

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Rejecting San Xavier Mediation Proposal Related to
Water Resource Disputes Between the Nation
and Allottees)**

RESOLUTION NO. 94-246

WHEREAS, the Southern Arizona Water Rights Settlement Act of 1982 ("SAWRSA") was intended to finally settle the water claims of the Tohono O'Odham Nation in the Tucson basin, including claims asserted by individual tribal members and persons holding interests in allotted lands in the San Xavier District; and

WHEREAS, under Article XVII of the Nation's Constitution, SAWRSA and applicable federal law, the right to all water supplies granted in the SAWRSA settlement is owned by the Nation and subject to the Nation's management and control; and

WHEREAS, the Nation's ownership, management and control of the SAWRSA water was reaffirmed by the Legislative Council in Resolution No. 91-304; and

WHEREAS, certain allottees in the San Xavier District have challenged the Nation's ownership and control of the SAWRSA water resources in motions filed in U.S. v. Tucson and through the initiation of related federal lawsuits entitled Alvarez v. Tucson and Adams v. United States; and

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4 **WHEREAS, the allottees' challenge to the Nation's water rights, and**
5 **the assertion such rights are owned by them, has**
6 **resulted in a lengthy postponement in delivery of**
7 **SAWRSA benefits, causing substantial damage to the**
8 **Nation and its members; and**

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10 **WHEREAS, negotiations have been ongoing for several years among**
11 **the Water Resources Committee and other officials of**
12 **the Nation, and representatives of the allottees, federal**
13 **government, City of Tucson, the State of Arizona and**
14 **others with the goal of agreeing to SAWRSA amendments**
15 **which would remove the barriers to full implementation**
16 **of the settlement; and**

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19 **WHEREAS, the allottee representatives withdrew from the**
20 **negotiations and chose to advocate their position in**
21 **court and other forums; and**

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23 **WHEREAS, the fundamental reason cited by the allottee**
24 **representatives for withdrawing from negotiations was**
25 **a refusal by the Nation's officials to accept their**
26 **assertion of allottee ownership of SAWRSA water**
27 **resources; and**
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4 **WHEREAS, during the general session of the Legislative Council in**
5 **June 1994, representatives of the San Xavier District, the**
6 **San Xavier Cooperative Association and the San Xavier**
7 **Allottees Association submitted for Legislative Council**
8 **action a proposed resolution by which the dispute**
9 **between the Nation and allottees regarding ownership**
10 **of, and other matters relating to, SAWRSA water**
11 **resources would be submitted to a mediator for**
12 **decision; and**

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15 **WHEREAS, in the mediation proposal accompanying the Resolution,**
16 **the allottee representatives recommended selection of**
17 **one of three non-Indian organizations as mediator:**
18 **Western Network, the University of Arizona Department**
19 **of Psychology or the U.S. Justice Department; and**

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22 **WHEREAS, the proposed resolution was tabled by the Legislative**
23 **Council pending review and recommendation by the**
24 **Water Resources Committee; and**

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26 **WHEREAS, by Resolution 92-089, the Legislative Council established**
27 **certain parameters for SAWRSA negotiations which,**
28 **among other restrictions, prohibited negotiation of any**

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settlement terms implicitly or expressly suggesting ownership of SAWRSA water resources or benefits by persons or entities other than the Nation or jurisdiction over water resource management, control or use by persons or entities other than the Nation; and

WHEREAS, the dispute between the allottees' representatives and the Nation is an internal matter over which the Nation has exclusive jurisdiction; and

WHEREAS, negotiations designed to resolve the dispute should accordingly be conducted between allottee representatives and officials of the Nation; and

WHEREAS, the Water Resources Committee recommends that the Legislative Council reject the mediation proposal and reaffirm the parameters and proper forum for negotiations.

NOW, THEREFORE, BE IT RESOLVED THAT:

- 1. The Tohono O'Odham Legislative Council hereby rejects the mediation proposal offered by the San Xavier District, the San Xavier Cooperative Association and the San Xavier Allottees Association.**


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4 **2. The Legislative Council hereby authorizes the Water**
5 **Resources Committee to hold discussions and**
6 **negotiations with allottee representatives regarding**
7 **SAWRSA amendments subject to (a) the negotiating**
8 **parameters prescribed by the Legislative Council in**
9 **Resolution 92-089 and (b) the delivery by the allottee**
10 **representatives of a detailed written statement**
11 **setting forth each issue they wish to discuss and**
12 **their proposal for resolution; provided, however,**
13 **that any negotiations with the allottees shall not**
14 **interrupt, delay or otherwise affect the negotiation of**
15 **SAWRSA amendments or the introduction of such**
16 **amendments in Congress following consideration by**
17 **the Legislative Council.**

