

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Supporting the U.S. Environmental Protection Agency, Region 10's 2022 Clean Water Act
Section 404(c) Proposed Determination to Prohibit and Restrict the Use of Certain Waters in
the Bristol Bay Watershed in Southwest Alaska)

RESOLUTION NO. 22-346

1 **WHEREAS,** the Constitution of the Tohono O'odham Nation vests the Tohono O'odham
2 Legislative Council with the authority to "promote, protect and provide for public
3 health, peace, morals, education and general welfare of the Tohono O'odham
4 Nation and its members" and to "consult with the Congress of the United States
5 and appropriate federal agencies regarding federal activities that affect the
6 Tohono O'odham Nation and all federal appropriation estimates and projects for
7 the benefit of the Tohono O'odham Nation . . ." (Constitution, Article VI, Section
8 1(c)(2) and Section 1(j)); and

9 **WHEREAS,** written comments by the Tohono O'odham Nation that take a position supporting
10 or opposing a federal, state, or local government action require approval from
11 the Tohono O'odham Legislative Council (1 Tohono O'odham Code Chapter 3,
12 Section 3103(C)); and

13 **WHEREAS,** Section 3105 of 1 Tohono O'odham Code Chapter 3 provides that if there is "not
14 sufficient time to obtain Legislative Council approval . . . the Chairperson shall
15 obtain the concurrence of the Legislative Council committee with primary
16 oversight over the subject matter of the comments before submitting them." (1
17 Tohono O'odham Code Chapter 3, Section 3105); and

18 **WHEREAS,** the Bristol Bay watershed in Southwest Alaska is an area of unparalleled
19 ecological and economic value, boasting salmon diversity and productivity
20 unrivaled anywhere in North America; and

21 **WHEREAS,** the Bristol Bay watershed has supported a subsistence-based way of life that has
22 sustained the Yup'ik, Dena'ina, and Alutiiq people of Southwest Alaska since time
23 immemorial; and

24 **WHEREAS,** the U.S. Environmental Protection Agency ("EPA") has authority under Section
25 404(c) of the Clean Water Act ("CWA"), and its implementing regulations at 40
26 C.F.R. Part 241, to prohibit, restrict, or deny the discharge of dredged or fill
27 material at defined sites in waters of the United States (including wetlands)
28 whenever it determines, after notice and opportunity for public hearing, that use
29 of such sites for disposal would have unacceptable adverse impact on one or
30 more of various resources, including fisheries, wildlife, municipal water
31 supplies, or recreational areas; and

RESOLUTION NO. 22-346

(Supporting the U.S. Environmental Protection Agency, Region 10's 2022 Clean Water Act Section 404(c) Proposed Determination to Prohibit and Restrict the Use of Certain Waters in the Bristol Bay Watershed in Southwest Alaska)

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1 **WHEREAS,** on May 26, 2022, EPA Region 10 published a CWA Section 404(c) Proposed
2 **Determination ("2022 Proposed Determination") to prohibit and restrict the use**
3 **of certain waters in the Bristol Bay watershed as disposal sites for the discharge**
4 **of dredged or fill material associated with mining the Pebble deposit, a large ore**
5 **body in Southwest Alaska; and**

6 **WHEREAS,** on June 24, 2022, EPA Region 10 issued a Federal Register notice extending the
7 **public comment period through September 6, 2022, to provide sufficient time for**
8 **the public to meaningfully comment on the 2022 Proposed Determination; and**

9 **WHEREAS,** the United Tribes of Bristol Bay ("UTBB") is a tribal consortium, consisting of 15
10 **federally recognized tribes in Bristol Bay, working to protect the traditional**
11 **Yup'ik, Dena'ina, and Alutiiq ways of life in Southwest Alaska that depend on the**
12 **pristine Bristol Bay watershed and all it sustains, most notably Bristol Bay's wild**
13 **salmon; and**

14 **WHEREAS,** at the request of the UTBB, Chairman Norris submitted a letter to EPA Region 10
15 **during the public comment period in support of permanent protections of the**
16 **Bristol Bay watershed, after determining there was insufficient time for Tohono**
17 **O'odham Legislative Council approval and with the concurrence of the Water**
18 **Resources Committee; and**

19 **WHEREAS,** the Water Resource Committee also recommends supporting the UTBB and EPA
20 **Region 10's 2022 Proposed Determination by resolution.**

