

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Consenting to Renewal of the El Paso Natural Gas Company Gas Pipeline
Rights-of-Way Across the San Xavier Reservation)**

RESOLUTION NO. 16-204

1 **WHEREAS,** the Tohono O'odham Legislative Council is vested with the power to "administer
2 land and other public property, and by law, ordinance or resolution . . .to prevent
3 the sale, disposition, lease, use or encumbrance of Tohono O'odham national
4 lands, interests in lands, rights-of-way, or other public resources when such sale,
5 disposition, lease, use or encumbrance will, in the opinion of the Tohono
6 O'odham Council, be injurious to the best interests of the Tohono O'odham
7 Nation as a whole" (Constitution of the Tohono O'odham Nation, Article VI,
8 Section 1(i)(1)); and

9 **WHEREAS,** "The unallotted lands of the Tohono O'odham Nation and all lands hereafter
10 acquired by the nation, or held for the use of the nation or its members, are a
11 valuable public resource and shall be held as national lands forever" and are
12 subject to the management and control of the Legislative Council (Constitution,
13 Article XVI, Section 1); and

14 **WHEREAS,** El Paso Natural Gas Company, LLC ("EPNG") previously has been granted two
15 rights-of-way across land on the San Xavier Reservation for the purpose of
16 transporting natural gas and other petroleum products (Resolution No. 79-89);
17 and

18 **WHEREAS,** the California 1100 and 1103 Lines consist of two active pipelines 24" and 30" in
19 diameter, placed 20 feet apart in a 60' wide easement crossing 2.37 miles of the
20 San Xavier Reservation for a total of 17.236 acres; and

21 **WHEREAS,** the Twin Buttes 2143 Line consists of a single 8.625" line running north to south,
22 located west of Mission Road across 7.149 miles of the San Xavier Reservation in
23 a 40' wide easement consisting of 34.67 acres; and

24 **WHEREAS,** the Twin Buttes 2143 Line crosses two sections of unallotted Nation's land,
25 described as the west half of Section 26 and the west half of Section 35, in
26 Township 15 South, Range 12 East, Gila and Salt River Base and Meridian; and

27 **WHEREAS,** the Nation has also acquired fractional interests in a number of allotments
28 crossed by both the California 1100 and 1103 Lines and Twin Buttes 2143 Line; and

29 **WHEREAS,** the terms of both the right-of-way for the Twin Buttes 2143 Line and the California
30 1100 and 1103 Lines expired on April 27, 2008 (Twin Buttes Line 2143), and on

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1 **November 30, 2008 (California 1100 and 1103 Lines), and EPNG, now a subsidiary**
2 **of Kinder Morgan, has requested a 20 year renewal of the rights-of-way; and**

3 **WHEREAS,** **pursuant to 25 U.S.C.A. § 324, no right-of-way shall be granted over and across any**
4 **tribal land without the consent of the proper tribal officials; and**

5 **WHEREAS,** **the San Xavier District procured an appraisal to determine reasonable**
6 **compensation for renewal of the rights-of-way and made demand upon EPNG for**
7 **the amount of that appraisal; and**

8 **WHEREAS,** **the District, in accordance with instructions from affected allottees other than**
9 **the Nation, rejected EPNG's original and revised counteroffers for compensation**
10 **for the renewed term, which were significantly below the District's appraisal; and**

11 **WHEREAS,** **as a result of further negotiations, including input from the Western Region**
12 **Office of the Bureau of Indian Affairs ("BIA"), the District demanded, and EPNG**
13 **has agreed to pay a one-time lump sum in the amount of \$5,360,000.00 for both**
14 **rights-of-way for a period of 20 years, each beginning January 1, 2015, which**
15 **amount, is to be apportioned among all the parcels involved and includes back**
16 **rent from the expiration of the former rights-of-way; and**

17 **WHEREAS,** **the amount of \$5,360,000.00 is consistent with the appraisal prepared for the**
18 **District and with other gas transmission line rights-of-way recently negotiated in**
19 **Indian Country; and**

20 **WHEREAS,** **the BIA has advised the District that a majority of interest holders, other than the**
21 **Tohono O'odham Nation, has now consented to the renewal of the EPNG Twin**
22 **Buttes 2143 Line and California 1100 and 1103 Lines rights-of-way across the**
23 **allotted lands of the San Xavier Reservation; and**

