

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Authorizing Negotiation of Contracts for Central Arizona Project Water)**

RESOLUTION NO. 12-030

1 **WHEREAS, "All waters which originate in or flow in, into or through the Tohono O'odham Nation,**  
2 **or which are stored in the Tohono O'odham Nation, whether found on the surface or**  
3 **underground, are a valuable public resource of the Tohono O'odham Nation to be**  
4 **protected for the present and future use of the Tohono O'odham Nation as a whole."**  
5 **(Constitution, Article XVII, Section 1); and**

6 **WHEREAS, on December 10, 2004 Congress enacted the Arizona Water Settlements Act, P.L. 108-**  
7 **451, including Title III, the Southern Arizona Water Rights Settlement Act**  
8 **Amendments ("SAWRSA Amendments"); and**

9 **WHEREAS, the SAWRSA Amendments became effective December 14, 2007 and entitle the Nation**  
10 **to 66,000 acre feet of water per year from the Central Arizona Project ("CAP"); and**

11 **WHEREAS, the Nation has allocated as a first right of beneficial use 35,000 acre feet per year of**  
12 **SAWRSA CAP water to the San Xavier District, allottees, and other persons within the**  
13 **San Xavier Reservation, provided that, if there is not an identified actual use for such**  
14 **water on the San Xavier Reservation, tribal and federal law vest the Nation with the**  
15 **exclusive right to store such water off-reservation to generate marketable storage**  
16 **credits, or to enter contracts for the use of such water (25 T.O.C. Section 3401(A) and**  
17 **(B), and Section 3303(E); SAWRSA Amendments, Section 307(a)(1)(G)(i) and (ii), and**  
18 **Section 309(b)-(d)); and**

19 **WHEREAS, the Nation's authorization to use outside the San Xavier Reservation any portion of**  
20 **the 35,000 acre feet per year of SAWRSA CAP Water that is subject to the first right of**  
21 **beneficial use "shall be terminated by the Nation to the extent additional Permitted**  
22 **Identified Actual Uses of the 35,000 Acre-Feet per year are made within the San Xavier**  
23 **Reservation, that displace uses made by the Nation or any Person of that SAWRSA CAP**  
24 **Water" (25 T.O.C. Section 3401(B)(1)); and**

25 **WHEREAS, the Nation also is vested with the exclusive right to store off-reservation, or to enter**  
26 **a contract to assign, exchange, lease, provide an option to lease, or otherwise**  
27 **temporarily dispose of the Nation's SAWRSA CAP water that is not subject to the first**  
28 **right of beneficial use (SAWRSA Amendments Section 309(c)(1)); and**

29 **WHEREAS, the Nation's chairperson accordingly is authorized to "annually store at one or more**  
30 **permitted underground storage facilities" SAWRSA CAP water to which the Nation is**  
31 **entitled and to take other actions necessary "to accrue marketable long-term storage**

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**Page 2 of 3**

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credits" (Resolution No. 09-511); and

**WHEREAS, in addition to storing SAWRSA CAP water off-reservation, and subject to the first right of beneficial use, the Nation's chairperson and the Legislative Water Resources Committee recommend that the Legislative Council authorize the negotiation of additional arrangements for the Nation's SAWRSA CAP water entitlement.**

**NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council authorizes and directs the Nation's chairperson and Legislative Water Resources Committee with the assistance of appropriate staff to negotiate contracts or other agreements for any portion of the 66,000 acre feet of SAWRSA CAP water to which the Nation is entitled, including SAWRSA CAP water that is subject to the first right of beneficial use on the San Xavier Reservation, provided that**

- (1) the chairperson and Water Resources Committee shall notify the Legislative Council before engaging in such negotiations; and**
- (2) any negotiated contract or other agreement shall preserve the first right to beneficial use in accordance with the Nation's Water Code and the SAWRSA Amendments; and**
- (3) a contract or other agreement to use the Nation's SAWRSA CAP water shall not be valid unless it is approved by Legislative Council resolution.**

