

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing the U.S. Customs and Border Protection to Conduct Environmental
Assessments, and Conduct Pre-Development Activities for the Proposed Integrated
Fixed Tower Program in Accordance with the Laws of the Nation and the United States)**

RESOLUTION NO. 13-142

1 **WHEREAS, the Constitution of the Tohono O'odham Nation vests the Legislative Council with the**
2 **authority to "administer land and other public property, and by law, ordinance or**
3 **resolution . . . to manage, protect, preserve and regulate the use of the property,**
4 **wildlife, land, air and natural resources (including surface and ground waters) of the**
5 **Tohono O'odham Nation (Nation)" and the power to consult "appropriate federal**
6 **agencies regarding federal activities that affect the Tohono O'odham Nation"**
7 **(Constitution, Article VI, Section 1(i)(2) and 1(j)); and**

8 **WHEREAS, the southern border of the Tohono O'odham Nation ("Nation") includes 75 miles of the**
9 **United States and Mexico international boundary ("International Boundary") and as**
10 **a result the Nation's members experience the direct negative impacts from illegal**
11 **immigration and drug trafficking across the international border, including damage**
12 **to the Nation's cultural resources, increased demands on tribal law enforcement,**
13 **violence and crime, illegal dumping, and environmental degradation; and**

14 **WHEREAS, the Tucson Sector of the United States Border Patrol ("USBP"), as part of Customs and**
15 **Border Protection of the Department of Homeland Security ("CBP"), is responsible for**
16 **securing the border along the International Boundary, including the areas within and**
17 **around the Nation; and**

18 **WHEREAS, the USBP has proposed constructing and operating the Integrated Fixed Tower**
19 **Program ("IFT Program") within the boundaries of the Tohono O'odham Nation; and**

20 **WHEREAS, the IFT Program is described as a system that would allow USBP to track, identify and**
21 **classify items of interest along the US borders through a series of fixed sensor towers**
22 **equipped with sensor suites and communication equipment that provides automated**
23 **persistent capability to protect the US border between ports of entry; and**

24 **WHEREAS, the IFT Program will consist of 14 tower sites to be located on unallotted land within**
25 **the Nation within approximately 100' x 100' areas with towers up to 180 feet tall placed**
26 **on concrete pads, and each site will have a propane generator, solar panels, a shelter**
27 **and a 12' tall fence topped with barb wire with fencing buried 1.5' underground; and**

28 **WHEREAS, the USBP also has identified a 15th tower site that would be located within the San**
29 **Miguel LEC and which would be subject to an environmental assessment, the Nation's**

RESOLUTION NO. 13-142

(Authorizing the U.S. Customs and Border Protection to Conduct Environmental Assessments, and Conduct Pre-Development Activities for the Proposed Integrated Fixed Tower Program in Accordance with the Laws of the Nation and the United States)

Page 2 of 7

1 approval of any expansion of the leased property, and other approvals by the Nation;
2 and

3 **WHEREAS, the Department of Homeland Security, CBP, including the Office of Technology**
4 **Innovation and Acquisition (OTIA) and USBP, have completed the initial phase of**
5 **implementing the IFT Program on the Nation by conducting initial site visits as**
6 **authorized by Resolution No. 12-121; and**

7 **WHEREAS, the USBP has presented the results of their initial site selections to both the Gu Vo and**
8 **Chukut Kuk Districts, and have received support from both districts to begin their**
9 **pre-development activities for the proposed IFT sites; and**

10 **WHEREAS, the next phase of development for the proposed IFT sites consists of pre-development**
11 **activities that include compliance with National Environmental Protection Act (NEPA),**
12 **Section 106 of the National Historic Preservation Act (NHPA), Endangered Species Act**
13 **(ESA), Migratory Bird Treaty Act (MBTA), land surveys of the proposed IFT sites**
14 **including roads for ingress/egress into the sites, appraisals and geo-technical work;**
15 **and**

16 **WHEREAS, the USBP is requesting approval to proceed with the next phase of development that**
17 **includes the pre-development activities identified above for the recently proposed IFT**
18 **sites located on the Nation within the Chukut Kuk and Gu-Vo Districts; and**

