

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Approving United States Department of Homeland Security Customs and Border  
Protection BIA Agency Encroachment Permit Application for a New Five-Year  
Period to Continue Operations of the Current Border Patrol Tactical  
Checkpoint on the Tohono O'odham Nation)**

**RESOLUTION NO. 20-383**

1 **WHEREAS, the Constitution of the Tohono O'odham Nation ("Nation") provides that the**  
2 **unallotted lands of the Nation "shall be held as national lands forever" and are**  
3 **under the control and management of the Legislative Council (Article XVI,**  
4 **Section 1); and**

5 **WHEREAS, the Constitution of the Tohono O'odham Nation also vests the Legislative Council**  
6 **with the authority to "promote, protect and provide for public health, peace,**  
7 **morals, education and general welfare of the Tohono O'odham Nation and its**  
8 **members" and to "consult, negotiate and conclude agreements and contracts on**  
9 **behalf of the Tohono O'odham Nation with Federal, State and local**  
10 **governments...or their departments, agencies, or political**  
11 **subdivisions...(Constitution, Article VI, Section 1(c)(2) and Section 1(f)); and**

12 **WHEREAS, the Nation has approved the issuance of a right-of-way to the Bureau of Indian**  
13 **Affairs ("BIA") for BIA Route 15, which includes a portion of Route 15 that passes**  
14 **through the Sif Oidak District; and**

15 **WHEREAS, the United States Customs and Border Protection ("CBP") has received prior**  
16 **approval from the Nation through Legislative Council Resolution Nos. 10-388 and**  
17 **15-324 to establish a tactical checkpoint located on the BIA Indian Reservation**  
18 **Road ("IRR") 15 and IRR 42, specifically at Mile Marker 30, which included the**  
19 **approval for the BIA Transportation Division to issue an Encroachment Permit to**  
20 **CBP for a five-year period; and**

21 **WHEREAS, the CBP presented to the Sif Oidak District and its communities and has received**  
22 **a supporting resolution from the Sif Oidak District Council, Resolution No. SODC**  
23 **20-098 for a five-year renewal of CBP's BIA Encroachment Permit to operate the**  
24 **tactical checkpoint, which expired August 17, 2020; and**

25 **WHEREAS, the BIA requires approval from the Nation to extend the current Encroachment**  
26 **Permit for an additional five-year period commencing on August 17, 2020 and**  
27 **expiring August 18, 2025; and**

28 **WHEREAS, the Domestic Affairs and Agricultural and Natural Resources Committees have**  
29 **reviewed CBP's BIA Encroachment Permit Application, the supporting**  
30 **documents, and recommends approval by the Legislative Council.**

31 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council approves the**  
32 **attached Bureau of Indian Affairs Encroachment Permit Application to continue**  
33 **the operation of the tactical checkpoint for an additional five-year period solely**

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1           **at the identified location within the right-of-way issued to the BIA for BIA IRR 15**  
2           **beginning August 17, 2020 through August 18, 2025, provided that the Nation**  
3           **reserves the right to revoke approval by subsequent resolution, and further**  
4           **provided that the CBP personnel shall:**

- 5           **1. Consult and coordinate with the Nation's Department of Public Safety**  
6           **("DPS") to the maximum extent possible, and work with a liaison**  
7           **appointed by the DPS Director to provide public information and to**  
8           **quickly address concerns.**
- 9           **2. Respect the human and civil rights of the Nation's members and respond**  
10           **in a timely manner to concerns regarding these issues.**
- 11           **3. Minimize any environmental impacts of their operations by not**  
12           **destroying vegetation, littering, or otherwise injuring the Nation's lands,**  
13           **including by not widening, or otherwise expanding existing roads without**  
14           **the advance, written consent of the Legislative Council.**
- 15           **4. Consult with the Nation's Cultural Affairs Office to prevent damage to**  
16           **cultural sites and with districts and communities to prevent any**  
17           **interruption of traditional ceremonies or celebrations and to**  
18           **immediately notify the Cultural Affairs Office upon gaining knowledge of**  
19           **any such damage that might occur.**
- 20           **5. Refrain from harassing the Tohono O'odham and comply with all**  
21           **applicable federal laws, including but not limiting to those governing**  
22           **searches, seizures, vehicle and other stops.**
- 23           **6. With advance Legislative Council approval, consider improving existing**  
24           **roads serving the Nation's members and its communities as a means of**  
25           **improving community relations, lawful transportation, communications,**  
26           **and access.**
- 27           **7. Remove vehicles abandoned by smugglers and drug traffickers, but**  
28           **refrain from destroying or unnecessarily damaging such vehicles, which**  
29           **are often stolen from the Nation's members or other innocent victims.**
- 30           **8. Request and receive authorization from the Legislative Council prior to**  
31           **installing buildings or otherwise establishing Route 15 tactical checkpoint**  
32           **infrastructure that is not readily removable, including but not limited to**  
33           **telephone, electrical, and other utility delivery systems.**

