

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Amending Resolution No. 14-240, "Suspending Section 1105 of 27 Tohono O'odham
Code Chapter 1 and Establishing Moratorium on Hia-Ced Regional Reference
Changes and Designations")**

RESOLUTION NO. 14-554

1 **WHEREAS, "It shall be the policy of the Tohono O'odham Nation to seek the return to the**
2 **Tohono O'odham Nation of lands and natural resources, including minerals and**
3 **water rights, within or adjacent to the Tohono O'odham Nation, or which**
4 **originally were a part of the historic Papagueria." (Constitution of the Tohono**
5 **O'odham Nation, Article XVI, Section 9); and**

6 **WHEREAS, the Hia-Ced O'odham since time immemorial inhabited lands in western**
7 **Papagueria between the western boundaries of the Tohono O'odham (formerly**
8 **"Papago") villages and the Colorado River and extending south of the current**
9 **international border between the United States and Mexico (Resolution No. 16-**
10 **84); and**

11 **WHEREAS, Hia-Ced O'odham homelands were inadvertently omitted when the Sells**
12 **Reservation was established in 1917, and while the Papago Council and Tohono**
13 **O'odham Council adopted resolutions calling upon the United States Congress**
14 **to reserve former Hia-Ced O'odham lands within Pima County, Arizona as**
15 **reservation land, the necessary federal legislation was not enacted (Resolution**
16 **No. 30-81, Resolution No. 16-84, Resolution No. 77-89); and**

17 **WHEREAS, the Hia-Ced O'odham individually and through the Hia-Ced O'odham Alliance,**
18 **the Hiatit O'odham Policy Board, Hia-Ced O'odham Program, Hia-Ced O'odham**
19 **Advisory Committee, and other organizations continued to advocate for the**
20 **enumeration of Hia-Ced O'odham descendants or persons with Hia-Ced**
21 **O'odham lineage, the ability to enroll as members of the Tohono O'odham**
22 **Nation, to recover traditional homelands in and near Darby Wells, Mohik Vaya**
23 **(Soft Well), and other locations as a Hia-Ced O'odham land base, and ultimately**
24 **to establish a 12th district of the Nation for the Hia-Ced O'odham; and**

25 **WHEREAS, Article IX of the Constitution of the Tohono O'odham Nation recognizes the**
26 **existence of district governments with authority over matters of local concern;**
27 **provided that the Legislative Council may change district boundaries, create**
28 **additional districts, or reduce the number of districts; and**

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1 **WHEREAS,** the districts "are organizations of fairly limited power and authority which may
2 act only under the supervision of the Tohono O'odham Council" and which may
3 not expend district funds without a budget approved by district council
4 resolution and by the Legislative Council; *Juan v. Juan*, 2 TOR3d 62 (Trial Ct., Jan.
5 27, 2000) appeal dismissed, 3 TOR3d 1 (Jan. 4, 2005); Constitution, Article IX,
6 Section 7); and

7 **WHEREAS,** district governments may not assume the Nation's authority to enforce national
8 laws, *San Xavier District Council: Austin Nunez v. Jose Francisco*, 1 TOR3d 49
9 (Trial Ct., Feb.1, 1988), waive sovereign immunity without the Nation's
10 authorization, *Juan v. Juan*, 2 TOR3d 62 (Trial Ct., Jan. 27, 2000) appeal
11 dismissed, 3 TOR3d 1 (Jan. 4, 2005), refuse to recognize the election of district
12 officials who have been certified by the Nation's Election Board, *Verlon Jose v.*
13 *Harriet Toro, et. al.*, 3 TOR3d 31 (Ct.App., Jul.27, 2011), *Tohono O'odham Nation v.*
14 *Gu-Vo Governing Council*, 3 TOR3d 34 (Ct.App., Aug. 24, 2011), or exercise general
15 management authority over unallotted, national lands within district
16 boundaries, *Throssell v. Throssell*, 1 TOR3d 34 (Ct.App., Feb.6, 1992); and

17 **WHEREAS,** effective October 30, 2012 the Legislative Council by Resolution No. 12-423 and
18 pursuant to the Creation of the Hia-Ced District of the Tohono O'odham Nation
19 ordinance ("Hia-Ced Creation Ordinance"), 27 Tohono O'odham Code Chapter 1,
20 created the Hia-Ced District and established the District's boundaries; and

21 **WHEREAS,** each member of the Nation is assigned an enrollment number that includes a
22 "regional reference" identifying the member's resident district or "no district" if
23 no resident district has been identified, and the regional references "are to be
24 used for enrollment numbering purposes only, and no residence [or] other
25 conclusions shall result from the use thereof." (Papago Enrollment Manual,
26 Processing Applications-Membership Records, 3. Filing of Applications); and

27 **WHEREAS,** although the Papago Enrollment Manual prohibits changes in enrollment
28 regional references once they are assigned to an application, Section 1105(A) of
29 the Hia-Ced Creation Ordinance originally created an exception allowing that
30 "an enrolled member of the Tohono O'odham Nation who has already been

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1 assigned an enrollment number may . . . change that member's regional
2 reference, or the regional reference of an enrolled minor on behalf of whom the
3 member has the legal authority to act, to the new Hia-Ced District using the
4 initials "HC."; and

5 **WHEREAS,** in response to concerns over the stability, organization, and governance of the
6 Hia-Ced District, the application of the Hia-Ced O'odham enumeration to the
7 new District and to the Creation Ordinance, and other issues, the Legislative
8 Council by Resolution No. 14-240 suspended Section 1105 of the Hia-Ced
9 Creation Ordinance, creating a general moratorium on regional reference
10 transfers after June 11, 2014; and

11 **WHEREAS,** Resolution No. 14-240 continues to permit approval of regional reference
12 transfers and of applications for adoption and for membership with an HC
13 regional reference that were filed prior to the resolution's June 11, 2014
14 effective date; and

15 **WHEREAS,** it is in the Nation's best interest to clarify that applications for adoption and for
16 membership that have been assigned an HC regional reference may continue to
17 be processed pending the outcome of the legislative evaluations and policy
18 discussions provided by Resolution No. 14-240 and 14-506.

