

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Supporting United States Customs and Border Protection's Integrated Fixed
Tower Project on Nation's Lands)

RESOLUTION NO. 15-479

1 **WHEREAS, "The unallotted lands of the Tohono O'odham Nation and all lands hereafter**
2 **acquired by the nation, or held for the use of the nation or its members, are a**
3 **valuable public resource and shall be held as national lands forever. Control**
4 **and management thereof are vested in the Tohono O'odham Council, which may**
5 **enact laws governing the use, assignment, permit, lease or other disposition of**
6 **lands, interests in land and resources of the nation consistent with Federal law."**
7 **(Constitution of the Tohono O'odham Nation, Article XVI, Section 1); and**

8 **WHEREAS, the Legislative Council has a duty "to manage, protect, preserve and regulate the**
9 **use of the property, wildlife, land, air and natural resources (including surface**
10 **and ground waters) of the Tohono O'odham Nation" and to "administer land and**
11 **other public property, and by law, ordinance or resolution . . . to prevent the**
12 **sale, disposition, lease, use or encumbrance of Tohono O'odham national lands,**
13 **interests in lands, rights-of-way, or other public resources when such sale,**
14 **disposition, lease, use or encumbrance will, in the opinion of the Tohono**
15 **O'odham Council, be injurious to the best interests of the Tohono O'odham**
16 **Nation as a whole" (Constitution, Article VI, Section 1(i)(1) and (2)); and**

17 **WHEREAS, uses of unallotted national lands by federal agencies must be approved by**
18 **Legislative Council resolution, Nation's law, or a lease or other agreement**
19 **authorized or approved by the Legislative Council, and the Council is**
20 **accordingly empowered to "consult, negotiate and conclude agreements and**
21 **contracts on behalf of the Tohono O'odham Nation" with federal agencies and to**
22 **consult with "appropriate federal agencies regarding federal activities that**
23 **affect the Tohono O'odham Nation" (Constitution, Article VI, Section 1(f) and (j));**
24 **and**

25 **WHEREAS, when federal agencies propose uses of national lands, the Legislative Council**
26 **strongly supports consultation with affected members, communities, and**
27 **districts before the Council considers approving any proposed use; and**

28 **WHEREAS, unlike national forests, wilderness areas, and other federal lands on the**
29 **international boundary dividing the United States and Mexico ("International**
30 **Boundary"), the Nation's reservation is not public land, and the Nation has a**

RESOLUTION NO. 15-479

(Supporting United States Customs and Border Protection's Integrated Fixed Tower Project on Nation's Lands)

Page 2 of 5

1 **duty to ensure that tribal members' interests and the Nation's jurisdiction to**
2 **perform its constitutional obligations are protected; and**

3 **WHEREAS,** **the duty to protect Nation's lands, its jurisdiction, and members' interests,**
4 **including in the Nation's dealings with the United States Customs and Border**
5 **Protection ("CBP"), is consistent with the Department of Homeland Security's**
6 **Tribal Consultation Policy in which, "The United States recognizes the right of**
7 **Federally-recognized Indian Tribes ("Indian Tribes") to self-government. Indian**
8 **Tribes exercise inherent sovereign powers over their members and territories."**
9 **(DHS Tribal Consultation Policy, I.A.); and**

10 **WHEREAS,** **the Tucson Sector of the United States Border Patrol, as part of Customs and**
11 **Border Protection ("CBP") of the Department of Homeland Security, is**
12 **responsible for securing the border along the International Boundary with**
13 **Mexico, including the areas on the Nation's lands; and**

14 **WHEREAS,** **CBP has proposed to construct an Integrated Fixed Tower ("IFT") system on the**
15 **Nation to provide long-range, persistent surveillance enabling CBP personnel to**
16 **detect, track, identify, and classify illegal entries through a series of integrated**
17 **sensors and tower-based surveillance equipment, and CBP has requested that**
18 **the Nation consent to a grant of easement for rights of way for IFT tower sites**
19 **and related roadways; and**

20 **WHEREAS,** **previously issued waivers of environmental laws, graves and human remains**
21 **protections, and other laws issued by the Secretary of the Department of**
22 **Homeland Security pursuant to section 102(c) of the Illegal Immigration Reform**
23 **and Immigrant Responsibility Act of 1996, as amended, do not apply to the**
24 **construction and operation of the IFT system, which remains subject to**
25 **applicable federal and Nation's environmental, cultural resources, realty, and**
26 **other applicable laws and regulations; and**

27 **WHEREAS,** **the Legislative Council has authorized CBP to conduct initial site visits and pre-**
28 **development activities for the IFT program (Resolution No. 12-121, Resolution**
29 **No. 13-142) and has authorized the construction, maintenance, and a grant of**
30 **easement for a right of way for the portions of the Traditional Northern Road**

RESOLUTION NO. 15-479

(Supporting United States Customs and Border Protection's Integrated Fixed Tower Project on Nation's Lands)

Page 3 of 5

1 **and Border Fence Road lying outside of the 60-foot Roosevelt Reservation which**
2 **CBP uses to patrol the International Boundary and which provide access to**
3 **proposed IFT roads and sites (Resolutions No. 04-095, No. 14-472 and No. 14-518);**
4 **and**

5 **WHEREAS, CBP is currently finalizing IFT construction design documents, preparing a**
6 **biological assessment, drafting an environmental assessment for the Nation's**
7 **input and for public comment, will seek a concurrence letter or biological**
8 **opinion from the United States Fish and Wildlife Service, and is completing**
9 **other pre-development requirements necessary for obtaining the Nation's final**
10 **consent for the IFT grant of easement; and**

