

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving United States Customs and Border Protection Checkpoint on Federal
Route 15 at Mile Marker 30 Kohatk Turnoff)

RESOLUTION NO. 10-388

1 **WHEREAS, the Constitution of the Tohono O'odham Nation vests the Legislative Council with the**
2 **authority to “administer land and other public property, and by law, ordinance or**
3 **resolution. . .to manage, protect, preserve and regulate the use of the property,**
4 **wildlife, land, air and natural resources (including surface and ground waters) of the**
5 **Tohono O'odham Nation” and the power to consult “appropriate federal agencies**
6 **regarding federal activities that affect the Tohono O'odham Nation” (Constitution,**
7 **Article VI, Section 1(i)(2) and 1(j)); and**

8 **WHEREAS, the Tohono O'odham Nation’s southern boundary includes 75 miles of the United**
9 **States and Mexico international border and as a result the Nation’s members**
10 **experience the direct negative impacts from illegal immigration and drug trafficking**
11 **across the international border, including damage to the Nation’s cultural resources,**
12 **increased demands on tribal law enforcement, violence and crime, illegal dumping,**
13 **and environmental degradation; and**

14 **WHEREAS, the Tohono O'odham Nation has worked cooperatively with the United States**
15 **Department of Homeland Security, Customs and Border Protection (“CBP”) to secure**
16 **the 75 miles of international border by supporting integrated radar and camera**
17 **systems for border enforcement, a joint-use law enforcement facility operated by the**
18 **Tohono O'odham Police Department and CBP Border Patrol, border vehicle barriers**
19 **and related infrastructure, and an on-reservation tactical checkpoint; and**

20 **WHEREAS, in October 2007, the Nation conditionally approved the CBP Border Patrol’s operation**
21 **of a tactical checkpoint on Federal Route 15 at mile marker 26.5 to deter and reduce**
22 **human and illegal drug trafficking after the CBP Border Patrol received support from**
23 **the impacted communities and Sif Oidak District (Resolution No. 07-679 and District**
24 **Resolution No. SODC-09-07-23); and**

25 **WHEREAS, for each subsequent year, the Nation approved one-year extensions of the Federal**
26 **Route 15 tactical checkpoint at mile marker 26.5 until the impacted communities and**
27 **the Sif Oidak District raised serious issues and concerns with the location of the**
28 **tactical checkpoint and requested the relocation of the checkpoint to the Kohatk**

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1 turnoff at mile marker 30 (District Resolution No. SODC-09-133 and District Resolution
2 No. SODC-10-063); and

3 **WHEREAS, in June 2010, the CBP Border Patrol removed and cleaned-up the tactical checkpoint**
4 **on Federal Route 15 at mile marker 26.5 and agreed to move the checkpoint to mile**
5 **marker 30 in accordance with the Sif Oidak District Council's Resolution No. SODC-10-**
6 **063 "Reaffirming Resolution No. SODC-09-133 'Moving the Border Patrol Tactical**
7 **Checkpoint to the Kohatk Turnoff' or other Areas on Federal Route 15 and Route 42,**
8 **where it is proved to be Feasible"; and**

9 **WHEREAS, the CBP Border Patrol has obtained approval from the Bureau of Indian Affairs ("BIA")**
10 **for a five-year permit for use of a BIA right-of-way on Federal Route 15; and**

11 **WHEREAS, the CBP Border Patrol has agreed to observe all applicable laws of the Nation and**
12 **federal government to protect the site's environmental and cultural resources prior**
13 **to improving and setting up any necessary infrastructure and equipment at the new**
14 **mile marker 30 checkpoint; and**

15 **WHEREAS, it is in the Nation's and Sif Oidak District's (Resolution No. SODC-10-157) best interests**
16 **to support the CBP Border Patrol tactical checkpoint on federal route 15 at mile**
17 **marker 30, the Kohatk turnoff.**

18 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that it hereby**
19 **approves CBP Border Patrol's implementation of a tactical checkpoint on Federal**
20 **Route 15 at mile marker 30, the Kohatk turnoff (Resolution No. SODC-10-157), for a**
21 **five-year period beginning on the effective date of this resolution, provided that the**
22 **Nation reserves the right to revoke approval by subsequent resolution and further**
23 **provided that the CBP Border Patrol personnel shall:**

- 24 **1. Consult and coordinate with the Nation's Department of Public Safety ("TODPS") to**
25 **the maximum extent possible, and work with a liaison appointed by the TODPS**
26 **Director to provide public information and address concerns.**
27 **2. Respect the human and civil rights of the Nation's members and respond in a timely**
28 **manner to concerns regarding these issues.**
29 **3. Minimize any environmental impacts of their operations by not destroying**
30 **vegetation, littering, or otherwise injuring the Nation's lands, including by not**

