

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Border Security and Immigration Enforcement on the Tohono O'odham Nation)

RESOLUTION NO. 17-053

1 **WHEREAS,** the Tohono O'odham and our ancestors have from time immemorial inhabited
2 lands from the Gila River area in present-day Arizona south to the Sea of Cortez
3 in northern Mexico and the Constitution of the Tohono O'odham Nation
4 provides, "It shall be the policy of the Tohono O'odham Nation to seek the return
5 to the Tohono O'odham Nation of lands and natural resources, including
6 minerals and water rights, within or adjacent to the Tohono O'odham Nation, or
7 which originally were a part of the historic Papagueria." (Constitution, Article
8 XVI, Section 9); and

9 **WHEREAS,** in 1854 the United States created an international boundary with Mexico that
10 cuts through Tohono O'odham lands and that forms the 62-mile southern
11 boundary of the Tohono O'odham Nation's main reservation; and

12 **WHEREAS,** the Nation's members experience the direct negative impacts from illegal
13 immigration and drug trafficking across the international boundary, including
14 violence and crime, damage to the Nation's cultural resources, increased
15 demands on tribal law enforcement, illegal dumping, and environmental
16 degradation; and

17 **WHEREAS,** unlike national forests, wilderness areas, and other federal lands on the
18 international boundary dividing the United States and Mexico, the Nation's
19 reservation is not public land, it is reserved for the benefit of the Nation and its
20 members, and the Nation has a duty to ensure that tribal members' rights and
21 the Nation's sovereignty are protected; and

22 **WHEREAS,** the Constitution of the Tohono O'odham Nation vests the Tohono O'odham
23 Legislative Council with the power to consult with the Congress and federal
24 agencies regarding federal activities that affect the Tohono O'odham Nation,
25 and federal agencies are required by Executive Order No. 13175, presidential
26 memorandums, and departmental and agency policies to consult and
27 collaborate with affected Indian tribes on federal policies and actions having a
28 substantial direct effect on tribes (Constitution, Article VI, Section 1(f) and (j));
29 and

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

10 **WHEREAS,** the Nation has for decades authorized border security measures designed to
11 counter drug- and human-trafficking and other border crimes when those
12 measures protect Nation's members, lands and resources, and the security of
13 the United States while respecting the Nation's sovereignty and members'
14 rights; and

15 **WHEREAS,** the Nation has authorized the construction and maintenance of physical vehicle
16 barriers along the Nation's southern border subject to compliance with the
17 National Environmental Policy Act, Federal Water Pollution Control Act, the
18 National Historic Preservation Act, Native American Graves Protection and
19 Repatriation Act and additional laws (Resolution No. 04-095, as amended;
20 Resolution No. 08-705); and

21 **WHEREAS,** the Nation has supported the construction and operation of two CBP forward
22 operating bases on the Nation's lands, an on-reservation ICE office, and CBP
23 checkpoints on reservation highways, provided that human and civil rights of
24 the Nation's members are respected and subject to additional conditions; and

25 **WHEREAS,** the Nation leads a multi-agency anti-drug smuggling task force staffed by
26 Tohono O'odham Police Department detectives, ICE Homeland Security
27 Investigations special agents, Border Patrol agents, and the Federal Bureau of
28 Investigation through the Native American Targeted Investigations of Violent
29 Enterprises task force, the only tribe-led High Intensity Drug Trafficking Area
30 ("HIDTA") task force in the United States, and the Nation continues to support

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- 1 the federal funding, full staffing, and deployment of ICE's all-Native American
2 Shadow Wolf tactical unit on Nation's lands; and
- 3 **WHEREAS,** the Nation has supported the construction and maintenance of the roadway
4 along the Mexican border that CBP uses to patrol the international boundary,
5 and the Nation continues to work on and seek funding to improve its roadways
6 near the border, which are heavily used and impacted by CBP, for the benefit of
7 Nation's members and law enforcement; and
- 8 **WHEREAS,** the Nation supports entering into a government-to-government agreement with
9 the DHS as recommended by the Government Accountability Office Report GAO-
10 13-352 to improve coordination between DHS and the Nation; and
- 11 **WHEREAS,** on January 25, 2017, President Trump issued Executive Order 13767, "Border
12 Security and Immigration Enforcement Improvements," directing the
13 construction of a physical wall on the United States's southern border with
14 Mexico (Executive Order 13767, Section 2(a) and Section 4(a)); and
- 15 **WHEREAS,** while the Nation coordinates closely with CBP and ICE and has supported the
16 construction of vehicle barriers, the Nation opposes the construction of a wall
17 on its southern boundary with Mexico; and
- 18 **WHEREAS,** a continuous wall on the Nation's southern boundary would
- 19 • further divide the Nation's historic lands and communities; and
 - 20 • prevent Nation's members from making traditional crossings for
21 domestic, ceremonial, and religious purposes, including the annual St.
22 Francis pilgrimage to Magdalena, Mexico and cultural runs;
 - 23 • deny tribal members access to cultural sites, ceremonies, and traditional
24 cemeteries for burying family members;
 - 25 • prevent wildlife from conducting migrations essential for survival and
26 general life, health and existence;
 - 27 • injure endangered species such as the jaguar and other wildlife sacred to
28 the Tohono O'odham;
 - 29 • destroy saguaro cactus and other culturally significant plants;
 - 30 • militarize the lands on the Nation's southern boundary;

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1 • disturb or destroy tribal archeological, sacred sites, and human remains;
2 and