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9. **Report on IRR 15 checkpoint operations on a regular basis as requested by the Nation's chairperson or the Legislative Council chairperson, and to the Domestic Affairs Committee and the Sif Oidak District Council.**
10. **Work with the Nation's Cultural Affairs Office to implement continued training for CBP agents that work at the FR15 checkpoint to prevent harassment of tribal members traversing through the FR15 checkpoint.**
11. **Generate and present a written annual report on IRR 15 checkpoint operations to the Legislative Council.**

**BE IT FINALLY RESOLVED that the Tohono O'odham Legislative Council agrees with the use described in the attached permit request; provided that CBP cannot install any temporary or permanent infrastructure or technology, or otherwise disturb any Nation's lands outside the area covered by the Encroachment Permit without Legislative Council approval.**

**The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 17<sup>TH</sup> day of NOVEMBER, 2020 at a meeting at which a quorum was present with a vote of **2,628.6 FOR; 547.1 AGAINST; -0- NOT VOTING; and [02] ABSENT**, pursuant to the powers vested in the Council by Article VI, Section 1(c)(2), Article VI, Section 1(f), 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 Janguin, Legislative Chairman

20 day of November, 2020

**ATTEST:**

  
\_\_\_\_\_  
Evonne Wilson, Legislative Secretary

19 day of November, 2020

**Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 20 day of November, 2020 at 3:25 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 27 day of November, 2020

**DISAPPROVED**

at 11:10 o'clock, a.m.

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

Returned to the Legislative Secretary on the 24 day of

November, 2020, at 1:16 o'clock, p.m.

  
\_\_\_\_\_  
Evonne Wilson, Legislative Secretary

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**ACTION: APPROVING UNITED STATES DEPARTMENT OF HOMELAND SECURITY CUSTOMS AND BORDER PROTECTION BIA AGENCY ENCROACHMENT PERMIT APPLICATION FOR A NEW FIVE-YEAR PERIOD TO CONTINUE OPERATIONS OF THE CURRENT BORDER PATROL TACTICAL CHECKPOINT ON THE TOHONO O'ODHAM NATION**

**MOVED: COUNCILWOMAN GLORIA RAMIREZ**

**SECOND: COUNCILWOMAN JANICE FELIX**

**DATE: NOVEMBER 17, 2020**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 384.8	1. LEANDER MASE (Francine Schooling)	192.40	X			
	2. ALBERTA J. RAY (Frances G. Antone)	192.40	X			
CHUKUT KUK 347.5	1. VIVIAN JUAN-SAUNDERS (Juanita Homer)	173.75	X			
	2. MARLAKAY HENRY (Billman Lopez)	173.75	X			
GUACHI 279.3	1. VICTORIA HOBBS ( )	139.65	X			
	2. TIMOTHY L. JOAQUIN (Louis L. Johnson)	139.65	X			
GU VO 264.5	1. DALLAS LEWIS (Nacho Flores)	132.25	X			
	2. GRACE MANUEL ( )	132.25	X			
HICKIWAN 213.8	1. SANDRA D. ORTEGA ( )	106.90	X			X
	2. LOUIS R. LOPEZ <i>(Absent)</i> (Delma M. Garcia) <i>(Present)</i>	106.90	X			
PISINEMO 230.7	1. MONICA K. MORGAN ( )	115.35	X			
	2. MARIETTA MARTIN ( )	115.35	X			
SAN LUCY 235.6	1. GLORIA RAMIREZ ( )	117.80	X			
	2. JANA MONTANA (Lorraine M. Eller)	117.80	X			
SAN XAVIER 238.9	1. JANICE FELIX (Adam Andrews)	119.45	X			
	2. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)	119.45	X			
SCHUK TOAK 189.0	1. QUINTIN C. LOPEZ (Agnes V. Joaquin)	94.50	X			
	2. TERESA F. DONAHUE (Alberta Espinoza)	94.50	X			
SELLS 547.1	1. EVELYN JUAN MANUEL ( )	273.55		X		X
	2. ARTHUR WILSON ( )	273.55		X		
SIF OIDAK 244.5	1. LUCINDA ALLEN (Yolonda Garcia)	122.25	X			
	2. MARY LOPEZ (Ann M. Garcia)	122.25	X			
<b>TOTAL</b>		<b>3,175.7</b>	<b>2,628.6</b>	<b>547.1</b>	<b>-0-</b>	<b>[02]</b>