

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Supporting National Guard Deployment in a Manner that Furthers Government-**  
**to-Government Relationship Between the Nation, Federal Border Enforcement**  
**Agencies, and the National Guard)**

**RESOLUTION NO. 06-428**

1 **WHEREAS, the Tohono O'odham Legislative Council is vested with the power to "consult,**  
2 **negotiate and conclude agreements and contracts on behalf of the Tohono O'odham**  
3 **Nation with Federal, State and local governments . . . on all matters within the**  
4 **authority of the Tohono O'odham Council" and to consult "appropriate federal**  
5 **agencies regarding federal activities that affect the Tohono O'odham Nation"**  
6 **(Constitution of the Tohono O'odham Nation, Article VI, Section 1(f) and 1(j)); and**

7 **WHEREAS, sovereign Indian tribes, including the Tohono O'odham Nation, share a unique trust**  
8 **relationship with the United States of America, which is embodied in the Constitution**  
9 **of the United States, numerous court opinions, statutes, executive orders, and federal**  
10 **agency policies; and**

11 **WHEREAS, by its passage and implementation of the Indian Self-Determination and Education**  
12 **Assistance Act (25 U.S.C. § 450 et seq.) and similar legislation, the United States of**  
13 **America has recognized the need to work with Indian tribes on a government-to-**  
14 **government basis and to support Indian tribal self-determination and self-**  
15 **governance; and**

16 **WHEREAS, Executive Order 13175, "Consultation and Coordination with Indian Tribal**  
17 **Governments" ("Consultation Order"), mandates that Executive Branch agencies work**  
18 **with tribes when formulating and implementing policies or taking other actions that**  
19 **have a substantial direct effect on any Indian tribe; and**

20 **WHEREAS, the southern boundary of the Tohono O'odham Nation comprises 75 miles of remote**  
21 **international border between the United States and Mexico and has become one of the**  
22 **most heavily trafficked drug and illegal alien smuggling corridors in the United States;**  
23 **and**

24 **WHEREAS, more than half the Tohono O'odham Police Department budget is expended on border**  
25 **security, including the removal of approximately 1,700 abandoned vehicles per year,**  
26 **thereby reducing law enforcement resources available for community policing and**  
27 **implementing crime prevention measures to serve the Nation's members; and**

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1 **WHEREAS, the Tohono O'odham Solid Waste Management Program removes approximately 40**  
2 **tons per year of trash discarded by undocumented immigrants, and has identified 220**  
3 **abandoned vehicles in remote areas which need to be hauled away; and**

4 **WHEREAS, illegal border activities also divert limited health service resources, damage**  
5 **reservation lands, and result in an increase in property damage, violent crime, and**  
6 **harassment of members of the Nation; and**

7 **WHEREAS, the Nation coordinates closely with state and federal law enforcement agencies in an**  
8 **effort to secure the international border and combat illegal trafficking, associated**  
9 **environmental damage, and related criminal activity; and**

10 **WHEREAS, the Nation has previously entered into a memorandum of understanding with the**  
11 **State of Arizona to enhance cooperation with State agencies committed to improving**  
12 **border security, public health, education, economic development, and environmental**  
13 **quality, and obtain State support in ensuring that the United States satisfies its trust**  
14 **obligations to the Nation (Resolution No. 05-509); and**

15 **WHEREAS, more recently, Arizona Governor Janet Napolitano has entered into a Memorandum**  
16 **of Understanding with the United States Department of Defense to deploy National**  
17 **Guard personnel from various states to the United States-Mexico border area in**  
18 **Arizona as part of "Operation Jump Start"; and**

19 **WHEREAS, Governor Napolitano noted in a June 6, 2006 letter to Chairwoman Vivian Juan-**  
20 **Saunders that the Governor's Office "has been in contact with the Border Patrol to**  
21 **ensure that any operations involving the National Guard respect the sovereignty of the**  
22 **Tohono O'odham Nation"; and**

23 **WHEREAS, Governor Napolitano has asked to be advised whether the Nation will allow National**  
24 **Guard troops to operate on the Nation; and**

