

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Directing Payment of Well Lease Credits from the Central Arizona
Irrigation and Drainage District)**

RES. NO. 92-149

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2
3 **WHEREAS, the Nation acquired the San Lucy Farm in 1988 pursuant to the terms**
4 **of the Gila Bend Indian Reservation Lands Replacement Act of 1986,**
5 **Public Law 99-503, 100 Stat. 1798 (the Act); and**

6
7 **WHEREAS, the San Lucy Farm comprises approximately 3,000 acres of agricultural**
8 **land which is located within the Central Arizona Irrigation and Drainage**
9 **District (CAIDD), a political subdivision of the State of Arizona; and**

10 **WHEREAS, pursuant to Arizona State law, CAIDD is authorized to levy and assess**
11 **taxes upon irrigable land located within CAIDD; and**

12
13 **WHEREAS, CAIDD has, and continues to, levy and assess a tax upon the irrigable**
14 **lands of the San Lucy Farm, which tax assessment is presented to the**
15 **Nation in terms of an assessment "in lieu of" state real property taxes;**
16 **and**

17 **WHEREAS, the lands of the Nation are exempt from state taxation under federal**
18 **law, and Section 7 of the Act expressly requires the Secretary of the**
19 **Interior to make payments to the State of Arizona, and its political**
20 **subdivisions, in lieu of real property taxes; and**

21
22 **WHEREAS, despite the express statutory requirement for the Secretary of Interior to**
23 **pay the taxes levied by CAIDD upon the San Lucy Farm, the Secretary,**
24 **through the Acting Area Director of the BIA, refuses to pay these state**
25 **real property taxes; and**

26
27 **WHEREAS, the Nation has initiated an administrative action with the Interior Board**
28 **of Indian Appeals to appeal the decisions of the Acting Phoenix Area**

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Director and to obtain an administrative ruling from the Board that the Secretary is obligated by the terms of the Act to pay the CAIDD taxes assessed upon San Lucy Farm; and

WHEREAS, *CAIDD has taken the position that it will not deliver any irrigation water to the San Lucy Farm unless the taxes have been paid; and*

WHEREAS, *it is essential to the farming operation that the farm have available to it a dependable supply of irrigation water; and*

WHEREAS, *the CAIDD taxes have been paid, under protest, to ensure a continued supply of irrigation water to San Lucy Farm; and*

WHEREAS, *pursuant to Section 4 of the Agreement for Project Water Service, CAIDD is required to pay to the Nation semi-annual payments of \$57,177, beginning in December 1990, for the rights to pump groundwater and the use of wells and well sites located upon San Lucy Farm (hereinafter referred to as the Well Credits); and*

WHEREAS, *payment of the Well Credits by CAIDD is contingent upon payment to CAIDD of the annual real property taxes and assessments on San Lucy Farm; and*

WHEREAS, *the amount of the Well Credits is included as a part of the CAIDD tax assessment on the San Lucy Farm; and*

WHEREAS, *by paying the CAIDD tax, the taxpayer is providing CAIDD with funds which are partially returned to the Taxpayer in the form of the Well Credit payments; and*

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2
3 **WHEREAS, the Tohono O'odham Farming Authority, which has been granted the**
4 **authorization to operate the San Lucy Farm, has acknowledged that the**
5 **CAIDD taxes are operating costs of the Farming Authority under the**
6 **terms or its Restated Plan of Operation; and**

7
8 **WHEREAS, the Farming Authority paid the CAIDD taxes assessed against the San**
9 **Lucy Farm in 1988 and 1989, but was unable to pay the CAIDD taxes**
10 **assessed in 1990; and**

11 **WHEREAS, the Nation paid the 1990 CAIDD taxes under protest and received the**
12 **Well Credit payment thereon; and**

13
14 **WHEREAS, the Farming Authority has agreed to pay the 1991 CAIDD taxes in full**
15 **(under protest), and the Farming Authority paid (under protest) the first**
16 **half payment in the amount of \$121,929 on April 2, 1992, and is**
17 **prepared to pay the second half payment which is due on May 1, 1992;**
18 **and**

19
20 **WHEREAS, by Resolution No. 06-92 of the Farming Authority Management Board,**
21 **the Management Board requests that it receive the 1991 Well Credits**
22 **from CAIDD; and**

23 **WHEREAS, both the Agriculture and the Budget and Finance Committees of the**
24 **Legislative Council recommend that the Farming Authority receive the**
25 **annual Well Credits so long as the Farming Authority pays the annual**
26 **CAIDD taxes.**
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NOW, THEREFORE, BE IT RESOLVED that:

