

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Approving Permit for Sale of Borrow Material)**

**RESOLUTION NO. 15-044**

1   **WHEREAS, the Constitution of the Tohono O'odham Nation vests the Legislative Council**  
2                   **with the authority "to manage and lease or otherwise deal with lands, or**  
3                   **interests in land, and resources of the Tohono O'odham Nation, including the**  
4                   **use, permit or lease of lands for mining purposes (including oil and gas), and the**  
5                   **use, permit lease, sale or disposition of other resources (including surface and**  
6                   **ground waters)" (Constitution, Article VI, Section 2(d)); and**

7   **WHEREAS, there is a need to construct new public roads and improve existing public roads**  
8                   **within the Tohono O'odham Nation ("Nation") to promote the health, safety and**  
9                   **welfare of the public and stimulate economic development; and**

10   **WHEREAS, the Nation has identified and approved road construction/improvement**  
11                   **priorities for each district through the approval of Legislative Council**  
12                   **Resolution No. 05-365 which resulted in the submittal of a priority listing to the**  
13                   **Bureau of Indian Affairs (the "BIA") Western Regional Office, Division of**  
14                   **Transportation for the purpose of acquiring and programming annual road**  
15                   **construction funds for the Nation; and**

16   **WHEREAS, the BIA Division of Transportation has hired Whiteriver Construction, Inc. as the**  
17                   **prime contractor for PIR 25(1) Phase 2, a road construction project in the**  
18                   **Fresnal Community of the Schuk Toak District which includes the paving of**  
19                   **Fresnal Road (IR 25), and the construction of a bridge over the Sells Wash; and**

20   **WHEREAS, this road construction project is number two on the priority listing as approved**  
21                   **by Legislative Council Resolution No. 05-365; and**

22   **WHEREAS, the project is estimated to require 25,000 cubic yards of borrow material and**  
23                   **Whiteriver Construction, Inc. has obtained permission from the Fresnal**  
24                   **Community for the use of a proposed borrow site located within their**  
25                   **Community, and immediately north of an existing charco (stock tank), and**  
26                   **accessed by an existing dirt road (see attached Exhibit 1); and**

27   **WHEREAS, BIA's Division of Transportation has completed an environmental assessment**  
28                   **for the road project which has resulted in a Finding of No significant Impact**  
29                   **(FONSI), and includes biological and cultural clearance for the proposed pit**  
30                   **location and access road (haul road); and**

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1 **WHEREAS, Schuk Toak District has approved the sale of borrow material to Whiteriver**  
2 **Construction, Inc. in Resolution ST-12-13-14-080 from the proposed borrow area**  
3 **at a price of \$2.50/cubic yard based on a before and after survey of the borrow**  
4 **area conducted at the company's expense for an in-place volume of material;**  
5 **and**

6 **WHEREAS, it is the wish of the Community to have the proposed pit area cleared of**  
7 **vegetation and excavated within the charco's wing dikes on the east and west**  
8 **and gradually sloping to the pit's perimeter at the north boundary; and**

9 **WHEREAS, the company has submitted a mining and reclamation plan which provides**  
10 **details on the pit excavation activities, pit location and post excavation**  
11 **activities; and**

12 **WHEREAS, the borrow material removed from the borrow pit will be used entirely within**  
13 **the Nation's boundaries and is for a project that will benefit the Nation's**  
14 **members, and is not being sold for a project outside of the Nation; and**

15 **WHEREAS, it is in the best interest of the Nation to support this project through the**  
16 **approval of a Permit for Sale of Borrow Material which will allow Whiteriver**  
17 **Construction, Inc. to remove borrow material from the proposed pit location in**  
18 **the Schuk Toak District, and access the site from an identified haul road.**

19 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that it**  
20 **approves a Permit for Sale of Borrow Material for Whiteriver Construction, Inc.**  
21 **for the excavation of 25,000 cubic yards of borrow material from the site located**  
22 **in the Fresnal Community in the Schuk Toak District for the road construction**  
23 **of Indian Route (IR) 25(1), Phase 2.**

24 **BE IT FURTHER RESOLVED by the Tohono O'odham Legislative Council that it approves Schuk**  
25 **Toak District's receipt of all royalty proceeds from the Permit for Sale of Borrow**  
26 **Material, provided that any expenditures of the royalty proceeds shall be in**  
27 **accordance with a budget approved by Legislative Council resolution.**

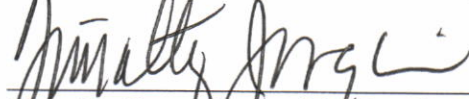
28 **BE IT FINALLY RESOLVED that the Tohono O'odham Nation hereby consents to the grant of a**  
29 **Temporary Construction Easement by the Bureau of Indian Affairs which will be**  
30 **based on environmental and cultural resources reports, a mining and**  
31 **reclamation plan, and a reclamation bond.**

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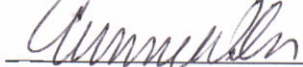
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The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 20<sup>TH</sup> day of FEBRUARY, 2015 at a meeting at which a quorum was present with a vote of 2,749.6 FOR; -0- AGAINST; -0- NOT VOTING; and 196.9 [02] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 2(d) and Article XVI, 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).

TOHONO O'ODHAM LEGISLATIVE COUNCIL

  
\_\_\_\_\_  
Timothy Joaquin, Legislative Chairman  
20 day of February, 2015

ATTEST:

  
\_\_\_\_\_  
Evonne Wilson, Legislative Secretary  
20 day of February, 2015

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 20 day of February, 2015 at 3:24 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

DISAPPROVED

on the 23 day of February, 2015  
at 9:35 o'clock, A .m.

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

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Returned to the Legislative Secretary on the 23 day of  
Strong, 2015, at 10:30 o'clock, a.m.

Evonne Wilson  
Evonne Wilson, Legislative Secretary

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ACTION: APPROVING PERMIT FOR SALE OF BORROW MATERIAL

MOVED: COUNCILMAN BILLMAN LOPEZ

SECOND: COUNCILWOMAN FRANCES STEPHENS

DATE: FEBRUARY 20, 2015

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			
SELLS 502.0	1. ARTHUR WILSON (Ophella 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 <i>(Absent)</i> (Daniel L.A. Preston, III) <i>(Present)</i>	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 (Tony Murrietta)	105.3	X			
	2. EDWARD MANUEL, SR. ( )	105.3	X			
HICKIWAN 196.9	1. LOUIS R. LOPEZ ( )	98.45				X
	2. SANDRA ORTEGA (Manuel Osequeda, Jr.)	98.45				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 (Louis 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			
<b>TOTAL</b>		<b>2,946.5</b>	<b>2,749.6</b>	<b>-0-</b>	<b>-0-</b>	<b>196.9</b> <b>[02]</b>