25 **WHEREAS, U.S. Border Patrol Tucson Sector Chief Patrol Agent Michael C. Nicley has similarly**  
26 **requested the Nation's concurrence in deploying approximately 90 National Guard**  
27 **personnel on the Tohono O'odham Nation in non-patrol positions; and**

28 **WHEREAS, Chief Patrol Agent Nicley has represented to the Nation that any National Guard**  
29 **personnel deployed on the border within the Nation as part of Operation Jump Start**

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1           **will support the Border Patrol and other federal agencies by performing non-law**  
2           **enforcement duties, such as communications, border vehicle barrier installation,**  
3           **camera operation, vehicle maintenance, fence repair, and other non-patrol functions;**  
4           **and**

5   **WHEREAS, the Legislative Council Domestic Affairs Committee has met with the Nation’s**  
6           **Department of Public Safety and Executive Branch officials to discuss the Nation’s**  
7           **position on the deployment of National Guard personnel on the Nation and**  
8           **recommends that the Nation give conditional approval for the deployment subject to**  
9           **the conditions set forth in this Resolution.**

10 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O’odham Legislative Council hereby**  
11           **conditionally approves the deployment of National Guard personnel on the Nation**  
12           **as part of Operation Jump Start, provided that the Nation reserves the right to revoke**  
13           **its approval by subsequent resolution and further provided that National Guard and**  
14           **United States Customs and Border Protection personnel:**

- 15           **(1) consult and coordinate with the Nation’s Department of Public Safety (“TODPS”)**  
16           **to the maximum extent possible, and work with a liaison appointed by the TODPS**  
17           **Director to provide public information and address concerns;**
- 18           **(2) respect the human and civil rights of the Nation’s members and respond in a**  
19           **timely manner to concerns regarding these issues;**
- 20           **(3) minimize any environmental impacts of their operations by not destroying**  
21           **vegetation, littering, or otherwise injuring the Nation’s lands, provided that the**  
22           **National Guard may assist in constructing and improving border vehicle**  
23           **barriers and fences;**
- 24           **(4) consult with the Nation’s Cultural Affairs Office to avoid damage to cultural sites**  
25           **or interruption of traditional ceremonies or celebrations;**
- 26           **(5) refrain from harassing the Tohono O’odham and comply with all applicable**  
27           **federal laws, including but not limited to those governing searches, seizures,**  
28           **vehicle and other stops;**

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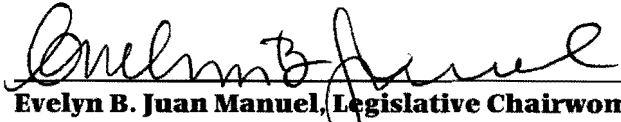
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- (6) consider improving existing roads serving the Nation's members and its communities as a means of improving community relations, lawful transportation, communications and access;
- (7) remove vehicles abandoned by smugglers and drug traffickers but refrain from destroying or unnecessarily damaging such vehicles, which are often stolen from the Nation's members or other innocent victims; and
- (8) assist the TODPS in assessing its radio operations and equipment infrastructure, such as repeater towers, to assess security and operational effectiveness, with the goal of enhancing or establishing interoperability between federal border enforcement agencies and the TODPS.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 21<sup>ST</sup> Day of JUNE, 2006 at a meeting at which a quorum was present with a vote of 2,440.80 FOR; -0- AGAINST; -0- NOT VOTING; and [05] ABSENT, pursuant to the powers vested in the Council by Section 1(f) and 1(j) of Article VI 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**

  
Evelyn B. Juan Manuel, Legislative Chairwoman

22<sup>nd</sup> day of June, 2006

**ATTEST:**

  
\_\_\_\_\_  
Lucille Lopez, Acting Legislative Secretary

31 day of June, 2006.

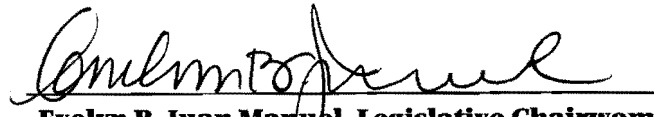
Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono O'Odham Nation on the 22<sup>nd</sup> day of June, 2006 at 8:51 o'clock, A.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon her approval or upon her failure to either approve or disapprove it within 48 hours of submittal.