**The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 11<sup>TH</sup> Day of JANUARY, 2012 a meeting at which a quorum was present with a vote of 1,493.65 FOR; 811.25 AGAINST; 475.70[03] NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by Section 1 (f)and(j) of Article VI and 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**

  
**Timothy Joaquin, Legislative Chairman**

19 day of January, 2012

RESOLUTION NO. 12-030

(Authorizing Negotiation of Contracts for Central Arizona Project Water)

Page 3 of 3

1 ATTEST:

2 *Evonne Wilson*  
3  
4 Evonne Wilson, Legislative Secretary

5  
6 18 day of January, 2012.

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8 Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham  
9 Nation on the 19 day of January, 2012 at 3:44 o'clock, P.M.,  
10 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective  
11 upon his approval or upon his failure to either approve or disapprove it within 48 hours of  
12 submittal.

13 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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15 *Timothy Joaquin*  
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17 Timothy Joaquin, Legislative Chairman

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23  APPROVED

on the 19 day of January, 2012

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25  DISAPPROVED

at 3:56 o'clock, P.M.

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27 *Ned Norris, Jr.*  
28 NED NORRIS, JR., CHAIRMAN  
29 TOHONO O'ODHAM NATION  
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36 Returned to the Legislative Secretary on the 19 day of

37 January, 2012, at 4:07 o'clock, P.M.

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39 *Evonne Wilson*  
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41 Evonne Wilson, Legislative Secretary

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ACTION: AUTHORIZING NEGOTIATION OF CONTRACTS FOR CENTRAL ARIZONA PROJECT WATER

MOVED: COUNCILWOMAN OLIVIA VILLEGAS-LISTON

SECOND: COUNCILWOMAN MARY LOPEZ

DATE: JANUARY 11, 2012

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 342.0	1. FRANCES MIGUEL (Roberta Harvey)	171.0	X			
	2. FRANCES G. ANTONE (Vernon Smith)	171.0		X		
CHUKUT KUK 302.2	1. ETHEL GARCIA (Sara Mae Williams)	151.10		X	X	
	2. BILLMAN LOPEZ ( )	151.10		X		
GU ACHI 244.9	1. TIMOTHY L. JOAQUIN (Rose Johnson Antone)	122.45		X		
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	122.45		X		
GU VO 226.7	1. GRACE MANUEL (Floyd Flores)	113.35	X			
	2. PAMELA ANGHILL (Roselda Lewis)	113.35	X			
HICKIWAN 186.3	1. LOUIS R. LOPEZ (Michelle Ortega)	93.15	X			
	2. SANDRA ORTEGA ( )	93.15		X		
PISINEMO 200.7	1. CHESTER ANTONE (Tony Murrietta)	100.35	X			
	2. EDWARD MANUEL (Gerald Fayuant)	100.35	X			
SAN LUCY 204.6	1. LORRAINE EILER ( )	102.30	X			
	2. JANA MONTANA (Gloria Ramirez)	102.30	X			
SAN XAVIER 215.8	1. HILARION CAMPUS ( )	107.90	X			X
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	107.90	X			
SCHUK TOAK 169.8	1. FRANCES B. CONDE ( )	84.90	X			
	2. FREDERICK JOSE (Phyllis Cachora)	84.90	X			
SELLS 475.7	1. ARTHUR WILSON (Kimberly Mull)	237.85			X	
	2. EVELYN B. JUAN MANUEL ( )	237.85			X	
SIF OIDAK 211.9	1. NICHOLAS JOSE ( )	105.95	X			
	2. MARY LOPEZ ( )	105.95	X			
<b>TOTAL</b>		<b>2,780.60</b>	<b>1,493.65</b>	<b>811.25</b>	<b>475.70</b> <b>[03]</b>	<b>[01]</b>