24 **WHEREAS,** **the Agricultural and Natural Resources Committee has reviewed the rights-of-**
25 **way applications for the Twin Buttes 2143 Line and California 1100 and 1103**
26 **Lines, which are attached and incorporated by this reference, and recommends**
27 **that the Nation consent to the renewals of the rights-of-way.**

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

- 29 **1. The Tohono O'odham Nation consents to the renewal of the rights-of-way**
30 **for the California 1100 and 1103 Lines, and the Twin Butte 2143 Line of El**
31 **Paso Natural Gas Company across unallotted national lands and allotted**

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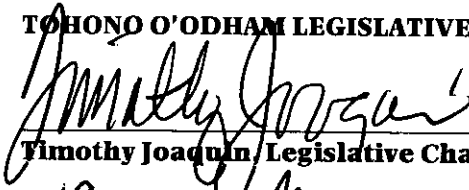
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land on the San Xavier Reservation, consistent with the terms set out in this resolution.

2. The compensation due to the Nation from unallotted national lands located along the Twin Buttes 2143 Line shall be remitted to the Nation's treasurer and distributed by the treasurer 50% to the Nation and 50% to the San Xavier District in accordance with Resolution No. 11-194.
3. The Nation's Realty Office shall be notified in writing prior to any appraisal or negotiations concerning leases, rights of way, or other encumbrances of unallotted national lands and any allotted lands in which the Nation has an interest, unless the allotted land is subject to 19 Tohono O'odham Code Chapter 6.
4. The Nation's chairperson and Nation's Realty Office are authorized to take all necessary and reasonable steps to implement this resolution.

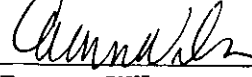
The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 18TH day of MAY, 2016 at a meeting at which a quorum was present with a vote of 3,021.4 FOR; -0- AGAINST; -0- NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council by Article VI, Sections 1(i)(1) 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
19 day of May, 2016

ATTEST:



Evonne Wilson, Legislative Secretary
19 day of May, 2016

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 19 day of May, 2016 at 2:59 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.

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TOHONO O'ODHAM LEGISLATIVE COUNCIL



Timothy Joaquin, Legislative Chairman

APPROVED

on the 19 day of May, 2016

DISAPPROVED

at 4:46 o'clock, P.m.



EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 19 day of

May, 2016, at 5:19 o'clock, P.m.



Evonne Wilson, Legislative Secretary

ACTION: CONSENTING TO RENEWAL OF THE EL PASO NATURAL GAS COMPANY GAS PIPELINE RIGHTS-OF-WAY ACROSS THE SAN XAVIER RESERVATION

Moved: COUNCILMAN BILLMAN LOPEZ

SECOND: COUNCILMAN LOUIS R. LOPEZ

DATE: MAY 18, 2016

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 367.2	1. FRANCES MIGUEL (<i>Absent</i>) (Roberta E. Harvey) (<i>Present</i>)	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			X
GUVO 250.6	1. GRACE MANUEL (<i>Absent</i>) (Dallas Lewis) (<i>Present</i>)	125.3	X			
	2. PAMELA ANGHILL (<i>Absent</i>) (Jeffery Antone, Sr.) (<i>Present</i>)	125.3	X			X
HICKIWAN 205.8	1. LOUIS R. LOPEZ (Shirley Molina)	102.90	X			
	2. SANDRA ORTEGA ()	102.90	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			
SAN XAVIER 228.6	1. DANIEL L.A. PRESTON III ()	114.3	X			
	2. RACHEAL VILSON-STONER (Olivia Villegas-Liston)	114.3	X			
SCHUK TOAK 180.6	1. ANTHONY J. FRANCISCO JR. ()	90.3	X			
	2. QUINTIN C. LOPEZ (John Fendenheim)	90.3	X			
SELLS 513.5	1. ARTHUR WILSON (Beverly Rivas)	256.75	X			
	2. BARBARA HAVIER ()	256.75	X			
SIF Oidak 231.6	1. LUCINDA ALLEN (Nicholas Jose)	115.80	X			
	2. MARY LOPEZ ()	115.80	X			X
TOTAL		3,021.4	3,021.4	-0-	-0-	[03]