- 1. the Farming Authority shall receive the Well Credits paid pursuant to Section 4 of the Agreement for Project Water Service for 1991 and future years so long as the Farming Authority pays the annual CAIDD taxes when due for taxes assessed for such years; provided that in the event the Farming Authority is unable to pay the CAIDD tax when due in any given year then, and in that event, the Farming Authority is not entitled to receive the Well Credits.*
- 2. Nothing contained herein shall be construed as an assignment to the Farming Authority of the Nation's property right to the wells and well sites located upon San Lucy Farm or as an assignment of any right to receive the Well Credits.*
- 3. The Nation's Chairman is directed to notify CAIDD that all Well Credit payments shall be forwarded to the Nation's Accounting Department.*
- 4. The Nation's Accounting Department is directed to release payment of the Well Credits to the Farming Authority only upon the occurrence of the following two events: (a) the Farming Authority makes the payment of the CAIDD tax when due; and (b) the Farming Authority presents to the Accounting Department evidence of such payment in the form of copies of the payment check,*

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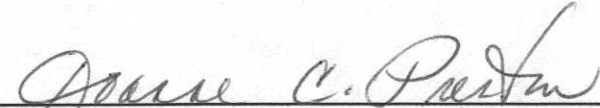
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evidence the check has been honored by the institution at which it
was drawn, and payment receipt from CAIDD.

The foregoing Resolution was passed by the Tohono O'Odham Legislative Council on
the 10TH day of April, 1992 at a meeting at which a quorum was present with a vote
of 1,244.0 FOR; 127.0 AGAINST; 246.0 NOT VOTING; and 107.0 [07] ABSENT,
pursuant to the powers vested in the Council by Section 1(d)(2) &(i) and Section 2(d)
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


for Mary Ann Antone, Legislative Chairwoman
10th day of April, 1992

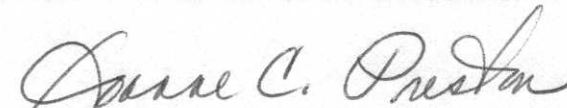
ATTEST:


Teresa M. Choyguha, Legislative Secretary

10th day of April, 1992.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono
O'Odham Nation on the 10th day of APRIL, 1992 at
2:10 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


for Mary Ann Antone, Legislative Chairwoman

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APPROVED on the 10th day of April, 1992
 DISAPPROVED) at 3:20 o'clock, P.M.

Josiah Moore
JOSIAH MOORE, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 10th day of April,
1992, at 4:35 o'clock, P.M.

Teresa M. Choyguha for:
Teresa M. Choyguha, Legislative Secretary

MOVED: COUNCILMAN WILLARD JUAN, SR.SUBJECT: DIRECTING PAYMENT OF WELL LEASE CREDITSSECOND: COUNCILMAN ANDREW PATRICIOFROM THE CENTRAL ARIZONA IRRIGATION AND DRAINAGEDATE: APRIL 10, 1992DISTRICT

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
CHUKUT KUK 163.0	1. Kenneth Williams (Harriet Toro)	81.5	X			X
	2. Alberta M. Lopez (Berdella Jose)	81.5	X			
HICKIWAN 125.0	1. Lloyd Francisco** (Billy C. Manuel)	62.5	X			
	2. Manuel Osequeda, Jr. ()	62.5	X			
GU VO 114.0	1. Michael Flores	57.0			X	
	2. Emilio Lewis (Anthony Flores)	57.0	X			
SAN LUCY 106.0	1. Albert Manuel, Jr. (Max P. Jose)	53.0			X	
	2. John Reno ()	53.0			X	X
PISINEMO 119.0	1. Johnson Jose ()	59.5	X			
	2. Chester Antone (Fernando Valentine)	59.5	X			
GU ACHI 166.0	1. Alex Ramon (Fernando Joaquin)	83.0			X	
	2. Willard Anita ()	83.0	X			
BABOQUIVARI 229.0	1. Earl A. Francisco (Kenneth Chico, Sr.)	114.5	X			X
	2. Frances Miguel ()	114.5	X			
SAN XAVIER 127.0	1. Joanne C. Preston (Carmelita Mattias)	63.5		X		
	2. Eugene Enis, Sr. (Michael R. Rios)	63.5		X		X
SCHUK TOAK 107.0	1. JoAnn Francisco (David Valenzuela Sr.)	53.5				X
	2. Frances Francisco (Joseph Juan)	53.5				X
SELLS 310.0	1. Joseph T. Joaquin (Larry Garcia)	155.0	X			
	2. Andrew Patricio (Lucille Encinas)	155.0	X			
SIF OIDAK 158.0	1. Mary Ann Antone (Nina Jose)	79.0	X			X
	2. Willard Juan, Sr. (Delbert Thomas)	79.0	X			
TOTAL		1,724.0	1,244.0	127.0	246.0	107.0 [07]

**PASSED VOTES