3 **WHEREAS,** the Nation has likewise opposed the waiver of federal, state, and other laws
4 under section 102(c) of the Illegal Immigration Reform and Immigrant
5 Responsibility Act of 1996 ("IIRIRA"), as amended, for the construction of border
6 fencing and roads as unnecessary, destructive, and in violation of the federal
7 obligation to interact with Indian tribes on a government-to-government basis
8 and to respect tribal sovereignty and self-determination (Resolution No. 08-062);
9 and

10 **WHEREAS,** Executive Order 13767 also cites the need for additional federal agents on the
11 southern border but does not provide funding for ICE's Shadow Wolf tactical
12 patrol unit, an all-Native American force of ICE tactical officers operating on the
13 Nation's lands that is staffed at less than 50% of its originally authorized
14 strength; and

15 **WHEREAS,** the Domestic Affairs, Agricultural and Natural Resources, Appropriations, and
16 Cultural Preservation Committees, in consultation with the Nation's Chairman,
17 recommend that the Legislative Council affirm the Nation's position on border
18 security and immigration enforcement on the Tohono O'odham Nation.

19 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council supports

- 20 (1) the construction and maintenance of vehicle barriers on the Nation's
21 southern boundary with Mexico in accordance with prior Legislative
22 Council resolutions and laws of the Nation, and federal laws and
23 regulation governing the use of tribal lands;
- 24 (2) consultation, collaboration, and direct tribal participation by the Nation
25 and all affected tribes in the development of the DHS Secretary's
26 comprehensive study of the security of the southern border and any
27 policies or actions implementing Executive Order 13767 and other
28 border security measures;
- 29 (3) entering into a government-to-government agreement with the DHS to
30 improve on-reservation border security coordination; and
- 31 (4) adequate funding for the maintenance and repair of reservation
32 roadways jointly used by CBP and Nation's members;

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- (5) funding for the Native American Targeted Investigations of Violent Enterprises HIDTA Task Force;
- (6) funding and restored staffing of the ICE Shadow Wolf tactical unit; and
- (7) funding to fill on-reservation public safety radio coverage gaps and allow for Tohono O'odham Department of Public Safety to communicate directly with CBP and other law enforcement partners.

BE IT FURTHER RESOLVED that the Tohono O'odham Legislative Council opposes

- (1) the construction of a physical wall on the Nation's southern boundary; and
- (2) the application of IIRIRA Section 102(c) waivers of federal and other laws on the Nation's lands.

BE IT FINALLY RESOLVED that the Nation's official representatives are authorized to present the terms of this resolution and other resolutions and positions previously approved by the Tohono O'odham Legislative Council to the federal government, state and local governments and other Indian tribes or their departments, agencies, or political subdivisions, private persons and organizations, including but not limited to the National Congress of American Indians and Inter Tribal Council of Arizona.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 07TH day of FEBRUARY, 2017 at a meeting at which a quorum was present with a vote of 2,279.3 FOR; 742.1 AGAINST; -0- NOT VOTING; and [04] ABSENT, pursuant to the powers vested in the Council by Article III; Article VI, Section 1(c)(f)(i)(j), and Section 2(d); Article XVI; and Article XVIII 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

Guicinda J. Allen For
Timothy Joaquin, Legislative Chairman

7th day of *February*, 2017

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ATTEST:

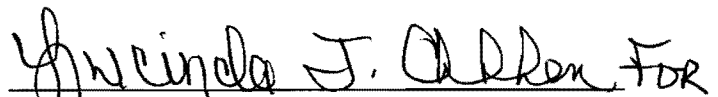


Evonne Wilson, Legislative Secretary

7 day of February, 2017

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 7 day of February, 2017 at 5:40 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

on the 8 day of February, 2017

☐ DISAPPROVED

at 11:05 o'clock, A.m.


EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 8th day of

February, 2017, at 11:15 o'clock, A.m.


Evonne Wilson, Legislative Secretary

ACTION: BORDER SECURITY AND IMMIGRATION ENFORCEMENT ON THE TOHONO O'ODHAM NATION

MOVED: COUNCILMAN BILLMAN LOPEZ

SECOND: COUNCILMAN ANTHONY J. FRANCISCO, JR.

DATE: FEBRUARY 07, 2017

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 <i>(Absent)</i> (Gloria Zazueta) <i>(Present)</i>	183.60	X			X
CHUKUT KUK 332.1	1. ETHEL GARCIA (Marla Kay Henry)	166.05	X			
	2. BILLMAN LOPEZ (Patricia Vicenti)	166.05	X			
GU ACHI 265.0	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	132.50	X			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 <i>(Absent)</i> (Shirley Molina) <i>(Present)</i>	102.90	X			
	2. SANDRA ORTEGA ()	102.90	X			
PISINEMO 219.9	1. CHESTER ANTONE <i>(Absent)</i> (Caroline D. Garcia) <i>(Present)</i>	109.95	X			
	2. MONICA K. MORGAN ()	109.95	X			
SAN LUCY 226.5	1. DIANA MANUEL (Lorraine Eller)	113.25	X			
	2. JANA MONTANA (Gloria Ramirez)	113.25	X			
SAN XAVIER 228.6	1. DANIEL L.A. PRESTON III <i>(Absent)</i> (Felicia Nunez) <i>(Present)</i>	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 (Idaleen Reyes)	256.75		X		X
SIF OIDAK 231.6	1. LUCINDA ALLEN ()	115.80	X			
	2. MARY LOPEZ ()	115.80	X			X
TOTAL		3,021.4	2,279.3	742.1	-0-	[04]