

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Accepting San Xavier Proposal for binding arbitration of dispute
concerning ownership of water rights appurtenant to San Xavier
Reservation allotments)**

**D E F E A T E D
RESOLUTION NO. 94-542**

**WHEREAS, the San Xavier District Council (SXDC), the San Xavier
Allottees Association (SXAA) and the San Xavier
Cooperative Association (SXCA) oppose the
implementation of the Southern Arizona Water Rights
Settlement Act of 1982 (SAWRSA); and**

**WHEREAS, the litigation in U.S. v. Tucson has not been dismissed
and as a consequence SAWRSA cannot be fully
implemented; and**

**WHEREAS, the SXDC, SXAA and SXCA oppose the dismissal of U.S. v.
Tucson and the implementation of SAWRSA because of
their dispute with the Tohono O'Odham Nation over the
ownership of water rights appurtenant to individual
Indian trust allotments on the San Xavier Reservation;
and**

**WHEREAS, the SXDC, SXAA, SXCA and the Tohono O'Odham Nation
have been unable to resolve the issue on allottee water
rights, internally; and**

**WHEREAS, it is vitally important for the San Xavier District, the San
Xavier allottees and the Tohono O'Odham Nation to**

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resolve this dispute as quickly as possible so that the full benefits of SAWRSA can be realized; and

WHEREAS, by letter dated November 16, 1994 from Austin Nunez to Sylvester Listo, the SXDC, SXAA and SXCA proposed binding arbitration to resolve the central issue that divides San Xavier from the Nation; and

WHEREAS, the central issue that the SXDC, the SXAA and the SXCA proposed to submit to binding arbitration is the relative rights of the Nation and the Allottees to the water resources of the San Xavier Reservation, under existing federal law, o'odham law and customs; and

WHEREAS, if this basic issue could be resolved, all other disputes between the Nation and the Allottees would be relatively easy to settle.

NOW, THEREFORE, BE IT RESOLVED that the Tohono O'Odham Nation, the SXDC, the SXAA and the SXCA are willing to submit the issue of the relative rights of the Tohono O'Odham Nation and the San Xavier Allottees to the water resources of the San Xavier Reservation, under existing

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federal law, o'odham law and customs to binding arbitration.

BE IT FURTHER RESOLVED that the Executive Office of the Nation, together with the Attorney General of the Nation, are hereby instructed to negotiate the detailed terms of the binding arbitration with the SXDC, SXAA and SXCA, including the selection of an arbitrator, or arbitrators (O'Odham or Native American), a detailed agreement to govern the binding arbitration to be completed within 30 days of the date of this resolution.

BE IT FINALLY RESOLVED that such agreement shall provide that such arbitration is to be completed within 90 days of the date of this resolution.

The foregoing Resolution was presented to the Tohono O'odham Council on the 20TH. day of DECEMBER, at a meeting at which a quorum was present, and by a vote of 603.0 FOR; 811.0 AGAINST; 198.0 NOT VOTING; AND 151.0 [08] ABSENT, failed to pass because it did not receive a majority of the votes cast as required by Section 2 of Article V of the Constitution of the Tohono O'Odham Nation.

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Alex J. Ramon, Legislative Chairman

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ATTEST:

Yucinda Allen

Acting Legislative Secretary

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ACTION: ACCEPTING SAN XAVIER PROPOSAL FOR BINDING ARBITRATION OF DISPUTE CONCERNING OWNERSHIP OF WATER RIGHTS APPURTENANT TO SAN XAVIER RESERVATION ALLOTMENTS

Moved: COUNCILMAN DENNIS RAMON

SECOND: COUNCILMAN EUGENE ENIS

DATE: DECEMBER 20, 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
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			
	2. DENNIS RAMON ()	67.5	X			
BABOQUIVARI 230.0	1. FRANCES MIGUEL ()	115.0		X		
	2. EARL A. FRANCISCO ()	115.0		X		
GU ACHI 180.0	1. WILLARD ANITA ()	90.0	X			
	2. ALEX J. RAMON (Marian Johnson)	90.0	X			X
PISINEMO 128.0	1. CHESTER ANTONE (Fernando Valentine)	64.0	X			
	2. JOHNSON M. JOSE (Roseleen Antone)	64.0	X			
SAN LUCY 98.0	1. JOHN RENO ()	49.0	X			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			
HICKIWAN 136.0	1. MANUEL OSEQUEDA, JR. ()	68.0			X	X
	2. LLOYD FRANCISCO ()	68.0			X	
CHUKUT KUK 178.0	1. MARILYN FRANCISCO	89.0		X		
	2. KENNETH WILLIAMS ()	89.0		X		X
TOTAL		1,763.0	603.0	811.0	198.0	151.0 [08]

****PASSED VOTES**