

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving Settlement Amount and Draft Settlement Agreement)

RESOLUTION NO. 12-059

1 **WHEREAS, the Tohono O'odham Nation filed a lawsuit against the United States Departments of**
2 **the Interior and Treasury and the Office of the Special Trustee for American Indians**
3 **in December 2006 in the United States District Court for the District of Columbia,**
4 **styled *Tohono O'odham Nation v. Dirk Kempthorne, Ross O. Swimmer, and Henry M.***
5 ***Paulson*, Case Number 1:06CV02236; and**

6 **WHEREAS, after litigation of the case for several years the Nation joined with other tribes and**
7 **entered into settlement discussions with officials of the Obama administration; and**

8 **WHEREAS, in December 2011 the United States made an initial offer of settlement to the Nation,**
9 **and the attorneys for the parties, after additional exchange of proposals, have now**
10 **concluded their settlement discussions as to the amount of the settlement; and**

11 **WHEREAS, the language of the draft settlement agreement has been agreed to except for**
12 **paragraph 6(b), where the Nation has proposed additional language; and**

13 **WHEREAS, the Trust Settlement Delegation of the Nation has conferred with the Nation's**
14 **attorneys and recommends accepting the agreed upon settlement amount under the**
15 **terms described in the draft settlement agreement which is called the Joint**
16 **Stipulation of Settlement and [Proposed] Order ("Joint Stipulation"), but including the**
17 **wording in paragraph 6(b) which the Nation has proposed.**

18 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council:**

- 19 **1. Accepts the settlement amount of \$23,750,000 as settlement of the Nation's claims**
20 **in the complaint filed in the lawsuit;**
- 21 **2. Agrees to dismiss the lawsuit under the terms described in the draft Joint**
22 **Stipulation and approves the Joint Stipulation substantially in the form attached**
23 **hereto, with the wording of paragraph 6(b) as follows:**
24 **"6(b). Plaintiff's water rights, whether adjudicated or unadjudicated; Plaintiff's**
25 **authority to use and protect such water rights; and Plaintiff's claims for damages**
26 **for loss of water resources (including related infrastructure and crops) allegedly**
27 **caused by Defendants' failure to establish, acquire, enforce or protect such water**
28 **rights", and with the understanding that minor nonsubstantive changes in the**
29 **wording of the Joint Stipulation may still be made by the attorneys for the parties;**

RESOLUTION NO. 12-059

(Approving Settlement Amount and Draft Settlement Agreement)

Page 2 of 3

1 **3. Authorizes the attorneys for the Nation, namely the Kilpatrick Stockton and**
2 **Townsend law firm, to execute the Joint Stipulation on behalf of the Nation and to bind**
3 **the Nation to its terms.**


4 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 29th Day**
5 **of FEBRUARY, 2012 a meeting at which a quorum was present with a vote of 2,780.60 FOR; -0-**
6 **AGAINST; -0- NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council by Section**
7 **1 (f) and (j) of Article VI of the Constitution of the Tohono O'odham Nation, adopted by the Tohono**
8 **O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary -**
9 **Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48**
10 **Stat. 984).**

11 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

12 
13 **Timothy Joaquin, Legislative Chairman**

14 29 day of February, 2012

18 **ATTEST:**

19 
20 _____
21 **Evonne Wilson, Legislative Secretary**

22 29 day of February, 2012.

25 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham**
26 **Nation on the 29 day of February, 2012 at 4:04 o'clock, P.M.,**
27 **pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective**
28 **upon his approval or upon his failure to either approve or disapprove it within 48 hours of**
29 **submittal.**

30 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

31 
32 **Timothy Joaquin, Legislative Chairman**

37 **APPROVED**

on the 29 day of February, 2012

39 **DISAPPROVED**

at 4:34 o'clock, P.M.

41 
42 **NED NORRIS, JR., CHAIRMAN**
43 **TOHONO O'ODHAM NATION**

RESOLUTION NO. 12-059

(Approving Settlement Amount and Draft Settlement Agreement)

Page 3 of 3

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39
- 40
- 41
- 42
- 43
- 44
- 45
- 46

Returned to the Legislative Secretary on the 29 day of

January, 2012, at 4:39 o'clock, P.M.


Evonne Wilson, Legislative Secretary

ACTION: APPROVING SETTLEMENT AMOUNT AND DRAFT SETTLEMENT AGREEMENT

MOVED: COUNCILWOMAN EVELYN JUAN MANUEL

SECOND: COUNCILWOMAN LORRAINE EILER

DATE: FEBRUARY 29, 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			
	2. BILLMAN LOPEZ ()	151.10	X			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			X
GU VO 226.7	1. GRACE MANUEL (Floyd Flores)	113.35	X			
	2. PAMELA ANGHILL (<i>Absent</i>) (Roselda Lewis)(<i>Present</i>)	113.35	X			
HICKIWAN 186.3	1. LOUIS R. LOPEZ (Michelle Ortega)	93.15	X			
	2. SANDRA ORTEGA ()	93.15	X			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			
	2. OLIVIA VILLEGAS-LISTON (Eugene Entis)	107.90	X			
SCHUK TOAK 169.8	1. FRANCES B. CONDE (Anthony J. Rios)	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 ODAK 211.9	1. NICHOLAS JOSE ()	105.95	X			
	2. MARY LOPEZ ()	105.95	X			
TOTAL		2,780.60	2,780.60	-0-	-0-	[03]