

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving Cost Allocation and Water Service Agreements Related to
San Lucy Farm)**

RESOLUTION NO. 97-497

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4 **WHEREAS, pursuant to the Gila Bend Indian Reservation Lands Replacement**
5 **Act, P.L. 99-503 (the "Act"), the Tohono O'odham Nation (the**
6 **"Nation") acquired the San Lucy Farm (the "Farm") in May 1988 as**
7 **part of the replacement lands for lands rendered unusable**
8 **through repeated flooding caused by the United States'**
9 **construction of the Painted Rock Dam downstream on the Gila**
10 **River from the Gila Bend Indian Reservation; and**

11 **WHEREAS, the Farm is within the Central Arizona Irrigation & Drainage**
12 **District ("CAIDD"); and**

13 **WHEREAS, the Farm and non-Indian agricultural operations are served by a**
14 **distribution system (the "Distribution System") which delivers**
15 **water from the Central Arizona Project for irrigation of crops; and**

16 **WHEREAS, pursuant to the Colorado River Basin Project Act, 43 U.S.C. § 1501**
17 **et seq. (the "Basin Project Act"), the United States advanced**
18 **certain costs for the construction of the Distribution System (the**
19 **"Construction Costs") which are subject to repayment by CAIDD;**
20 **and**

21 **WHEREAS, pursuant to Section 401 of the Basin Project Act, 43 U.S.C. § 1541,**
22 **the Secretary of the Interior (the "Secretary") is required to**
23 **allocate the Construction Costs between the Farm and non-Indian**
24 **lands within CAIDD's boundaries; and**

25 **WHEREAS, the Farm's proportionate share of the Construction Costs is**
26 **approximately \$3 million; and**
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WHEREAS, the Farm's repayment obligation of its share of the Construction Costs is secured by a lien on the Farm's lands; and

WHEREAS, the Act requires that the Secretary take the Farm lands into trust; and

WHEREAS, the Secretary has refused to take the Farm lands into trust until the lien is removed or the Nation enters into an agreement to repay the Farm's share of Construction Costs; and

WHEREAS, depending on the outcome of a study on the repayment capacity of the Farm lands, the Nation's repayment obligation must either be cancelled or deferred until the Farm lands are sold by the Nation, in accordance with the provisions of Section 402 of the Basin Project Act, 43 U.S.C. § 1542, and the Leavitt Act, 25 U.S.C. § 386a; and

WHEREAS, representatives of the United States, the Nation, the San Lucy District and CAIDD have negotiated (1) an Agreement Regarding the Allocation of Construction Costs (the "Cost Allocation Agreement") and (2) an Agreement for District Water Service (the "Water Service Agreement"), copies of which are attached hereto; and

WHEREAS, the Cost Allocation Agreement allocates the Construction Costs between the Farm and the non-Indian lands within CAIDD, provides for the extinguishment of the related lien on the Farm lands, requires a repayment capacity study to determine whether the Nation's repayment obligation will be cancelled or deferred,

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and requires the Secretary to take the Farm lands into trust (subject to addressing routine title and environmental matters); and

WHEREAS, the existing Agreement for Project Water Service with CAIDD will be terminated and replaced by the Water Service Agreement which will govern the terms of water delivery to the Farm and related matters, taking into account the trust status of the Farm lands; and

WHEREAS, the Water Resources Committee, Agriculture Committee, Natural Resources Committee and the San Lucy District recommend approval by the Legislative Council of the Cost Allocation Agreement and the Water Service Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT:

- 1. The Tohono O'odham Legislative Council hereby approves the Cost Allocation Agreement and the Water Service Agreement substantially in the form attached hereto.**
- 2. The Chairman of the Nation is authorized and directed to execute the Cost Allocation Agreement and the Water Service Agreement.**

The foregoing Resolution was passed by the Tohono O'odham Council on the 5TH day of DECEMBER, 1997 at a meeting at which a quorum was present with a vote of 1,781.0 OR; -0- AGAINST; -0- NOT VOTING; and 146.0 [04] ABSENT, pursuant to the powers vested in the Council by Section 1(f) of Article VI and Section 2 of 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).

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TOHONO O'ODHAM LEGISLATIVE COUNCIL



Dennis Ramon, Legislative Chairman

8th day of December, 1997

ATTEST:



Julianna Saraficio, Acting Legislative Secretary

5th day of December, 1997.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 8th day of December, 1997 at 2:47 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, Legislative Chairman

APPROVED on the 8th day of December, 1997

DISAPPROVED at 4:52 o'clock, P.M.



EDWARD D. MANUEL, Chairman
TOHONO O'ODHAM NATION

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Returned to the Legislative Secretary on the 9th day of

December, 19 97, at 9:42 o'clock, A.M.


Julianna Saraficio, Acting Legislative Secretary

ACTION: APPROVING COST ALLOCATION AND WATER SERVICE AGREEMENTS RELATED TO SAN LUCY FARM
MOVED: COUNCILWOMAN RITA MARTINEZ **SECOND:** COUNCILMAN JOHN RENO
DATE: DECEMBER 5, 1997

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
CHUKUT KUK 189.0	1. DAVID GARCIA (Marvin Thomas)	94.5	X			X
	2. KENNETH WILLIAMS (Arnold F. Smith Sr.)	94.5	X			
HICKIWAN 146.0	1. ALEX JOSE ()	73.0	X			
	2. LLOYD FRANCISCO (Susan Sam)	73.0	X			
GU VO 142.0	1. FERN SALCIDO (Larry Montana)	71.0	X			
	2. GLORIA MONTANA (Phillip Antone)	71.0	X			
SAN LUCY 114.0	1. JOHN RENO (Mary Hoffman)	57.0	X			
	2. ALBERT MANUEL, JR. (Jana Montana)	57.0	X			
PISINEMO 139.0	1. BARBARA SALVICIO ()	69.5	X			
	2. JOHNSON JOSE ()	69.5	X			
GU ACHI 190.0	1. LOUIS JOHNSON ()	95.0	X			
	2. ALEX J. RAMON ()	95.0	X			
BABOQUIVARI 258.0	1. FRANCES MIGUEL ()	129.0	X			
	2. FRANCES G. ANTONE (Edward N. Kisto)	129.0	X			
SAN XAVIER 146.0	1. TONY BURRELL ()	73.0				X
	2. DENNIS RAMON ()	73.0				X
SCHUK TOAK 120.0	1. JOSEPH JUAN ()	60.0	X			
	2. AMBROSE ENCINAS ()	60.0	X			
SELLS 322.0	1. DENNIS E. JOSE ()	161.0	X			
	2. EVELYN JUAN ()	161.0	X			
SIF OIDAK 161.0	1. RITA MARTINEZ (Maxine Norris)	80.5	X			
	2. MARY ANN ANTONE (Darlene Andrew)	80.5	X			X
TOTAL		1,927.0	1,781.0	-0-	-0-	146.0 [04]

****PASSED VOTES**