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**TOHONO O'ODHAM LEGISLATIVE COUNCIL**



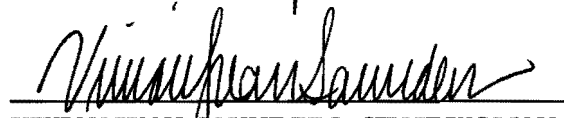
**Evelyn B. Juan Manuel, Legislative Chairwoman**

**APPROVED**

on the 22 day of June, 2006

**DISAPPROVED**

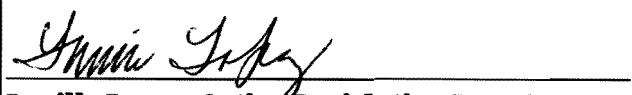
at 3:10 o'clock, P.M.



**VIVIAN JUAN-SAUNDERS, CHAIRWOMAN  
TOHONO O'ODHAM NATION**

Returned to the Legislative Secretary on the 22 day of

June, 2006, at 3:15 o'clock, P.M.



**Lucille Lopez, Acting Legislative Secretary**

**ACTION: SUPPORTING NATIONAL GUARD DEPLOYMENT IN A MANNER THAT FURTHERS GOVERNMENT-TO-GOVERNMENT RELATIONSHIP BETWEEN THE NATION, FEDERAL BORDER ENFORCEMENT AGENCIES, AND THE NATIONAL GUARD**

**MOVED: VICE CHAIRMAN VERLON JOSE**

**SECOND: COUNCILWOMAN CYNTHIA MANUEL**

**DATE: JUNE 21, 2006**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
<b>BABOQUIVARI</b> 310.8	1. FRANCES MIGUEL ( <i>Absent</i> ) (Vernon J. Smith) ( <i>Present</i> )	155.40	X			
	2. FRANCES G. ANTONE ( <i>Absent</i> ) (Lucilda J. Valenzuela (Norris)) ( <i>Present</i> )	155.40	X			
<b>CHUKUT KUK</b> 258.7	1. ETHEL GARCIA ( )	129.35	X			
	2. VERLON M. JOSE (David Garcia)	129.35	X			
<b>GU ACHI</b> 221.6	1. TIMOTHY L. JOAQUIN (Jonas Robles)	110.80	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	110.80	X			
<b>GU VO</b> 193.1	1. RAYMOND VICTOR ( )	96.55	X			
	2. MICHAEL FLORES (Grace Manuel)	96.55	X			X
<b>HICKIWAN</b> 167.4	1. DELMA GARCIA (Mary E. Sam)	83.70	X			
	2. SANDRA ORTEGA ( )	83.70	X			X
<b>PISINEMO</b> 171.8	1. BARBARA SALVICIO ( )	85.90	X			
	2. GERALD FAYUANT ( )	85.90	X			
<b>SAN LUCY</b> 169.0	1. JOHN W. LAWSON, SR. ( )	84.50	X			
	2. GLORIA RAMIREZ ( )	84.50	X			
<b>SAN XAVIER</b> 193.8	1. FELICIA NUÑEZ ( )	96.90	X			X
	2. OLIVIA VILLEGAS-LISTON (Eileen A. Estrada-Lopez)	96.90	X			
<b>SCHUK TOAK</b> 146.9	1. FRANCES B. CONDE ( )	73.45	X			X
	2. PHYLLIS JUAN ( )	73.45	X			
<b>SELLS</b> 421.0	1. MARLENE SARAFICIO-JUAN ( )	210.50	X			
	2. EVELYN B. JUAN MANUEL (Kimberly Listo)	210.50	X			
<b>SIF OIDAK</b> 186.7	1. WVALENE SAUNDERS (Isidro Lopez)	93.35	X			X
	2. DARLENE ANDREW (Rita Martinez)	93.35	X			
<b>TOTAL</b>		<b>2,440.80</b>	<b>2,440.80</b>	<b>-0-</b>	<b>-0-</b>	<b>[05]</b>

**\*\*PASSED VOTES**