

**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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**(Border Security and Immigration Enforcement on the Tohono O'odham Nation)**

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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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**the federal funding, full staffing, and deployment of ICE's all-Native American Shadow Wolf tactical unit on Nation's lands; and**

**WHEREAS, the Nation has supported the construction and maintenance of the roadway along the Mexican border that CBP uses to patrol the international boundary, and the Nation continues to work on and seek funding to improve its roadways near the border, which are heavily used and impacted by CBP, for the benefit of Nation's members and law enforcement; and**

**WHEREAS, the Nation supports entering into a government-to-government agreement with the DHS as recommended by the Government Accountability Office Report GAO-13-352 to improve coordination between DHS and the Nation; and**

**WHEREAS, on January 25, 2017, President Trump issued Executive Order 13767, "Border Security and Immigration Enforcement Improvements," directing the construction of a physical wall on the United States's southern border with Mexico (Executive Order 13767, Section 2(a) and Section 4(a)); and**

**WHEREAS, while the Nation coordinates closely with CBP and ICE and has supported the construction of vehicle barriers, the Nation opposes the construction of a wall on its southern boundary with Mexico; and**

**WHEREAS, a continuous wall on the Nation's southern boundary would**

- further divide the Nation's historic lands and communities; and**
- prevent Nation's members from making traditional crossings for domestic, ceremonial, and religious purposes, including the annual St. Francis pilgrimage to Magdalena, Mexico and cultural runs;**
- deny tribal members access to cultural sites, ceremonies, and traditional cemeteries for burying family members;**
- prevent wildlife from conducting migrations essential for survival and general life, health and existence;**
- injure endangered species such as the jaguar and other wildlife sacred to the Tohono O'odham;**
- destroy saguaro cactus and other culturally significant plants;**
- 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 07<sup>TH</sup> 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**

*Guacinda J. Allen* FOR  
**Timothy Joaquin, Legislative Chairman**  
7<sup>th</sup> day of February, 2017

1 ATTEST:

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3 \_\_\_\_\_  
4 Evonne Wilson, Legislative Secretary

5 7 day of February, 2017  
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7  
8 Said Resolution was submitted for approval to the office of the Chairman of the Tohono  
9 O'odham Nation on the 7 day of February, 2017 at 5:40 o'clock, P.m.,  
10 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become  
11 effective upon his approval or upon his failure to either approve or disapprove it within 48  
12 hours of submittal.  
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14 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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16 \_\_\_\_\_ FOR  
17 Timothy Joaquin, Legislative Chairman  
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23  APPROVED

on the 8 day of February, 2017

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25  DISAPPROVED

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

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29 EDWARD D. MANUEL, CHAIRMAN  
30 TOHONO O'ODHAM NATION  
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35 Returned to the Legislative Secretary on the 8<sup>th</sup> day of

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

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40 Evonne Wilson, Legislative Secretary  
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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 Eiler)	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
<b>TOTAL</b>		<b>3,021.4</b>	<b>2,279.3</b>	<b>742.1</b>	<b>-0-</b>	<b>[04]</b>