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- 1 **widening or otherwise expanding existing roads without the advance, written**
- 2 **consent of the Nation.**
- 3 **4. Consult with the Nation's Cultural Affairs Office to avoid damage to cultural sites**
- 4 **or interruption of traditional ceremonies or celebrations, and to immediately**
- 5 **notify the Cultural Affairs Office upon gaining knowledge of any such damage that**
- 6 **might occur.**
- 7 **5. Refrain from harassing the Tohono O'odham and comply with all applicable federal**
- 8 **laws, including but not limited to those governing searches, seizures, vehicle and**
- 9 **other stops.**
- 10 **6. Consider improving existing roads serving the Nation's members and its**
- 11 **communities as a means of improving community relations, lawful transportation,**
- 12 **communications, and access.**
- 13 **7. Remove vehicles abandoned by smugglers and drug traffickers but refrain from**
- 14 **destroying or unnecessarily damaging such vehicles, which are often stolen from**
- 15 **the Nation's members or other innocent victims.**
- 16 **8. Request and receive authorization from the Nation prior to installing, building, or**
- 17 **otherwise establishing infrastructure that is not readily removable including but**
- 18 **not limited to telephone, electricity and other utilities delivery systems.**
- 19 **9. Report on the Federal Route 15 checkpoint operations on a regular basis as**
- 20 **requested by the Nation's Chairperson or the Legislative Council, and on a monthly**
- 21 **basis to the Sif Oidak District Council.**
- 22 **(10) Generate an annual report on the Federal Route 15 checkpoint operations for**
- 23 **presentation to the Legislative Council.**

24 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 17TH Day**
25 **of SEPTEMBER, 2010 at a meeting at which a quorum was present with a vote of 1,847.35 FOR;**
26 **92.25 AGAINST; 655.90 [03] NOT VOTING; and [05] ABSENT, pursuant to the powers vested in the**
27 **Council by Article VI, Section 1 (i)(2) and 1(j) of the Constitution of the Tohono O'odham Nation,**
28 **adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy**
29 **Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act**
30 **of June 18, 1934 (48 Stat. 984).**

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TOHONO O'ODHAM LEGISLATIVE COUNCIL

Felicia Nunez for
Verlon M. Jose, Legislative Chairman

17th day of September, 2010

ATTEST:

Evonne Wilson
Evonne Wilson, Legislative Secretary

17 day of September, 2010.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 17th day of September, 2010 at 4:41 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

Felicia Nunez for
Verlon M. Jose, Legislative Chairman

APPROVED

on the 17 day of September, 2010

DISAPPROVED

at 4:52 o'clock, P.M.

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

Returned to the Legislative Secretary on the 20 day of

September, 2010, at 8:05 o'clock, A.M.

Evonne Wilson
Evonne Wilson, Legislative Secretary

ACTION: APPROVING UNITED STATES CUSTOMS AND BORDER PROTECTION CHECKPOINT ON FEDERAL ROUTE 15 AT MILE MARKER 30 KOHATK TURNOFF

MOVED: COUNCILWOMAN WAVALENE ROMERO

SECOND: COUNCILMAN TIMOTHY JOAQUIN

DATE: SEPTEMBER 17, 2010

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 198.7	1. WAVALENE ROMERO (Nicholas Jose)	99.35	X			
	2. MARY LOPEZ ()	99.35	X			
SELLS 449.6	1. KIMBERLY LISTO ()	224.80			X	
	2. EVELYN B. JUAN MANUEL ()	224.80			X	
SCHUK TOAK 159.0	1. FRANCES B. CONDE (<i>Absent</i>) (Fredrick Jose) (<i>Present</i>)	79.50	X			
	2. LINDA PARLEY (Agnes Joaquin)	79.50	X			
SAN XAVIER 204.7	1. FELICIA NUÑEZ ()	102.35	X			
	2. OLIVIA VILLEGAS-LISTON (<i>Absent</i>) (Eugene Enis) (<i>Present</i>)	102.35	X			
SAN LUCY 187.1	1. LORRAINE EILER ()	93.55	X			
	2. GLORIA RAMIREZ ()	93.55	X			X
PISINEMO 184.5	1. CHESTER ANTONE (Tony Murrietta)	92.25	X			
	2. EDWARD MANUEL (Gerald Fayuant)	92.25		X		
HICKIWAN 174.5	1. MICHELLE ORTEGA ()	87.25	X			X
	2. SANDRA ORTEGA ()	87.25	X			
GU VO 206.3	1. GRACE MANUEL ()	103.15			X	X
	2. PAMELA ANGHILL (Angela Ortiz)	103.15			X	
GU ACHI 230.1	1. TIMOTHY L. JOAQUIN ()	115.05	X			
	2. CYNTHIA E. MANUEL ()	115.05	X			X
CHUKUT KUK 277.0	1. ETHEL GARCIA (Sara Mae Williams)	138.50	X			
	2. VERLON M. JOSE ()	138.50	X			X
BABOQUIVARI 324.0	1. FRANCES MIGUEL (<i>Absent</i>) (Roberta Harvey) (<i>Present</i>)	162.0	X			
	2. FRANCES G. ANTONE (<i>Absent</i>) (Vernon Smith) (<i>Present</i>)	162.0	X			
TOTAL		2,595.50	1,847.35	92.25	655.90 [03]	[05]