

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing United States Customs and Border Protection to Perform Emergency
Maintenance and Repair Work on "Border Fence Road" and "Traditional Northern Road")

RESOLUTION NO. ~~14-472~~

1 **WHEREAS,** the Constitution of the Tohono O'odham Nation vests the Legislative Council
2 with the authority "to promote, protect and provide for public health, peace,
3 morals, education and general welfare of the Tohono O'odham Nation and its
4 members" and to "consult with the Congress of the United States and
5 appropriate federal agencies regarding federal activities that affect the Tohono
6 O'odham Nation. . ." (Constitution, Article VI, Section 1(c)(2) and Section 1(j)); and
7 **WHEREAS,** in 1854 the United States created a boundary with Mexico that cuts through
8 Tohono O'odham lands and has created the southern boundary of the
9 reservation of the Tohono O'odham Nation ("Nation"); and
10 **WHEREAS,** in 1907 President Theodore Roosevelt issued a Presidential Proclamation dated
11 May 27, 1907 which reserved a sixty-foot strip of land north of the international
12 boundary for customs enforcement purposes (the "Roosevelt Reservation"); and
13 **WHEREAS,** the Tucson Sector of the United States Border Patrol ("USBP"), as part of
14 Customs and Border Protection ("CBP") of the Department of Homeland
15 Security, is responsible for securing the border along the International
16 Boundary with Mexico ("International Boundary"), including the areas in and
17 around the Nation's lands; and
18 **WHEREAS,** in 2004 the Nation authorized USBP to construct enforcement barriers and an
19 improved road that runs in proximity to the International Boundary mostly
20 within the sixty-foot Roosevelt Reservation, which was referred to in Resolution
21 04-095 as the "All-Weather Road" and which USBP agreed to maintain
22 (Resolution No. 04-095); and
23 **WHEREAS,** prior to construction of the improved road along the enforcement barrier, a
24 road existed in proximity to the border, that mostly runs just outside and north
25 of the Roosevelt Reservation; and
26 **WHEREAS,** other than areas where the improved road along the enforcement barrier jogs
27 northward and merges into the pre-existing road, the two roads closely parallel
28 each other, and both roads have formerly been referred to as the "All Weather
29 Road"; thus for clarification, the Nation agrees that the improved road along the
30 enforcement barrier shall be referred to as the "Border Fence Road," and the
31 pre-existing road to the north shall be referred to as the "Traditional Northern
32 Road," and those portions of the road where the Border Fence Road overlaps the
33 Traditional Northern Road shall be considered part of the Border Fence Road;
34 and
35 **WHEREAS,** CBP uses both the Border Fence Road and the Traditional Northern Road to
36 patrol the international boundary; and

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1 **WHEREAS,** CBP recently performed a survey of the Traditional Northern Road for the
2 purpose of defining all portions of road existing outside and north of the
3 Roosevelt Reservation as described in Exhibit 1, the 70-page HDR Engineering,
4 Inc. legal description dated 5-19-14, and in Exhibit 2, the 13-page HDR
5 Engineering, Inc. "Record of Survey Tohono O'odham Nation/International
6 Border All-Weather Road" map dated 01/2014, both of which are incorporated by
7 this reference; and

8 **WHEREAS,** recent summer storms damaged both the Border Fence Road and Traditional
9 Northern Road, impeding CBP's regular operations and travel by the Nation's
10 members, and possibly creating dangerous conditions; and

11 **WHEREAS,** CBP is in the process of seeking a right-of-way for the Traditional Northern
12 Road, but current road conditions require a temporary authorization for
13 emergency road improvement work; and

14 **WHEREAS,** the Domestic Affairs Committee and Agricultural and Natural Resources
15 Committee have reviewed CBP's proposal for emergency repair and
16 maintenance of the Border Fence Road and Traditional Northern Road.

17 **NOW, THEREFORE, BE IT RESOLVED** by the Tohono O'odham Legislative Council that it
18 authorizes CBP to perform emergency repair and maintenance of the Border
19 Fence Road and Traditional Northern Road; provided that:

- 20 1. CBP shall provide advance, written notice to the Nation's Realty Office,
21 Environmental Protection Office, Wildlife and Vegetation Management
22 Program, Chukut Kuk District, and Gu Vo District before commencing
23 repairs and maintenance.
- 24 2. All work is conducted in accordance with applicable federal and Nation's
25 laws, including environmental and cultural protections.
- 26 3. The emergency repair and maintenance operations do not expand the
27 current footprint of the Traditional Northern Road.
- 28 4. CBP shall take all necessary precautions to prevent any harm or damage
29 to the Nation's natural and cultural resources, and as cultural resource
30 sites significant to the Nation occur along the Border Fence Road and
31 Traditional Northern Road, any road maintenance and repair projects
32 shall be reviewed by the Nation's Tribal Historic Preservation Office
33 (THPO) before proceeding.
- 34 5. CBP shall also coordinate with the Wildlife and Vegetation Management
35 Program when maintenance or repair work is being done in yellow-billed
36 cuckoo, Sonoran pronghorn, and cactus ferruginous pygmy owl habitat to
37 avoid disturbance to those species during breeding season.

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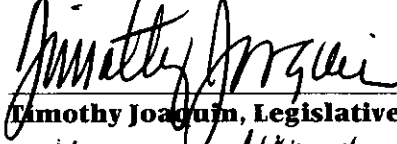
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BE IT FINALLY RESOLVED by the Tohono O'odham Legislative Council that the authority granted by this resolution shall expire six months from the effective date of this resolution.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 03RD day of NOVEMBER, 2014 at a meeting at which a quorum was present with a vote of 2,946.5 FOR; -0- AGAINST; [01] NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(c)(2)&(j) 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).

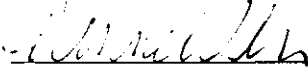
TOHONO O'ODHAM LEGISLATIVE COUNCIL



Timothy Joaquin, Legislative Chairman

4 day of November, 2014

ATTEST:



Evonne Wilson, Legislative Secretary

04 day of November, 2014

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 4 day of November, 2014 at 1:18 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 4th day of November, 2014

at 1:18 o'clock, P.m.



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

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Returned to the Legislative Secretary on the 24 day of

November, 2014, at 1:41 o'clock, P.m.

Evonne Wilson
Evonne Wilson, Legislative Secretary

ACTION: AUTHORIZING UNITED STATES CUSTOMS AND BORDER PROTECTION TO PERFORM EMERGENCY MAINTENANCE AND REPAIR WORK ON "BORDER FENCE ROAD" AND "TRADITIONAL NORTHERN ROAD"

Moved: COUNCILMAN BILLMAN LOPEZ

SECOND: COUNCILWOMAN PAMELA ANGHILL

DATE: NOVEMBER 03, 2014

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 (Ophelia 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			X
SAN XAVIER 224.2	1. HILARION CAMPUS (Daniel L.A. Preston, III)	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			X
GU VO 241.0	1. GRACE MANUEL (Floyd Flores)	120.5	X		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 (<i>Absent</i>) (Marlakay C. Henry) (<i>Present</i>)	159.6	X			
	2. BILLMAN LOPEZ ()	159.6	X			
BABOQUIVARI 357.7	1. FRANCES MIGUEL (<i>Absent</i>) (Roberta Harvey) (<i>Present</i>)	178.85	X			
	2. VERNON J. SMITH (Gloria Zazueta)	178.85	X			
TOTAL		2,946.5	2,946.5	-0-	[01]	[02]