

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Consenting to a Grant of Easement for Right-of-Way and a Waiver of Compensation  
for Fair Market Value for the Extension of a Water Line from Allotment No. 272 to  
Allotment No. 261 in the San Xavier District")**

**RESOLUTION NO. 21-215**

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 and  
4 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 sale,  
12 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,** Frances Stout ("Ms. Stout"), a Tohono O'odham Nation ("Nation") member and  
18 Allottee, is desiring to bring water service to her home site located within  
19 Allotment No. 261 of the San Xavier District, and is working with the Bureau of  
20 Indian Affairs ("BIA") Papago Agency's Real Estate Services to address the federal  
21 requirements under 25 CFR Part 169 Rights-of-Way for the establishment of a  
22 utility easement to her Allotment; and

23 **WHEREAS,** Mr. Rupert Encinas, a Nation's member and Allottee, whose home site is in  
24 Allotment No. 272, which is located adjacent to, and east of Allotment 261, and  
25 whose water line can be extended to bring water service to Ms. Stout's home site;  
26 and

27 **WHEREAS,** BIA has determined that an extension of the water line from Mr. Encinas' home  
28 site to the boundary line of Allotment No. 261 is needed, which requires a grant of  
29 easement for right-of-way which will be granted to Ms. Stout by BIA, as described,  
30 and shown in Exhibit A, which is incorporated by this reference; and

31

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1 **WHEREAS,** upon the completion of construction for the water line, BIA will transfer the grant  
2 of easement to the Tohono O'odham Utility Authority as Grantee, and will be  
3 recorded as such with the Land Title and Records Office in Albuquerque; and

4 **WHEREAS,** the BIA has informed the Nation's Realty Office that the Nation has a fractionated  
5 interest that is less than 5% (0.02750000000000) within Allotment No. 272, which  
6 requires the Nation's consent in its capacity as an allotment owner; and

7 **WHEREAS,** Ms. Stout is requesting the Nation to consent to a grant of easement for right-of-  
8 way for the proposed water line, and a waiver of fair market value for Allotment  
9 No. 272 in which the Nation owns less than a 10% interest, and recommends that  
10 a waiver is in the best interest of the Nation; and

11 **WHEREAS,** the San Xavier District Council approved Resolution No. SXDC 02-20-08,  
12 "Recognition of Home Site for Frances H. Stout on Allotment No. 261," which is  
13 incorporated by this reference; and

14 **WHEREAS,** the Agriculture and Natural Resources, Water Resources, and Commerce  
15 Committees have reviewed the documents relating to Ms. Stout's grant of  
16 easement, which includes cultural and biological clearances, and recommend  
17 approval.

18 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council consents to  
19 the issuance of a grant of easement for right-of-way by the U.S. Bureau of Indian  
20 Affairs to Ms. Stout for the proposed waterline project located in Allotment No.  
21 272, as depicted in Attachment A.

22 **BE IT FURTHER RESOLVED** that the Tohono O'odham Legislative Council consents to a waiver of  
23 fair market value, and thus the Nation will forego compensation it is entitled to  
24 in its capacity as an allotment owner with less than 10% interest in Allotment No.  
25 272.

26 **BE IT FURTHER RESOLVED** that the Tohono O'odham Legislative Council requests that the  
27 Superintendent of the BIA, Papago Agency grant the right-of-way and any  
28 necessary temporary construction easements that may be needed for the Tohono  
29 O'odham Utility Authority to construct the water line extension for Ms. Stout.

30 **BE IT FINALLY RESOLVED** by the Tohono O'odham Legislative Council that the grant of easement  
31 will be transferred to the Tohono O'odham Utility Authority for maintenance and  
32 repair purposes once construction of the water line for Ms. Stout has been  
33 completed.

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The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 17<sup>TH</sup> day of JUNE, 2021 at a meeting at which a quorum was present with a vote of 3,218.0 FOR; -0- AGAINST; -0- NOT VOTING; and -0- ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(i)(1) and (2) 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*

Timothy Joaquin, Legislative Chairman

21 day of June, 2021

ATTEST:

*Evonne Wilson*

Evonne Wilson, Legislative Secretary

21 day of June, 2021

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 21 day of June, 2021 at 4:00 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*

Timothy Joaquin, Legislative Chairman

APPROVED

on the 22 day of June, 2021

DISAPPROVED

at 10:30 o'clock, A.M.

*Ned Norris, Jr.*

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

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Returned to the Legislative Secretary on the 27 day of

June, 2021, at 11:27 o'clock, a.m.

  
**Evonne Wilson, Legislative Secretary**

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**ACTION: CONSENTING TO A GRANT OF EASEMENT FOR RIGHT-OF-WAY AND A WAIVER OF COMPENSATION FOR FAIR MARKET VALUE FOR THE EXTENSION OF A WATER LINE FROM ALLOTMENT NO. 272 TO ALLOTMENT NO. 261 IN THE SAN XAVIER DISTRICT**

**Moved: COUNCILWOMAN JANICE FELIX**

**SECOND: COUNCILWOMAN MARLAKAY HENRY**

**DATE: JUNE 17, 2021**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF Oidak 245.6	1. MARY LOPEZ (Ann M. Garcia)	122.8	X			
	2. LUCINDA ALLEN (Francis Homewytewa)	122.8	X			
SELS 556.5	1. ARTHUR WILSON ( )	278.25	X			
	2. EVELYN JUAN-MANUEL (Arvada Liston)	278.25	X			
SCHUK TOAK 190.5	1. TERESA F. DONAHUE (Alberta Espinoza)	95.25	X			
	2. DELISA M. RAMON (Sharon A. Francisco)	95.25	X			
SAN XAVIER 242.6	1. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)	121.3	X			
	2. JANICE FELIX (Adam P. Andrews)	121.3	X			
SAN LUCY 243.8	1. JANA MONTANA (Lorraine M. Eiler)	121.9	X			
	2. ROGER MANUEL (Christina Andrews)	121.9	X			
PISINEMO 232.7	1. MARIETTA MARTIN ( )	116.35	X			
	2. EDWARD D. MANUAL (Monica Morgan)	116.35	X			
HICKIWAN 216.6	1. LOUIS R. LOPEZ ( )	108.3	X			
	2. SANDRA D. ORTEGA (Delma M. Garcia)	108.3	X			
GU VO 270.7	1. GRACE MANUEL ( )	135.35	X			
	2. CYNTHIA SAAVEDRA (Dallas Lewis)	135.35	X			
GU ACHI 278.5	1. TIMOTHY L. JOAQUIN ( )	139.25	X			
	2. VICTORIA HOBBS (Tonya L. Joaquin)	139.25	X			
CHUKUT KUK 351.6	1. MARLAKAY HENRY (Billman Lopez)	175.8	X			
	2. VIVIAN JUAN-SAUNDERS (Cornelius Antone)	175.8	X			
BABOQUIVARI 388.9	1. ALBERTA J. RAY (Frances G. Antone)	194.45	X			
	2. LEANDER MASE (Francine Schooling)	194.45	X			
<b>TOTAL</b>		<b>3,218.0</b>	<b>3,218.0</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>