

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(The Tohono O'odham Nation's Position Regarding Further Construction**  
**on Ioligam Doag (Kitt Peak))**

**RESOLUTION NO. 06-808**

- 1 **WHEREAS, Ioligam Doag, also known as Kitt Peak, is one of the sacred peaks of the O'odham**  
2 **because it is I'toi's Garden; and**
- 3 **WHEREAS, in October 1958, Schuk Toak District and the Papago Tribe (now called the Tohono**  
4 **O'odham Nation) were persuaded to lease approximately 2,400 acres on Ioligam Doag**  
5 **to the National Science Foundation for building an observatory or observatories for**  
6 **astronomical studies and research and related scientific purposes; and**
- 7 **WHEREAS, the duration of the lease is for "so long as the demised premises are used for**  
8 **astronomical study and research or related scientific purposes;" and**
- 9 **WHEREAS, in the 48 years following 1958 the National Science Foundation, the National Optical**  
10 **Astronomy Observatories and various universities and associations have constructed**  
11 **21 telescope observatories and related structures on Ioligam Doag; and**
- 12 **WHEREAS, in August 2004, construction of a new telescope facility known as the VERITAS project**  
13 **(Very Energetic Radiation Imaging Telescope Array System) was begun in Horseshoe**  
14 **Canyon on Ioligam Doag by the Smithsonian Institution, with funding from the**  
15 **National Science Foundation and the United States Department of Energy, despite the**  
16 **objections of Schuk Toak District and the Tohono O'odham Nation (the "Nation")**  
17 **which were communicated to representatives of Kitt Peak National Observatory (a**  
18 **subdivision of the National Optical Astronomy Observatories) and the Smithsonian**  
19 **Institution in meetings held on August 6, 2003 and October 29, 2003; and**
- 20 **WHEREAS, in March 2005 the Nation filed a lawsuit against the National Science Foundation, the**  
21 **Smithsonian Institution and other parties in federal district court to seek a court**  
22 **injunction on further construction of the VERITAS project until the defendants had**  
23 **fully complied with the National Historic Preservation Act of 1966 and the National**  
24 **Environmental Policy Act of 1969; and**
- 25 **WHEREAS, in April 2005 the National Science Foundation ordered a halt to further construction**  
26 **of the VERITAS project, which halt to construction remains in effect today;**
- 27 **WHEREAS, in May 2005 the National Science Foundation began formal consultation with the**

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1 Nation, the Arizona State Historic Preservation Office, and the Bureau of Indian  
2 Affairs, as required by Section 106 of the National Historic Preservation Act and its  
3 implementing regulations at 36 CFR Part 800, and in November 2005 the National  
4 Science Foundation initiated formal consultation with the United States Fish and  
5 Wildlife Service in order to comply with the Endangered Species Act of 1973; and

6 **WHEREAS,** in October 2005 the National Science Foundation released a Cultural Resources  
7 Report that concluded that Kitt Peak is eligible for listing on the National Register of  
8 Historic Places, that the premature construction of the VERITAS project prior to April  
9 2005 had already had an adverse effect on a traditional cultural place eligible for the  
10 National Register of Historic Places, and that further construction and operation of  
11 the VERITAS project would continue to compound the already existing adverse effect;  
12 and

13 **WHEREAS,** a Section 106 consultation meeting was held on January 19, 2006 at the Schuk Toak  
14 District headquarters including participants from the National Science Foundation,  
15 the U.S. Department of Energy, the Smithsonian Institution, the National Optical  
16 Astronomy Observatories, the Bureau of Indian Affairs, the Arizona State Historic  
17 Preservation Office, the Advisory Council on Historic Preservation, the Nation and  
18 Schuk Toak District, at which representatives of the Nation, Schuk Toak District, Gu  
19 Vo District, and Baboquivari District expressed opposition to completion of the  
20 construction of the VERITAS project because of its adverse impact on the sacred peak  
21 Ioligam Doag; and

22 **WHEREAS,** the Nation has received letters supporting the Nation's position opposing the  
23 VERITAS project from the Ak-Chin Indian Community, the Yavapai Prescott Indian  
24 Tribe, the Gila River Indian Community, and the National Wildlife Federation; and

25 **WHEREAS,** on May 4, 2006, representatives of the National Science Foundation and the National  
26 Optical Astronomy Observatories presented a proposal to the Tohono O'odham  
27 Legislative Council and the Chairwoman of the Nation which sought to allow  
28 completion of the construction of the VERITAS project in exchange for agreements  
29 regarding removal and dismantling of the VERITAS project and the other telescope

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1                   **observatories on Ioligam Doag on a negotiated timetable; and**

2 **WHEREAS, the Tohono O'odham Legislative Council requested that the May 4 proposal be**  
3 **provided to the Nation in written form; and**

4 **WHEREAS, by letter dated July 20, 2006, the National Science Foundation provided a written**  
5 **proposal in the form of a draft Memorandum of Agreement under Section 106 of the**  
6 **National Historic Preservation Act, proposing to allow completion of the VERITAS**  
7 **project and to mitigate the adverse effect of this construction by terminating use of**  
8 **VERITAS in 20 years and to consult with the Nation regarding removal of VERITAS or**  
9 **a comparable telescope or facility from Ioligam Doag, and further to terminate all**  
10 **National Science Foundation funding of all observatories on Ioligam Doag in 75 years**  
11 **and thereby to allow the termination of the lease on Ioligam Doag; and**