11 **WHEREAS, the Nation's Cultural Affairs, Planning, Realty, Roads, and Wildlife and**
12 **Vegetation Management staff have identified remaining environmental,**
13 **cultural, and other requirements (collectively, "IFT Conditions") CBP must**
14 **complete before the Nation's provides its consent to a grant of easement for**
15 **rights of way for the IFT project; and**

16 **WHEREAS, the IFT Conditions have been reviewed by the Domestic Affairs and Agricultural**
17 **and Natural Resources Committees, which recommend that the Nation support**
18 **the IFT project subject to completion of the necessary conditions and the**
19 **Nation's final consent to a grant of easement for rights of way within a**
20 **subsequent resolution.**

21 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council supports the**
22 **IFT Project on the Nation's lands, subject to**

- 23 **1. CBP's completion of the IFT Conditions;**
 - 24 **2. the Nation's final evaluation of the IFT project;**
 - 25 **3. negotiation and approval of compensation for related rights of way for the**
26 **IFT project;**
 - 27 **4. the approval and execution of a written agreement between the Nation and**
28 **CBP that will protect Nation's lands, its jurisdiction, and members' interests;**
29 **and**
 - 30 **5. a resolution granting the Nation's consent for a grant of easement for rights**
31 **of way for the IFT project.**
- 32

RESOLUTION NO. 15-479

(Supporting United States Customs and Border Protection's Integrated Fixed Tower Project on Nation's Lands)

Page 4 of 5

1 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 08TH**
2 **day of DECEMBER, 2015 at a meeting at which a quorum was present with a vote of 1,852.45**
3 **FOR; 1,168.95 AGAINST; -0- NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the**
4 **Council by Article VI, Sections 1 (f), 1(i), and 1(j) and Article XVI of the Constitution of the**
5 **Tohono O'odham Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and**
6 **approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6,**
7 **1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat.984).**
8
9

10 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

11
12
13
14 **Timothy Joaquin, Legislative Chairman**

15
16 14 day of December, 2015
17

18
19 **ATTEST:**

20
21
22 **Evonne Wilson, Legislative Secretary**

23
24 14 day of December, 2015
25

26 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono**
27 **O'odham Nation on the 14 day of December, 2015 at 4:23 o'clock, p .m.,**
28 **pursuant to the provisions of Section 5 of Article VII of the Constitution and will become**
29 **effective upon his approval or upon his failure to either approve or disapprove it within 48**
30 **hours of submittal.**
31

32 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

33
34
35
36 **Timothy Joaquin, Legislative Chairman**

37
38
39
40
41 **APPROVED**

on the 16 day of December, 2015

42
43 **DISAPPROVED**

at 2:50 o'clock, p .m.

44
45
46
47 **EDWARD D. MANUEL, CHAIRMAN**
48 **TOHONO O'ODHAM NATION**
49
50
51

RESOLUTION NO. 15-479

(Supporting United States Customs and Border Protection's Integrated Fixed Tower Project on Nation's Lands)

Page 5 of 5

Returned to the Legislative Secretary on the 16 day of

December, 2015, at 3:12 o'clock, p.m.



Evonne Wilson, Legislative Secretary

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

ACTION: SUPPORTING UNITED STATES CUSTOMS AND BORDER PROTECTION'S INTEGRATED FIXED TOWER PROJECT ON NATION'S LANDS

MOVED: COUNCILWOMAN ETHEL GARCIA

SECOND: COUNCILMAN BILLMAN LOPEZ

DATE: DECEMBER 08, 2015

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 367.2	1. FRANCES MIGUEL (Roberta E. Harvey)	183.60	X			
	2. VERNON J. SMITH (Gloria Zazueta)	183.60	X			
CHUKUT KUK 332.1	1. ETHEL GARCIA (Marlakay K. Henry)	166.05	X			
	2. BILLMAN LOPEZ (Patricia Vicenti)	166.05	X			
GUACHI 265.0	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	132.50	X			
	2. LORETTA LEWIS ()	132.50	X			
GU VO 250.6	1. GRACE MANUEL (Dallas Lewis)	125.30		X		
	2. PAMELA ANGHILL (Jeffery Antone, Sr.)	125.30		X		
HICKIWAN 205.8	1. LOUIS R. LOPEZ (Shirley Molina)	102.90	X			
	2. SANDRA ORTEGA ()	102.90	X			X
PISINEMO 219.9	1. CHESTER ANTONE ()	109.95	X			
	2. MONICA K. MORGAN ()	109.95		X		
SAN LUCY 226.5	1. DIANA MANUEL ()	113.25	X			
	2. JANA MONTANA (Gloria Ramirez)	113.25	X			X
SAN XAVIER 228.6	1. DANIEL L.A. PRESTON III ()	114.30		X		
	2. RACHEAL VILSON-STONER (Olivia Villegas-Liston)	114.30	X			
SCHUK TOAK 180.6	1. ANTHONY J. FRANCISCO JR. ()	90.30		X		
	2. QUINTIN C. LOPEZ (John Fendenheim)	90.30		X		
SELLS 513.5	1. ARTHUR WILSON (Beverly Rivas)	256.75		X		
	2. BARBARA HAVIER ()	256.75		X		
SIF ODAK 231.6	1. LUCINDA ALLEN (Nicholas Jose)	115.80	X			
	2. MARY LOPEZ ()	115.80	X			X
TOTAL		3,021.4	1,852.45	1,168.95	-0-	[03]