

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing Appropriate Action in Alvarez v. Tucson
to Protect Nation's Winters Right)**

RES. NO. 93-042

WHEREAS, on January 25, 1993, thirty-one individuals with allotments in the San Xavier District filed a lawsuit in United States District Court in Tucson, captioned Alvarez et al. v. Tucson, ASARCO and Farmers Investment Co., CIV 93-0039 TUC WDB (the "Alvarez Suit"); and

WHEREAS, in the Alvarez Suit the plaintiff allottees (1) request certification of a class comprised of all Indian allottees in San Xavier, (2) assert various claims against the defendants for injuries to their water rights and lands, and (3) seek damages in excess of \$306 million; and

WHEREAS, the allottee plaintiffs in the Alvarez Suit further assert ownership of a Winters right in water resources alleged to be appurtenant to the allotted lands, and separate and distinct from the Winters right held by the Tohono O'odham Nation; and

WHEREAS, the Alvarez Suit asks the Court to enter a declaratory judgment that the allottees own a separate Winters right; and

WHEREAS, the water and other benefits granted to the Nation under the Southern Arizona Water Rights Settlement Act ("SAWRSA")

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were in exchange for a settlement of the Nation Winters rights in the eastern Schuk Toak and San Xavier Districts; and

WHEREAS, by Resolution 91-304, the Legislative Council confirmed "the legal position of the Nation that all water rights under SAWRSA, and the water entitlements and other benefits granted in settlement therefor, are solely owned by the Nation as a public resource of the Nation, and the management and control thereof are rights and powers held by the Nation's Legislative Council"; and

WHEREAS, Resolution 91-304 further authorized and directed the Nation's Attorney General to take appropriate steps in U.S. v. Tucson to assert the foregoing legal position and oppose the legal position of the allottees regarding ownership of a portion of such water right; and

WHEREAS, the Attorney General has presented the Nation's legal position in U.S. v. Tucson; and

WHEREAS, the Nation's exclusive ownership of the Winters' right to water in the San Xavier District has again been challenged by the allottees in the Alvarez Suit; and

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WHEREAS, the Water Resources Committee recommends that the Council authorize the actions specified below to protect the Nation's water rights which are again being challenged in the Alvarez Suit.

NOW, THEREFORE, BE IT RESOLVED THAT:

The Attorney General of the Nation is authorized and directed to take all necessary and advisable actions in the Alvarez Suit to assert and protect the Nation's exclusive Winters right to water resources in the San Xavier District.

The foregoing Resolution was passed by the Tohono O'Odham Legislative Council on the 2ND day of February, 1993 at a meeting at which a quorum was present with a vote of 1,030.5 FOR; 326.5 AGAINST; 367.0 NOT VOTING; and 01 ABSENT, pursuant to the powers vested in the Council by 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

Mary Ann Antone
Mary Ann Antone, Legislative Chairwoman

04th day of February, 1993

ATTEST:

Teresa M. Choyguha
Teresa M. Choyguha, Legislative Secretary

4th day of FEBRUARY, 1993.

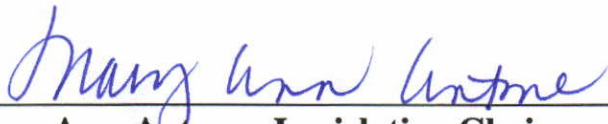
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Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 04th day of February, 1993, at 1:55 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL



Mary Ann Antone, Legislative Chairwoman

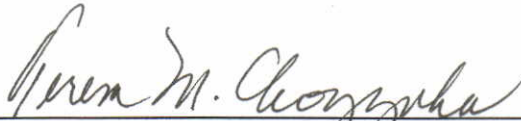
APPROVED on the 4 day of February, 1993

DISAPPROVED) at 10:43 o'clock, P.M.



JOSIAH MOORE, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 08th day of February, 1993, at 11:34 o'clock, A.M.



Teresa M. Choyguha, Legislative Secretary

MOVED: COUNCILMAN JOHN RENO SUBJECT: AUTHORIZING APPROPRIATE ACTION IN
 SECOND: COUNCILMAN EARL A. FRANCISCO ALVAREZ v. TUCSON TO PROTECT NATION'S WINTERS
 DATE: FEBRUARY 02, 1993 RIGHT

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
CHUKUT KUK 163.0	1. Kenneth Williams (Harriet Toro)	81.5	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			
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			
	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		
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	X
SIF OIDAK 158.0	1. Mary Ann Antone (Nina Jose)	79.0	X			
	2. Willard Juan, Sr. (Delbert Thomas)	79.0	X			
TOTAL		1,724.0	1,030.5	326.5	367.0	01

**PASSED VOTES