12 **WHEREAS, the July 20 proposal also offered to negotiate a separate Memorandum of Agreement**  
13 **in the future to plan for gradual removal of all telescopes on Ioligam Doag; and**

14 **WHEREAS, the National Science Foundation provided follow-up letters on September 7 and**  
15 **October 19, 2006, encouraging the Nation to consider the proposal; and**

16 **WHEREAS, after due consideration the Legislative Council has rejected the proposal presented**  
17 **on May 4 and July 20, 2006.**

18 **NOW, THEREFORE, BE IT RESOLVED that the position of the Tohono O'odham Nation is that the**  
19 **VERITAS project shall not be completed and that the premature construction**  
20 **currently on the site in Horseshoe Canyon shall be removed and the site be restored**  
21 **to its prior condition.**

22 **BE IT FURTHER RESOLVED that the Tohono O'odham Nation opposes any other future**  
23 **construction of new astronomy facilities on Ioligam Doag and requests that the**  
24 **National Science Foundation negotiate an agreeable termination date for the lease**  
25 **entered into on October 24, 1958.**

26 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 07<sup>TH</sup>. Day**  
27 **of DECEMBER, 2006 at a meeting at which a quorum was present with a vote of 1,988.2 FOR; 93.35**  
28 **AGAINST; 359.25 NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by**  
29 **Section 1(f) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono**  
30 **O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary -**  
31 **Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48**  
32 **Stat. 984).**

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**TOHONO O'ODHAM LEGISLATIVE COUNCIL**

*Verlon M. Jose*  
**Verlon M. Jose, Legislative Chairman**

12 day of December, 2006

**ATTEST:**

*Lucille Lopez*  
**Lucille Lopez, Acting Legislative Secretary**

06 day of December, 2006.

Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono O'Odham Nation on the 12 day of December, 2006 at 4:26 o'clock, P.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.

**TOHONO O'ODHAM LEGISLATIVE COUNCIL**

*Verlon M. Jose* for  
**Verlon M. Jose, Legislative Chairman**

on the 13<sup>th</sup> day of December, 2006

**APPROVED**

at 9:41 o'clock, A.M.

**DISAPPROVED**

*Vivian Juan Saunders*  
**VIVIAN JUAN SAUNDERS, CHAIRWOMAN**  
**TOHONO O'ODHAM NATION**

Returned to the Legislative Secretary on the 13 day of

December, 2006, at 8:50 o'clock, A.M.

*Lucille Lopez*  
**Lucille Lopez, Acting Legislative Secretary**

**ACTION: THE TOHONO O'ODHAM NATION'S POSITION REGARDING FURTHER CONSTRUCTION ON IOLIGAM DOAG (KITZ PEAK)**

**Moved: COUNCILWOMAN PHYLLIS JUAN**

**SECOND: COUNCILMAN TIMOTHY JOAQUIN**

**DATE: DECEMBER 07, 2006**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
<b>BABOQUIVARI</b> <b>310.8</b>	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> <b>258.7</b>	1. ETHEL GARCIA ( )	129.35	X			
	2. VERLON M. JOSE (David Garcia)	129.35	X			
<b>GU ACHI</b> <b>221.6</b>	1. TIMOTHY L. JOAQUIN (Jonas Robles)	110.80	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	110.80	X			
<b>GU VO</b> <b>193.1</b>	1. RAYMOND VICTOR ( )	96.55	X			
	2. MICHAEL FLORES (Grace Manuel)	96.55	X			
<b>HICKIWAN</b> <b>167.4</b>	1. (Vacant) ( )	83.70	X			
	2. SANDRA ORTEGA ( )	83.70	X			
<b>PISINEMO</b> <b>171.8</b>	1. BARBARA SALVICIO ( )	85.90	X			
	2. GERALD FAYUANT ( )	85.90	X			
<b>SAN LUCY</b> <b>169.0</b>	1. (Vacant) ( )	84.50			X	
	2. GLORIA RAMIREZ ( )	84.50			X	
<b>SAN XAVIER</b> <b>193.8</b>	1. FELICIA NUÑEZ ( )	96.90			X	
	2. OLIVIA VILLEGAS-LISTON (Eileen A. Estrada-Lopez)	96.90	X			
<b>SCHUK TOAK</b> <b>146.9</b>	1. FRANCES B. CONDE ( )	73.45	X			X
	2. PHYLLIS JUAN ( )	73.45	X			
<b>SELLS</b> <b>421.0</b>	1. MARLENE SARAFICIO-JUAN ( )	210.50	X			
	2. EVELYN B. JUAN MANUEL ( <i>Absent</i> ) (Kimberly Listo) ( <i>Present</i> )	210.50	X			
<b>SIF OIDAK</b> <b>186.7</b>	1. WAVALENE ROMERO (Isidro Lopez)	93.35			X	
	2. DARLENE ANDREW (Rita Wilson)	93.35		X		
<b>TOTAL</b>		<b>2,440.80</b>	<b>1,988.2</b>	<b>93.35</b>	<b>359.25</b>	<b>[01]</b>

**\*\*PASSED VOTES**