19 **NOW, THEREFORE, BE IT RESOLVED** by the Tohono O'odham Legislative Council that
20 **Resolution No. 14-240, "Suspending Section 1105 of 27 Tohono O'odham Code**
21 **Chapter 1 and Establishing Moratorium on Hia-Ced Regional Reference Changes**
22 **and Designations"** is amended to add the following paragraph to the "**BE IT**
23 **FURTHER RESOLVED"** clause:

24 **(4) Applications for adoption and for membership in the Tohono O'odham**
25 **Nation filed after June 11, 2014 and that are assigned an "HC" regional**
26 **reference may be amended at the applicant's request to reflect another**
27 **regional reference and shall then be processed and approved or rejected**
28 **in accordance with the Enrollment Ordinance; provided that such a**
29 **regional reference may be changed if expressly authorized by the**
30 **Nation's laws.**

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**(Amending Resolution No. 14-240, "Suspending Section 1105 of 27 Tohono O'odham Code Chapter 1 and Establishing Moratorium on Hia-Ced Regional Reference Changes and Designations")
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The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 16TH day of DECEMBER, 2014 at a meeting at which a quorum was present with a vote of 2,926.9 FOR; 19.6 AGAINST; -0- NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by Article V; Article VI, Section 1 and Section 1(l); Article VI, Section 1(h); Article X, Section 7; and Article XVI, Section 9 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
Timothy Joaquin, Legislative Chairman

23 day of December, 2014

ATTEST:

Evonne Wilson
Evonne Wilson, Legislative Secretary

22 day of December, 2014

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 23 day of December, 2014 at 3:23 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
Timothy Joaquin, Legislative Chairman

APPROVED

DISAPPROVED

on the 23 day of December, 2014

at 3:34 o'clock, P .m.

Ned Norris, Jr.
NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

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Returned to the Legislative Secretary on the 23 day of

December, 2014, at 4:12 o'clock, P.m.

Evonne Wilson
Evonne Wilson, Legislative Secretary

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ACTION: AMENDING RESOLUTION NO. 14-240, "SUSPENDING SECTION 1105 OF 27 TOHONO O'ODHAM CODE CHAPTER 1 AND ESTABLISHING MORATORIUM ON HIA-CED REGIONAL REFERENCE CHANGES AND DESIGNATIONS"

Moved: COUNCILWOMAN MARY LOPEZ

SECOND: COUNCILMAN HILARION CAMPUS

DATE: DECEMBER 16, 2014

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF Oidak 224.2	1. LUCINDA ALLEN (Nicholas Jose)	112.1	X			
	2. MARY LOPEZ ()	112.1	X			
SELS 502.0	1. ARTHUR WILSON (Ophelia Patten)	251.0	X			
	2. BARBARA HAVIER (Beverly Rivas)	251.0	X			
SCHUK TOAK 174.2	1. FRANCES B. STEPHENS (Anthony J. Rios)	87.1	X			
	2. QUINTIN C. LOPEZ (John Fendenheim)	87.1	X			
SAN XAVIER 224.2	1. HILARION CAMPUS (Daniel L.A. Preston, III)	112.1	X			
	2. RACHEAL VILSON-STONER (Olivia Villegas-Liston)	112.1	X			
SAN LUCY 219.6	1. DIANA MANUEL (Gloria Ramirez)	109.8	X			
	2. JANA MONTANA ()	109.8	X			
PISINEMO 210.6	1. CHESTER ANTONE (<i>Absent</i>) (Tony Murrietta) (<i>Present</i>)	105.3	X			
	2. EDWARD MANUEL, SR. ()	105.3	X			
HICKIWAN 196.9	1. LOUIS R. LOPEZ ()	98.45	X			
	2. SANDRA ORTEGA (<i>Absent</i>) (Manuel Osequeda, Jr.) (<i>Present</i>)	98.45	X			X
HIA CED 19.6	1. PATRICK ANDREWS (Janice E. Paul)	9.8		X		
	2. VIRGINIA GARCIA	9.8		X		
GU VO 241.0	1. GRACE MANUEL (Floyd Flores)	120.5	X			
	2. PAMELA ANGHILL (Jeffery Antone, Sr.)	120.5	X			
GU ACHI 257.3	1. TIMOTHY L. JOAQUIN ()	128.65	X			
	2. LORETTA LEWIS (Louts Johnson)	128.65	X			
CHUKUT KUK 319.2	1. ETHEL GARCIA (Marlakay C. Henry)	159.6	X			
	2. BILLMAN LOPEZ ()	159.6	X			
BABOQUIVARI 357.7	1. FRANCES MIGUEL (Roberta Harvey)	178.85	X			
	2. VERNON J. SMITH (Gloria Zazueta)	178.85	X			
TOTAL		2,946.5	2,926.9	19.6	-0-	[01]