

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Establishment of a Joint Settlement SAWRSA Task Force)**

**RESOLUTION NO. 96-458**

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4 **WHEREAS, in October, 1995, the named plaintiffs in United States v. City of**  
5 **Tucson: Alvarez v. City of Tucson, and Adams v. United States: the**  
6 **Tohono O'odham Nation, the City of Tucson, and the United States,**  
7 **through their respective counsels agreed to begin a series of weekly**  
8 **negotiation meetings to seek agreement on language to amend the**  
9 **Southern Arizona Water Rights Settlement Act of 1982 (SAWRSA) to**  
10 **permit orderly and final implementation of such amendments; and**

11 **WHEREAS, the parties agreed in a Memorandum of Understanding that**  
12 **negotiations would include the following principles:**

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17 1) **Individual Indian allottees and the San Xavier District shall**  
18 **have access to groundwater, as defined in SAWRSA, for**  
19 **existing and future domestic use, consistent with prevailing**  
20 **federal law, including standards of quality for such use.**  
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23 2) **Individual Indian allottees and the San Xavier District shall**  
24 **have access to groundwater and to surface water from the**  
25 **Central Arizona Project (CAP), separately or in**  
26 **combination from the quantities of each provided in**  
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SAWRSA, to meet present and future needs for municipal and industrial, agricultural, and other beneficial uses.

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3) Data regarding the nature and extent of groundwater resources under and adjacent to the San Xavier and Schuk Toak Districts, currently possessed by the parties, shall be pooled and assessed to determine what additional information is reasonably necessary to determine whether the following alternative proposals are economically and technically feasible:

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a) to recharge CAP water so as to provide surface flows in the bed of the San Cruz River at San Xavier with the possible incidental benefit that the riparian habitat of the River may be enhanced:

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b) to recharge CAP water as part of a plan, to be developed by the parties, to manage and monitor groundwater allegedly contaminated as a result of mining activity south of the San Xavier District.

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4) The parties shall develop a plan for acquiring the additional information determined to be necessary for the purposes described in paragraph (3).

5) The San Xavier allottees and the Nation shall be given the opportunity to receive the cash amounts required to fulfill the Secretary's design and construction obligations under SAWRSA.

6) The elements now contained in the most recent draft amendments to SAWRSA shall be considered, and shall provide the starting point for negotiations; and

**WHEREAS,** several stipulations to extend the stay in the U.S. Federal Court proceedings were mutually agreed upon with further agreement by the tribal parties that negotiations and discussions would continue into the new year of 1996; said stipulations were granted by the Court; and

**WHEREAS,** at regular intervals, joint status reports were filed with the U.S. District Court, advising the Court of the continued efforts of the parties to review settlement proposals and draft amendments to SAWRSA; and

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3 **WHEREAS, the Water Resources Committee of the Nation's Legislative Council**  
4 **did agree by letter of February 26, 1996 (Attachment A), to hold**  
5 **weekly meetings to continue SAWRSA negotiations, including their**  
6 **agreement to request a special two-day session of the Legislative**  
7 **Council to discuss proposals for a SAWRSA settlement; and**

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10 **WHEREAS, due to various and unforeseen circumstances, certain parties to the**  
11 **negotiations were unable to attend the meetings which resulted in a**  
12 **breakdown in the continuation of negotiation sessions; and**

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14 **WHEREAS, the parties did advise the U.S. District Court did advise the Court in**  
15 **May of 1996, that since the extension of the stay to April 2, 1996, no**  
16 **further settlement negotiation meetings were held or scheduled and**  
17 **that there was no agreement to continue negotiations or stipulate to**  
18 **a further stay of proceedings and, further, the allottee plaintiffs'**  
19 **report indicated to the Court the frustration of the named-plaintiff**  
20 **Indian allottees in exhausting all possible avenues, means, and**  
21 **reasonable options to continue settlement discussions; and**

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25 **WHEREAS, the Chairman of the Tohono O'odham Nation, is seeking to re-**  
26 **establish settlement discussions with all parties for the mutual benefit**  
27 **of all the Nation's people; and**  
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3 **WHEREAS, the San Xavier parties to the negotiations have forwarded to the**  
4 **Chairman of the Nation a position paper (Attachment B) on the**  
5 **consequences of a permanent breakdown of U.S. v. Tucson/SAWRSA**  
6 **settlement negotiations; and**  
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9 **WHEREAS, the Chairman of the Nation has consulted with the tribal parties to**  
10 **the negotiations and has proposed the establishment of a SAWRSA**  
11 **Settlement Task Force to resolve this dispute, and has set forth the**  
12 **purpose, responsibilities and time lines for said Task Force**  
13 **(Attachment C); and**  
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16 **WHEREAS, the Chairman of the Nation has pledged to devote his efforts to assist**  
17 **in resolving this thirteen-year-old water dilemma and considers it to**  
18 **be of vital and paramount importance to the future health and well**  
19 **being of all the Nation's people; and**  
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22 **WHEREAS, the Chairman of the Nation is requesting the support and assistance**  
23 **of the Nation's Council in his efforts.**  
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25 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council**  
26 **that after due consideration of the information and proposals**  
27 **presented jointly by the Chairman of the Nation, Schuk Toak District**  
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3 and the San Xavier parties, that it hereby approves the establishment  
4 and purpose of a joint SAWRSA Settlement Task Force as outlined  
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6 on Attachment C to this Resolution.