19 **WHEREAS, the USBP will coordinate site visits with the Tohono O'odham Nation's Realty Office**
20 **and the Chukut Kuk and Gu-Vo Districts, and will allow any Nation's staff or, upon the**
21 **request of an affected district, allow a Nation's member to be on site during the**
22 **environmental assessments, and will coordinate with the Tohono O'odham Nation's**
23 **Realty Office to obtain the necessary permits or authorizations to conduct necessary**
24 **environmental assessments, including cultural and biological site surveys, land, road**
25 **surveying, and geo-technical work for the tentative IFT sites; and**

26 **WHEREAS, when the site surveys and the geo-technical reports are completed and the**
27 **information has been gathered, USBP will inform the Chukut Kuk and Gu-Vo Districts**
28 **and the Tohono O'odham Nation's Realty Office, and present its findings to the two**
29 **Districts, Legislative Council oversight committees, and the Legislative Council; and**

RESOLUTION NO. 13-142

(Authorizing the U.S. Customs and Border Protection to Conduct Environmental Assessments, and Conduct Pre-Development Activities for the Proposed Integrated Fixed Tower Program in Accordance with the Laws of the Nation and the United States)

Page 3 of 7

1 **WHEREAS, when all the environmental assessments, surveying, and geo-technical work is**
2 **completed, USBP will inform and present the findings to the Chukut Kuk and Gu-Vo**
3 **District Councils, the Tohono O'odham Nation Realty Office, the Tohono O'odham**
4 **Legislative Council, and the Nation of the completion date along with the dates of the**
5 **environmental assessment comment period, along with the dates for the public review**
6 **period; and**

7 **WHEREAS, the USBP has acknowledged that any previously issued waivers issued by the Secretary**
8 **of the Department of Homeland Security pursuant to section 102(c) of the Illegal**
9 **Immigration Reform and Immigrant Responsibility Act of 1996, as amended, do not**
10 **apply to the construction and operation of such IFT program, and that the IFT**
11 **program would remain subject to federal and Nation's environmental, cultural**
12 **resources, realty, and other laws; and**

13 **WHEREAS, to the extent permitted by federal contracting laws and regulations, USBP plans to**
14 **utilize private or government contractors, including TOUA, the Nation's Solid Waste**
15 **Management Program, Nation's Realty Office, United States military units, United**
16 **States Border Patrol units, or any combination thereof in conducting the**
17 **environmental assessments, surveys, and geo-technical work; and**

18 **WHEREAS, USBP has presented this proposal to the Chukut Kuk and Gu-Vo Districts, and to the**
19 **Legislative Council Domestic Affairs Committee, Agricultural and Natural Resources**
20 **Committee, and the Cultural Preservation Committee; and**

21 **WHEREAS, USBP and the Nation have agreed in principle on the terms stated above and the**
22 **Nation will allow the USBP to begin the next phase of development comprising the pre-**
23 **development activities identified above.**

24 **NOW, THEREFORE, BE IT RESOLVED that subject to the conditions stated above and the additional**
25 **requirements of this resolution and Resolution No. 12-121, the Tohono O'odham**
26 **Legislative Council authorizes the USBP to conduct pre-development activities**
27 **identified in this resolution for the proposed Integrated Fixed Tower Program,**
28 **provided that USBP will:**

29 **(1) Negotiate and submit for Legislative Council approval draft leases and MOUs**
30 **with the Tohono O'odham Nation.**

RESOLUTION NO. 13-142

(Authorizing the U.S. Customs and Border Protection to Conduct Environmental Assessments, and Conduct Pre-Development Activities for the Proposed Integrated Fixed Tower Program in Accordance with the Laws of the Nation and the United States)

