR-SECOND: COUNCILMAN WILLARD JUAN, SR.MING OBJECTIONS TO PROPOSED REALLOCATIONS OF CAP WATERDATE: MARCH 27, 1991UNTIL FINAL SETTLEMENT OF THE WATER 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			X
	2. Kenneth Williams (Harriet Toro)	81.5	X			
GU ACHI 166.0	1. Percy Lopez ( )	83.0	X			X
	2. Alex 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			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			
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-	04

\*\*PASSED VOTES