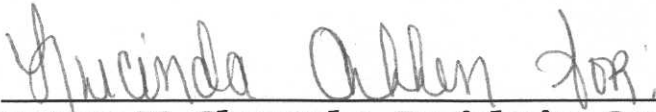
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22 **The foregoing Resolution was passed by the Tohono O'Odham**
23 **Legislative Council on the 24TH day of JUNE, 1994 at a meeting at**
24 **which a quorum was present with a vote of 1,500.0 FOR; 263.0**
25 **AGAINST; -0- NOT VOTING; and 08 ABSENT, pursuant to the powers**
26 **vested in the Council by Section 1(d) (2), (f) of Article VI and Section**
27 **(k) (1) of Article XVII of the Constitution of the Tohono O'Odham**
28 **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).

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3 **Water Resource Disputes Between the Nation**
4 **and Allottees)**
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6 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

7 
8 **Alex J. Ramon, Legislative Chairman**
9 29th day of June, 1994

10 **ATTEST:**

11 
12 **Teresa M. Choyguha, Legislative Secretary**
13 29th day of June, 1994.

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15 **Said Resolution was submitted for approval to the office of the**
16 **Chairman of the Tohono O'Odham Nation on the 29th day of**
17 **June, 1994 at 1:22 o'clock, P.M., pursuant to the**
18 **provisions of Section 5 of Article VII of the Constitution and will**
19 **become effective upon his approval or upon his failure to either**
20 **approve or disapprove it within 48 hours of submittal.**

21 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

22 
23 **Alex J. Ramon, Legislative Chairman**

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25 **APPROVED**

on the 4 day of July, 1994

26 **DISAPPROVED**

at 7:25 o'clock, P.M.

27 
28 **SYLVESTER LISTO, Chairman**
TOHONO O'ODHAM NATION

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Returned to the Legislative Secretary on the 5th day of

July, 19 94, at 9:58 o'clock, A.M.

Teresa M. Choyguha
Teresa M. Choyguha, Legislative Secretary

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ACTION: REJECTING SAN XAVIER MEDIATION PROPOSAL RELATED TO WATER RESOURCE DISPUTES BETWEEN THE NATION AND ALLOTTEES

MOVED: COUNCILWOMAN ALBERTA LOPEZ

SECOND: COUNCILMAN MANUEL OSEQUEDA, JR.

DATE: JUNE 24, 1994

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 151.0	1. WILLARD JUAN, SR. (Delbert Thomas)	75.5	X			
	2. MARY ANN ANTONE (Nellie Miguel)	75.5	X			X
SELLS 290.0	1. ANDREW M. PATRICIO (Lucille Encinas)	145.0	X			
	2. JOSEPH T. JOAQUIN (Allen W. Garcia, Jr.)	145.0	X			X
SCHUK TOAK 113.0	1. FRANCES FRANCISCO ()	56.5	X			
	2. KENNETH J. ANTONE ()	56.5	X			X
SAN XAVIER 135.0	1. EUGENE ENIS, SR. ()	67.5		X		X
	2. DENNIS RAMON ()	67.5		X		
BABOQUIVARI 230.0	1. FRANCES MIGUEL ()	115.0	X			X
	2. EARL A. FRANCISCO ()	115.0	X			
GU ACHI 180.0	1. WILLARD ANITA ()	90.0	X			X
	2. ALEX J. RAMON (Marian Johnson)	90.0	X			
PISINEMO 128.0	1. CHESTER ANTONE (Fernando Valentine)	64.0		X		X
	2. JOHNSON M. JOSE (Roseleen Antone)	64.0		X		
SAN LUCY 98.0	1. JOHN RENO ()	49.0	X			
	2. ALBERT MANUEL, JR. (Ernestine Marquez)	49.0	X			
GU VO 124.0	1. EMILIO LEWIS ()	62.0	X			
	2. MICHAEL FLORES (Fern Salcido)	62.0	X			X
HICKIWAN 136.0	1. MANUEL OSEQUEDA, JR. ()	68.0	X			
	2. LLOYD FRANCISCO ()	68.0	X			
CHUKUT KUK 178.0	1. ALBERTA M. LOPEZ (Berdella Jose)	89.0	X			
	2. KENNETH WILLIAMS ()	89.0	X			
TOTAL		1,763.0	1,500.0	263.0	-0-	08

****PASSED VOTES**