Page 4 of 7

- 1 **(2) Complete or obtain all required studies, surveys, reports, appraisals, clearances,**
2 **permits, include any permits necessary to conduct pre-development studies, and**
3 **other required documentation and approvals by the Nation and the Bureau of**
4 **Indian Affairs in accordance with applicable tribal and federal law before any**
5 **set-up or construction of the IFT Program.**
- 6 **(3) Work in coordination with the Nation's Wildlife and Vegetation Management**
7 **Program to lessen impacts from their operations to endangered, threatened,**
8 **and special status species and habitat.**
- 9 **(4) Consult and coordinate with the Nation's Department of Public Safety ("TODPS")**
10 **to the maximum extent possible, and USBP's further coordination with a liaison**
11 **appointed by the TODPS Director to provide public information and address**
12 **concerns.;**
- 13 **(5) Respect the human and civil rights of the Nation's members and respond in a**
14 **timely manner to concerns regarding these issues.**
- 15 **(6) Perform any and all cultural resources clearance and will fully comply with the**
16 **National Environmental Policy Act of 1969 ("NEPA"), comply with the Endangered**
17 **Species Act and the Migratory Bird Treaty Act, and comply with all applicable**
18 **laws of the Nation, including laws that take effect after the effective date of this**
19 **resolution.**
- 20 **(7) Minimize any environmental impacts of their operations by utilizing best**
21 **management practices in order to minimize, destroying vegetation, littering, or**
22 **otherwise injuring the Nation's lands, including not widening or otherwise**
23 **expanding existing roads without the advance, written consent of the Nation.**
- 24 **(8) Consult with the Nation's Cultural Affairs Office to avoid damage to cultural sites**
25 **or interruption of traditional ceremonies or celebrations, and to immediately**
26 **notify the Cultural Affairs Office upon gaining knowledge of any such damage**
27 **that might occur.**
- 28 **(9) Refrain from harassing the Tohono O'odham and comply with all applicable**
29 **federal laws, including but not limited to those governing searches, seizures,**
30 **vehicle and other stops.**

RESOLUTION NO. 13-142

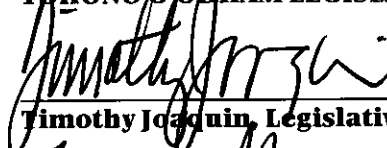
(Authorizing the U.S. Customs and Border Protection to Conduct Environmental Assessments, and Conduct Pre-Development Activities for the Proposed Integrated Fixed Tower Program in Accordance with the Laws of the Nation and the United States)

Page 5 of 7

- 1 **(10) Remove vehicles abandoned by smugglers and drug traffickers encountered**
2 **during daily enforcement operations henceforth, but refrain from destroying or**
3 **unnecessarily damaging such vehicles, which are often stolen from the Nation's**
4 **members or other innocent victims.**
- 5 **(11) Rrequest and receive authorization from the Nation prior to installing, building,**
6 **or otherwise establishing infrastructure that is not readily removable including**
7 **but not limited to telephone, electricity and other utilities delivery systems.**
- 8 **(12) Report on the Integrated Fixed Tower Program initial site visits on a regular**
9 **basis as requested by the Nation's Chairperson or the Legislative Council, and on**
10 **a monthly basis to the Chukut Kuk and Gu-Vo District Councils.**

11 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 07TH Day**
12 **of MAY, 2013 at a meeting at which a quorum was present with a vote of 2,667.25 FOR; 113.35**
13 **AGAINST; [01] NOT VOTING; and [05] ABSENT, pursuant to the powers vested in the Council by**
14 **Article VI, Section 1 (i)(2) and 1 (j) of the Constitution of the Tohono O'odham Nation, adopted by**
15 **the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
16 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**
17 **18, 1934 (48 Stat. 984).**

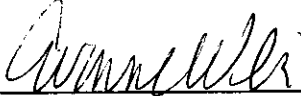
18
19
20 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

21 

22
23
24 **Timothy Joaquin, Legislative Chairman**

25
26 7 day of May, 2013

27
28
29 **ATTEST:**

30 

31
32
33 **Evonne Wilson, Legislative Secretary**

34 7 day of May, 2013.