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

22 **(1) recognizes the need to secure permanent protections for the Bristol Bay**
23 **watershed's rivers, streams and wetlands that support the world's largest**
24 **sockeye salmon fishery and a subsistence-based way of life that has**
25 **sustained the Yup'ik, Dena'ina, and Alutiiq people of Southwest Alaska**
26 **since time immemorial; and**

27 **(2) supports EPA Region 10's 2022 Proposed Determination to prohibit and**
28 **restrict the use of certain waters in the Bristol Bay watershed as disposal**
29 **sites for the discharge of dredged or fill material associated with mining**
30 **the Pebble deposit.**

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RESOLUTION NO. 22-346

(Supporting the U.S. Environmental Protection Agency, Region 10's 2022 Clean Water Act Section 404(c) Proposed Determination to Prohibit and Restrict the Use of Certain Waters in the Bristol Bay Watershed in Southwest Alaska)

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The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 15TH day of SEPTEMBER, 2022 at a meeting at which a quorum was present with a vote of 3,218.0 FOR; -0- AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by, Article VI, Section 1(c)(2) and 1(j) 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
20 day of September, 2022

ATTEST:

Evonne Wilson
Evonne Wilson, Legislative Secretary
20 day of September, 2022

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 20 day of September, 2022 at 4:33 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

on the 22 day of September, 2022

DISAPPROVED

at 8:47 o'clock, A.M.

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

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Returned to the Legislative Secretary on the 22 day of

September, 2022, at 12:26 o'clock, p.m.

Evonne Wilson

Evonne Wilson, Legislative Secretary

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ACTION: SUPPORTING THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 10'S 2022 CLEAN WATER ACT SECTION 404(C) PROPOSED DETERMINATION TO PROHIBIT AND RESTRICT THE USE OF CERTAIN WATERS IN THE BRISTOL BAY WATERSHED IN SOUTHWEST ALASKA

MOVED: COUNCILMAN DANIEL L.A. PRESTON III

SECOND: COUNCILWOMAN DELISA RAMON

DATE: SEPTEMBER 15, 2022

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 245.6	1. MARY LOPEZ (Ann M. Garcia)	122.8	X			
	2. LUCINDA ALLEN (Francis Homewytewa)	122.8	X			
SELLS 556.5	1. ARTHUR WILSON (<i>Absent</i>) (Shelia Espino) (<i>Present</i>)	278.25	X			
	2. EVELYN JUAN-MANUEL (Arvada Liston)	278.25	X			
SCHUK TOAK 190.5	1. TERESA F. DONAHUE (Alberta Espinoza)	95.25	X			
	2. DELISA M. RAMON (Sharon A. Francisco)	95.25	X			
SAN XAVIER 242.6	1. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)	121.3	X			
	2. JANICE FELIX (Adam P. Andrews)	121.3	X			
SAN LUCY 243.8	1. JANA MONTANA (<i>Absent</i>) (Lorraine M. Eiler) (<i>Present</i>)	121.9	X			
	2. ROGER MANUEL (Christina Andrews)	121.9	X			
PISINEMO 232.7	1. MARIETTA MARTIN ()	116.35	X			
	2. EDWARD D. MANUEL (Monica Morgan)	116.35	X			
HICKIWAN 216.6	1. LOUIS R. LOPEZ ()	108.3	X			
	2. DELMA M. GARCIA ()	108.3	X			
GU VO 270.7	1. GRACE MANUEL ()	135.35	X			
	2. CYNTHIA SAAVEDRA (Dallas Lewis)	135.35	X			
GU ACHI 278.5	1. TIMOTHY L. JOAQUIN ()	139.25	X			
	2. VICTORIA HOBBS (Tonya L. Joaquin)	139.25	X			
CHUKUT KUK 351.6	1. MARLAKAY HENRY (<i>Absent</i>) (Billman Lopez) (<i>Present</i>)	175.8	X			X
	2. VIVIAN JUAN-SAUNDERS (Cornelius Antone)	175.8	X			
BABOQUIVARI 388.9	1. ALBERTA J. RAY (<i>Absent</i>) (Frances G. Antone) (<i>Present</i>)	194.45	X			X
	2. LEANDER MASE (Francine Schooling)	194.45	X			
	TOTAL	3,218.0	3,218.0	-0-	-0-	[02]