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8 **BE IT FURTHER RESOLVED** that the SAWRSA Settlement Task Force shall submit  
9 information to the Legislative Council at regular intervals regarding  
10 the progress of the Task Force's activities.  
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13 The foregoing Resolution was passed by the Tohono O'Odham Council on the  
14 20TH day of SEPTEMBER, 1996 at a meeting at which a quorum was present  
15 with a vote 1,155.0 FOR; 160.0 AGAINST; 142.0 NOT VOTING; and 419.0 [06]  
16 ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(f)  
17 & (i)(1), and Article XVII of the Constitution of the Tohono O'Odham Nation,  
18 adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by  
19 the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6,  
20 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

21 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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24 for Dennis Ramon, Legislative Chairman

25 25<sup>th</sup> day of September, 1996  
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**ATTEST:**

Francis Antone  
Francis Antone, Legislative Secretary

24<sup>th</sup> day of September, 1996

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 25<sup>th</sup> day of September, 1996 at 12:12 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**

Dennis Ramon  
Dennis Ramon, Legislative Chairman

**APPROVED** on the 30<sup>th</sup> day of September, 1996  
 **DISAPPROVED** at 11:50 o'clock, A.M.

Edward D. Manuel  
EDWARD D. MANUEL, Chairman  
TOHONO O'ODHAM NATION

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3 Returned to the Legislative Secretary on the 30<sup>th</sup> day of

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5 September, 1996, at 12:17 o'clock, P.M.

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Frances Antone

7 Frances Antone, Legislative Secretary

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ACTION: ESTABLISHMENT OF A JOINT SETTLEMENT SAWRSA TASK FORCE

MOVED: COUNCILWOMAN FERN SALCIDO

SECOND: COUNCILMAN TONY BURRELL

DATE: SEPTEMBER 20, 1996

| DISTRICT                    | LEGISLATIVE REPRESENTATIVES                    | # OF VOICES    | FOR            | AGAINST      | NOT VOTING   | ABSENT               |
|-----------------------------|--|----------------|----------------|--------------|--------------|----------------------|
| <b>SIF ODAK</b><br>160.0    | 1. MARY ANN ANTONE **<br>(Nellie Miguel)       | 80.0           |                | X            |              |                      |
|                             | 2. RITA MARTINEZ<br>(Maxine Norris)            | 80.0           |                | X            |              |                      |
| <b>SELLS</b><br>314.0       | 1. JOSEPH T. JOAQUIN<br>(Allen W. Garcia, Jr.) | 157.0          |                |              |              | X                    |
|                             | 2. LUCILLE ENCINAS<br>(Cynthia Chico)          | 157.0          |                |              |              | X                    |
| <b>SCHUK TOAK</b><br>117.0  | 1. KENNETH J. ANTONE<br>( )                    | 58.5           | X              |              |              | X                    |
|                             | 2. JOSEPH JUAN<br>( )                          | 58.5           | X              |              |              |                      |
| <b>SAN XAVIER</b><br>142.0  | 1. DENNIS RAMON<br>( )                         | 71.0           | X              |              |              |                      |
|                             | 2. TONY BURRELL<br>( )                         | 71.0           | X              |              |              |                      |
| <b>BABOQUIVARI</b><br>257.0 | 1. EDWARD KISTO<br>(Idella Stanley)            | 128.5          | X              |              |              |                      |
|                             | 2. FRANCES MIGUEL<br>(Kenneth Chico, Sr.)      | 128.5          | X              |              |              |                      |
| <b>GU ACHI</b><br>187.0     | 1. WILLARD ANITA<br>(Louis Johnson)            | 93.5           | X              |              |              |                      |
|                             | 2. ALEX J. RAMON<br>(Marian Johnson)           | 93.5           | X              |              |              |                      |
| <b>PISINEMO</b><br>135.0    | 1. JOHNSON JOSE<br>(Roseleen Antone)           | 67.5           | X              |              |              |                      |
|                             | 2. BARBARA SALVICIO<br>( )                     | 67.5           | X              |              |              |                      |
| <b>SAN LUCY</b><br>105.0    | 1. ALBERT MANUEL, JR.<br>( )                   | 52.5           |                |              |              | X                    |
|                             | 2. JOHN RENO<br>(Mary Hoffman)                 | 52.5           |                |              |              | X                    |
| <b>GU VO</b><br>134.0       | 1. GLORIA MONTANA<br>( )                       | 67.0           | X              |              |              |                      |
|                             | 2. FERN SALCIDO<br>(Larry Montana)             | 67.0           | X              |              |              |                      |
| <b>HICKIWAN</b><br>142.0    | 1. LLOYD FRANCISCO<br>( )                      | 71.0           |                |              | X            |                      |
|                             | 2. ALEX JOSE<br>( )                            | 71.0           |                |              | X            | X                    |
| <b>CHUKUT KUK</b><br>183.0  | 1. KENNETH WILLIAMS<br>( )                     | 91.5           | X              |              |              |                      |
|                             | 2. DAVID GARCIA<br>(Marvin Thomas)             | 91.5           | X              |              |              |                      |
| <b>TOTAL</b>                |  | <b>1,876.0</b> | <b>1,155.0</b> | <b>160.0</b> | <b>142.0</b> | <b>419.0</b><br>[06] |

\*\*PASSED VOICES