RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Recognition and Protection of the Sacred Ha:san)

RESOLUTION NO. 21-137

WHEREAS, it is the policy of the Tohono O'odham Nation to promote “enjoyable harmony
between members of the [N]ation and their environment; to promote efforts
which will preserve and protect the natural and cultural environment of the
Tohono O'odham Nation, including its lands, air, water, flora and fauna, its
ecological systems, and natural resources, and its historic and cultural artifacts
and archeological sites; and to create and maintain conditions under which
members of the [N]ation and nature can exist in productive harmony and fulfill
the social, economic, and other requirements of present and future generations
of members of the Tohono O'odham Nation” (Constitution, Article XVIII, Section
1); and

WHEREAS, Indigenous peoples have made the compelling argument that the trees, wildlife,
rivers, and mountains are sacred and should be granted “personhood” and the
legal rights associated with it; and

WHEREAS, the Tohono O'odham and sister O'odham tribes, hold the Ha:san in the highest
regard and consider the Ha:san as an O'odham person; and

WHEREAS, some of the commentaries on saguaros as “people” or “kindred spirits” come
directly from O'odham scholars, including, José Luis Brennan, Juan Smith,
Francis Vagages, Ofelia Zepeda, Danny Lopez, and Camillus Lopez, while others
come from competent historians —most of them working for the federal
government—who corroborate in written form the oral histories long
transmitted as part of the O'odham himdag (Way of Life) — the traditional
knowledge and values of O'odham; and

WHEREAS, Tohono O’odham scholar José Luis Brennan aka José Lewis worked with the U.S.
federal Bureau of American Ethnology recording traditional O’odham narratives
and translating them, including one in which an O’odham boy prophesizes that,
“I will turn myself into a saguaro, so I shall last forever, and bear fruit each
summer,” the O’odham have been gifted with such up to this day; and

WHEREAS, the Ha:san is an integral part of the O’odham himdag (Way of Life) and early
teachings and stories have taught that the Ha:san should never be harmed or
disrespected; and

WHEREAS, the saguaro fruit has been used by the O’odham since time immemorial to make
saguaro fruit wine for the important rain-making ceremonies; and

WHEREAS, the saguaro fruit are as essential to O’odham spirituality as sacramental bread
and wine are to the Holy Eucharist in Christian traditions; and
RESOLUTION NO. 21-137  
(Rrecognition and Protection of the Sacred Ha:san) 
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WHEREAS, the spiritual use of desert plants fits the definition of unalienable rights in the draft release of Secretary Pompeo’s Commission on Unalienable Rights in July 2020, in the sense that saguaro fruit are “essential” to the religious practices of the O’odham engaged in rain-making ceremonies, and are therefore an unalienable “cultural property”; and

WHEREAS, the majority of O’odham lands in the Sonoran Desert were transferred without the consent of the Tohono O’odham from México to the U.S. following the Gadsden Purchase, Treaty of Guadalupe Hidalgo, and the Gadsden Treaty, which guaranteed the O’odham all the religious and property rights they had enjoyed as Mexican citizens; and

WHEREAS, the Agricultural and Natural Resources and Cultural Preservation Committees recommend recognition and protection of the ha:san.

NOW, THEREFORE, BE IT RESOLVED that the Tohono O’odham Legislative Council condemns the destruction, damage, and poorly executed transplanting of saguaros during the border wall construction and other Department of Homeland Security, (DHS) projects on tribal and federal lands that are aboriginal homelands of the O’odham.

BE IT FURTHER RESOLVED by the Tohono O’odham Legislative Council that this wanton destruction of a scared plant amounts to a violation of the religious liberties of the Tohono O’odham Nation and its members.

BE IT FINALLY RESOLVED that the Tohono O’odham Legislative Council calls on all entities, state, and federal agencies to reverse the destruction of sacred plants associated with O’odham traditions and to that:

1. Enter into proper government-to-government consultation with the Tohono O’odham Nation whenever projects or federal or state projects may potentially affect saguaros on the Tohono O’odham Nation or on or around the O’odham aboriginal lands.

2. Adhere to the spirit and detail of the December 5, 2012 memorandum signed by the Department of Defense along with five other federal entities, pledging to Native Americans full government-to-government consultation and training for employees to do no or least harm, to sacred sites, ceremonial plants, pilgrimage trails and shrines on federal lands and that these agencies (including the Department of Homeland Security, Customs and Border Protection and the Army Corps of Engineers) explicitly recognize that they must avoid destruction of access to sacred sites and their culturally significant plants.
3. Refrain from any bulldozing, damage, defacing, or attachment of wiring or other manmade objects to saguaros anywhere on the Tohono O'odham Nation or in traditional cultural properties of the O'odham on lands managed by the National Park Service, Bureau of Land Management, USDA Forest Service, Bureau of Land Management or US Air Force.

4. Begin “healing the cultural, spiritual and ecological wounds” caused by saguaro destruction on the Nation and the border wall construction off the Nation by the following actions:
   (a) removal of the border wall away from sacred sites and sacramental plants;
   (b) re-consecration by O'odham spiritual leaders of damaged sacred plants and sacred sites (and payment to those involved);
   (c) restoration of native vegetation damaged along the border to include saguaros, organ pipe cactus and their nurse plants such as Ironwoods, Mesquites, and Palo Verde, and DHS or appropriate entity compensate, O'odham youth work crews to be involved in this restoration and replanting along with appropriate professionals or companies;
   (d) restitutional compensation for tribal, National Park Service, and National Wildlife Refuge professionals who flagged and mapped all sacred sites and plants of concern areas at the request of the DHS; and
   (e) cultural sensitivity training for all DHS employees working on the border and on or around O'odham aboriginal lands to ensure that they understand and will not violate the Native American Religious Freedoms and other appropriate laws, customs, or traditions.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 04TH day of MAY, 2021 at a meeting at which a quorum was present with a vote of 3,175.7 FOR; 0 AGAINST; 0 NOT VOTING; and 0 ABSENT, pursuant to the powers vested in the Council by Article XVIII, Section 1 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).

TOHONOE O’ODHAM LEGISLATIVE COUNCIL

Timothy Joaquin, Legislative Chairman

______ day of ________, 2021
RESOLUTION NO. 21-137
(Recognition and Protection of the Sacred Ha:san)
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ATTEST:

Evonne Wilson, Legislative Secretary

10 day of May, 2021

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 11th day of May, 2021 at 2:00 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 12th day of May, 2021

at 2:00 o'clock, p.m.

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

Returned to the Legislative Secretary on the 12th day of

May, 2021, at 3:10 o'clock, p.m.

Evonne Wilson, Legislative Secretary
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