

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing the Submission of Comments to the United States Department of Justice
Regarding the Proposed Repeal and Revision of 28 U.S.C. § 1500)

RESOLUTION NO. 12-434

1 **WHEREAS, the Tohono O'odham Legislative Council is vested with the power to "consult with the**
2 **Congress of the United States and appropriate federal agencies regarding federal**
3 **activities that affect the Tohono O'odham Nation" (Constitution of the Tohono**
4 **O'odham Nation, Article VI, Section 1(j)); and**

5 **WHEREAS, the United States Department of Justice is soliciting comments regarding a proposal**
6 **that is currently under consideration by the Administrative Conference of the United**
7 **States that would repeal and revise 28 U.S.C. § 1500; and**

8 **WHEREAS, in *United States v. Tohono O'odham Nation*, the United States Supreme Court ruled**
9 **that 28 U.S.C. § 1500 prohibits consideration of a claim by the United States Court of**
10 **Federal Claims if the plaintiff also has litigation pending against the United States in**
11 **any other court based on substantially the same set of operative facts, regardless if the**
12 **types of relief sought differ; and**

13 **WHEREAS, as a result of the Court's ruling in *United States v. Tohono O'odham Nation*, the**
14 **Nation's case in the United States Court of Federal Claims was dismissed; and**

15 **WHEREAS, the Court's interpretation of 28 U.S.C. § 1500 fails to allow plaintiffs to seek complete**
16 **relief for claims against the United States; and**

17 **WHEREAS, the proposal currently being considered by the Administrative Conference of the**
18 **United States seeks to remedy the inequities wrought upon plaintiffs by the Court's**
19 **interpretation of 28 U.S.C. § 1500 in *United States v. Tohono O'odham Nation*; and**

20 **WHEREAS, the Trust Settlement Delegation has reviewed and recommends that the Legislative**
21 **Council approve comments in favor of the proposal to repeal and revise 28 U.S.C. §**
22 **1500, which comments are attached hereto and incorporated by reference.**

23 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council adopts the Tohono**
24 **O'odham Nation's comments on the proposal to repeal and revise 28 U.S.C. § 1500 in**
25 **substantially the form attached hereto and authorizes and directs the Nation's**
26 **Chairperson to timely submit the Nation's comments to the United States Department**
27 **of Justice and the Administrative Conference of the United States.**

28 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 05TH Day**
29 **of NOVEMBER, 2012 at a meeting at which a quorum was present with a vote of 2,780.60 FOR; -0-**
30 **AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by Article**
31 **VI, Section 1 (j) of the Constitution of the Tohono O'odham Nation, adopted by the Tohono**
32 **O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary -**
33 **Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48**
34 **Stat. 984).**

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TOHONO O'ODHAM LEGISLATIVE COUNCIL

Timothy Joaquin, Legislative Chairman

6 day of November, 2012

ATTEST:

Evonne Wilson, Legislative Secretary

5 day of November, 2012.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 6 day of November, 2012 at 12:05 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

Timothy Joaquin, Legislative Chairman

APPROVED

on the 06 day of November, 2012

DISAPPROVED

at 12:55 o'clock, P.M.

NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 6 day of

November, 2012, at 1:30 o'clock, P.M.

Evonne Wilson, Legislative Secretary

ACTION: AUTHORIZING THE SUBMISSION OF COMMENTS TO THE UNITED STATES DEPARTMENT OF JUSTICE REGARDING THE PROPOSED REPEAL AND REVISION OF 28 U.S.C. § 1500

MOVED: COUNCILWOMAN EVELYN JUAN MANUEL

SECOND: COUNCILWOMAN LORRAINE EILER

DATE: NOVEMBER 05, 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 (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			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 (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 ODAK 211.9	1. NICHOLAS JOSE ()	105.95	X			X
	2. MARY LOPEZ ()	105.95	X			
TOTAL		2,780.60	2,780.60	-0-	-0-	[02]