35
36
37 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham**
38 **Nation on the 7 day of May, 2013 at 4:09 o'clock, P.M.,**
39 **pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective**
40 **upon his approval or upon his failure to either approve or disapprove it within 48 hours of**
41 **submittal.**

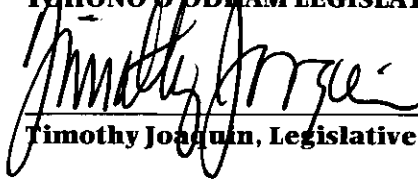
42
43
44

RESOLUTION NO. 13-142

(Authorizing the U.S. Customs and Border Protection to Conduct Environmental Assessments, and Conduct Pre-Development Activities for the Proposed Integrated Fixed Tower Program in Accordance with the Laws of the Nation and the United States)

Page 6 of 7

TOHONO O'ODHAM LEGISLATIVE COUNCIL



Timothy Joaquin, Legislative Chairman

APPROVED

on the 9 day of May, 2013

DISAPPROVED

at 11:40 o'clock, A.M.

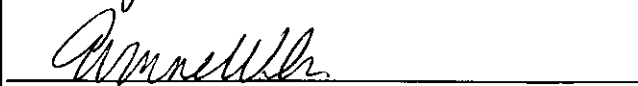


NED NORRIS, JR., CHAIRMAN

TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 9 day of

May, 2013, at 11:45 o'clock, A.M.



Evonne Wilson, Legislative Secretary

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

ACTION: AUTHORIZING THE U.S. CUSTOMS AND BORDER PROTECTION TO CONDUCT ENVIRONMENTAL ASSESSMENTS, AND CONDUCT PRE-DEVELOPMENT ACTIVITIES FOR THE PROPOSED INTEGRATED FIXED TOWER PROGRAM IN ACCORDANCE WITH THE LAWS OF THE NATION AND THE UNITED STATES

Moved: COUNCILWOMAN ETHEL GARCIA

SECOND: COUNCILWOMAN SANDRA ORTEGA

DATE: MAY 07, 2013

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 342.0	1. FRANCES MIGUEL (Roberta Harvey)	171.0	X			X
	2. FRANCES G. ANTONE (<i>Absent</i>) (Vernon Smith) (<i>Present</i>)	171.0	X			
CHUKUT KUK 302.2	1. ETHEL GARCIA (Sara Mae Williams)	151.10	X			
	2. BILLMAN LOPEZ ()	151.10	X			
GU ACHI 244.9	1. TIMOTHY L. JOAQUIN ()	122.45	X			
	2. CYNTHIA E. MANUEL (<i>Absent</i>) (Louis L. Johnson) (<i>Present</i>)	122.45	X			
GU VO 226.7	1. GRACE MANUEL (Floyd Flores)	113.35		X		
	2. PAMELA ANGHILL ()	113.35	X			
HICKIWAN 186.3	1. LOUIS R. LOPEZ (Michelle Ortega)	93.15	X			X
	2. SANDRA ORTEGA ()	93.15	X			
PISINEMO 200.7	1. CHESTER ANTONE (Tony Murrietta)	100.35	X			
	2. EDWARD MANUEL (Gerald Fayuant)	100.35	X			
SAN LUCY 204.6	1. LORRAINE EILER (Diana Manuel)	102.30	X			
	2. JANA MONTANA (Gloria Ramirez)	102.30	X			X
SAN XAVIER 215.8	1. HILARION CAMPUS (Racheal Vilson-Stoner)	107.90	X			
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	107.90	X			X
SCHUK TOAK 169.8	1. FRANCES B. STEPHENS (Anthony J. Rios)	84.90	X			
	2. FREDERICK JOSE (Phyllis Cachora)	84.90	X			
SELLS 475.7	1. ARTHUR WILSON (Kimberly Mull)	237.85	X			
	2. MARIA ACKERMAN ()	237.85	X			X
SIF OIDAK 211.9	1. NICHOLAS JOSE ()	105.95	X		X	
	2. MARY LOPEZ ()	105.95	X			
TOTAL		2,780.60	2,667.25	113.35	[01]	[05]