

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving Agreement with New Magma Irrigation and Drainage District)

RESOLUTION NO. 12-194

1 **WHEREAS, the Tohono O'odham Nation is entitled to receive a total of 66,000 acre-feet of Central**
2 **Arizona Project ("CAP") water per year; and**

3 **WHEREAS, under the Southern Arizona Water Rights Settlement Act, as amended ("SAWRSA"),**
4 **Title III of Public Law 108-451, the Nation is authorized to utilize its CAP water either**
5 **on reservation or off reservation; and**

6 **WHEREAS, the Nation has negotiated an agreement (the "Agreement") with the New Magma**
7 **Irrigation and Drainage District ("NMIDD"), which is designated as a groundwater**
8 **savings facility under Arizona law, to deliver a portion of the Nation's CAP entitlement**
9 **to NMIDD as "in-lieu water"; and**

10 **WHEREAS, NMIDD is located in the Phoenix Active Management Area; and**

11 **WHEREAS, under the proposed Agreement, the Nation will be paid by NMIDD for the water and**
12 **will also accumulate marketable long-term storage credits through the use by NMIDD**
13 **of the Nation's CAP water instead of NMIDD pumping and using groundwater within**
14 **the irrigation district itself; and**

15 **WHEREAS, the Agreement is for less than one year and will terminate on December 31, 2012, at**
16 **which time an additional one year agreement can be considered, but is not required;**
17 **and**

18 **WHEREAS, by Resolution No. 12-137 the Legislative Council authorized the Chairman of the**
19 **Nation to apply for a permit from the Arizona Department of Water Resources, which**
20 **will authorize the Nation to store its water at the NMIDD groundwater savings facility;**
21 **and**

22 **WHEREAS, in Section 11 of the Agreement, the Nation has agreed to provide a limited waiver of**
23 **sovereign immunity to allow for dispute resolution in any court of competent**
24 **jurisdiction, not to include Arizona state courts, which waiver is limited to declaratory**
25 **and injunctive relief to enforce the Agreement but does not include a waiver of any**
26 **claims for money damages, attorney's fees, court costs or any other costs, damages,**
27 **remedy, or claims of any other kind; and**

28 **WHEREAS, the Water Resources and the Domestic Affairs Committees have reviewed the**
29 **Agreement and recommend approval by the Legislative Council.**
30

RESOLUTION NO. 12-194

(Approving Agreement with New Magma Irrigation and Drainage District)


Page 2 of 3

1 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council hereby approves**
2 **the Agreement Between New Magma Irrigation and Drainage District and the Tohono**
3 **O'odham Nation Providing for the Delivery of In-lieu Water for Water Storage at a**
4 **Groundwater Savings Facility and hereby authorizes the Chairman of the Nation to**
5 **execute the Agreement and any additional documentation reasonably necessary to**
6 **implement the intent of the Agreement, provided that any extensions of the Agreement**
7 **beyond December 31, 2012 shall require review and approval by the Legislative**
8 **Council.**

9 **BE IT FINALLY RESOLVED that the Tohono O'odham Legislative Council hereby approves a limited**
10 **waiver of the Nation's sovereign immunity to allow disputes arising between the**
11 **parties with respect to this Agreement or the annual scheduling agreement to be**
12 **resolved in any court of competent jurisdiction, not to include Arizona state courts,**
13 **and limits the waiver to declaratory and injunctive relief to enforce the Agreement but**
14 **does not waive its sovereign immunity with respect to any claims for money damages,**
15 **attorney's fees, court costs or any other costs, damages, remedy, or claims of any other**
16 **kind.**

17 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 06TH Day**
18 **of JUNE, 2012 at a meeting at which a quorum was present with a vote of 2,104.20 FOR; -0- AGAINST;**
19 **475.70[02] NOT VOTING; and 200.70[03] ABSENT, pursuant to the powers vested in the Council by**
20 **Article VI ,Section 1 (f) and Article XVII, Section 2 of the Constitution of the Tohono O'odham**
21 **Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting**
22 **Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16**
23 **of the Act of June 18, 1934 (48 Stat. 984).**

24
25 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

26
27 
28 _____
29 **Timothy Joaquin, Legislative Chairman**
30
31 7 day of June, 2012

32
33
34 **ATTEST:**

35 
36 _____
37 **Evonne Wilson, Legislative Secretary**

38
39 7 day of June, 2012.
40
41

RESOLUTION NO. 12-194

(Approving Agreement with New Magma Irrigation and Drainage District)

Page 3 of 3

1 Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham
2 Nation on the 7 day of June, 2012 at 2:59 o'clock, P.M.,
3 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective
4 upon his approval or upon his failure to either approve or disapprove it within 48 hours of
5 submittal.

6
7 TOHONO O'ODHAM LEGISLATIVE COUNCIL

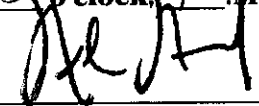
8
9 
10
11 Timothy Joaquin, Legislative Chairman

12
13
14
15
16 APPROVED

on the 7th day of June, 2012

17
18 DISAPPROVED

at 3:35 o'clock, P.M.

19
20
21 
22
23 NED NORRIS, JR., CHAIRMAN
24 TOHONO O'ODHAM NATION

25
26
27
28 Returned to the Legislative Secretary on the 7 day of

29
30 June, 2012, at 3:54 o'clock, P.M.

31
32 
33
34 Evonne Wilson, Legislative Secretary

35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

ACTION: APPROVING AGREEMENT WITH NEW MAGMA IRRIGATION AND DRAINAGE DISTRICT

MOVED: COUNCILWOMAN OLIVIA VILLEGAS-LISTON

SECOND: COUNCILMAN HILARION CAMPUS

DATE: JUNE 06, 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			
GU ACHI 244.9	1. TIMOTHY L. JOAQUIN ()	122.45	X			
	2. CYNTHIA E. MANUEL (<i>Absent</i>) (Louis L. Johnson) (<i>Present</i>)	122.45	X			
GU VO 226.7	1. GRACE MANUEL (Floyd Flores)	113.35	X			
	2. PAMELA ANGHILL (Roselda Lewis)	113.35	X			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 x 215.8	1. HILARION CAMPUS (Racheal Vilson-Stoner)	107.90	X			
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	107.90	X			
SCHUK TOAK 169.8	1. FRANCES B. STEPHENS (<i>Absent</i>) (Anthony J. Rios) (<i>Present</i>)	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			
TOTAL		2,780.60	2,104.20	-0-	475.70 [02]	200.70 [03]