

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Appointing a Negotiating Team to Finalize the Terms of the Grant of Easement for**  
**Rights-of-Way for the 1997-2017 Time Period between the Tohono O'odham Nation**  
**and the El Paso Natural Gas Company and Approving Distribution of Revenues to**  
**the Nation, the Sif Oidak District, and the Hickiwan District)**

**RESOLUTION NO. 11-194**

1 **WHEREAS, the Bureau of Indian Affairs ("BIA") issued a Grant of Easement for Rights-of-Way**  
2 **("Right-of-Way") to El Paso Natural Gas Company ("El Paso") on October 17, 1977 for a**  
3 **term of 20 years, which provided that the payment of \$150,800.00 would be paid 50%**  
4 **to the Papago Tribe and 50% to the two districts involved, dividing the district share**  
5 **59.2% to the Sif Oidak District and 40.8% to the Hickiwan District; and**

6 **WHEREAS, at the midpoint of the 20 year term, in accordance with the terms of the Right-of-Way,**  
7 **the parties reviewed the consumer price index and El Paso added an additional**  
8 **\$95,000 payment for the Right-of-Way (the "extra payment"); and**

9 **WHEREAS, the Tohono O'odham Legislative Council in Resolution No. 09-89 initially voted to**  
10 **distribute the extra payment 50% to the Tohono O'odham Nation ("Nation") and 50%**  
11 **to the two districts, in accordance with the formula in the 1977 Right-of-Way**  
12 **document, but one month later rescinded Resolution No. 09-89 and voted in**  
13 **Resolution No. 35-89 to distribute 100% of the extra payment to the two districts in**  
14 **accordance with the 1977 Right-of-Way document; and**

15 **WHEREAS, in 1997 the term of the Right-of-Way document expired, and a replacement document**  
16 **has not yet been put in place; and**

17 **WHEREAS, despite no document being in place, El Paso made a good faith payment for future use**  
18 **of the Right-of-Way (the "pre-payment") in July 1998 to the BIA of \$168,675.04 which**  
19 **amount was placed by the BIA in an interest bearing account and by February 27, 2004**  
20 **had increased to \$210,572.08 (principal plus interest); and**

21 **WHEREAS, in 2001 the two districts negotiated a new split of the revenues coming from the Right-**  
22 **of-Way, such that 55% (instead of 59.2%) would go to the Sif Oidak District and 45%**  
23 **(instead of 40.8%) would go to the Hickiwan District; and**

24 **WHEREAS, the Legislative Council in Resolution No. 04-156 voted to distribute 100% of the 1998**  
25 **pre-payment of \$168,675, plus interest accumulated in the BIA account, such that 55%**  
26 **would go to the Sif Oidak District and 45% would go to the Hickiwan District, as a one-**  
27 **time payment; and**

28 **WHEREAS, the Legislative Council voted in Resolution No. 04-156 that the plan for distribution of**  
29 **revenues in the Right-of-Way document for the 1997-2017 time period would be**  
30 **presented to the Legislative Council in the future for a decision on distribution; and**

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1 **WHEREAS, in Resolution No. HDC-10-036 (attached hereto) the HICKIWAN District Council stated**  
2 **that the revenues should be split 50% to each district and 0% to the Nation, but that for**  
3 **the sake of cooperation among the districts and the Nation the District would agree**  
4 **to 55% to Sif Oidak District and 45% to HICKIWAN District and 0% to the Nation; and**

5 **WHEREAS, in Resolution No. SODC-10-112 (attached hereto) the Sif Oidak District Council took the**  
6 **position that the split of revenues should remain unchanged from the original**  
7 **arrangement of 59.2% to Sif Oidak District and 40.8% to HICKIWAN District, with 0%**  
8 **going to the Nation; and**

9 **WHEREAS, the Natural Resources Committee, after lengthy discussion with the two districts, and**  
10 **the Chairman's office, has reviewed the matter of distribution of revenues in the**  
11 **Right-of-Way document for the 1997-2017 time period and recommends that 50% of**  
12 **the revenues be distributed to the Nation with the remaining 50% revenue share to be**  
13 **distributed among the two districts such that 55% (of the district portion) will go to the**  
14 **Sif Oidak District and 45% (of the district portion) will go to the HICKIWAN District; and**

15 **WHEREAS, the Natural Resources Committee recommends that the principle of splitting revenues**  
16 **50% to a district or districts and 50% to the Nation, which is found in the Constitution**  
17 **at Article XVI, Section 5 relating to land leases entered into by districts, should also be**  
18 **used for revenues derived from rights-of-way granted by the Bureau of Indian Affairs**  
19 **with the consent of the Nation, and also to leases entered into by the Nation; and**

20 **WHEREAS, the Natural Resources Committee recommends that the districts be informed that it**  
21 **shall be the Nation's general policy from this time forward to split revenues 50% to a**  
22 **district or districts and 50% to the Nation on leases and rights-of-way, except for**  
23 **gaming leases and mining leases which are governed by other laws; and**

24 **WHEREAS, the terms of the new Right-of-Way document, including the price, still need to be**  
25 **negotiated with El Paso.**

26 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council:**

- 27 **1. Appoints a team to negotiate the terms of the Right-of-Way document for the 1997-**  
28 **2017 time period with the El Paso Natural Gas Company, such negotiating team to**  
29 **include the Chairperson of the Natural Resources Committee, who shall**  
30 **automatically be replaced by the Chairperson of the Agricultural and Natural**  
31 **Resources Committee, the Chairperson of the Budget and Finance Committee, the**  
32 **Vice Chairperson of the Nation, a representative of the Nation's Realty Office, a**



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1 Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham  
2 Nation on the 15<sup>th</sup> day of May, 2011 at 2:57 o'clock, p.M.,  
3 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective  
4 upon his approval or upon his failure to either approve or disapprove it within 48 hours of  
5 submittal.

6  
7 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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10 Felicia Munoz for  
11 Verlon M. Jose, Legislative Chairman

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16  APPROVED on the 20 day of May, 2011

17  
18  DISAPPROVED at 12:13 o'clock, p.M.

19  
20 Ned Norris, Jr.  
21 **NED NORRIS, JR., CHAIRMAN**  
22 **TOHONO O'ODHAM NATION**

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27 Returned to the Legislative Secretary on the 20 day of

28  
29 May, 2011, at 1:26 o'clock, p.M.

30  
31 Evonne Wilson  
32 **Evonne Wilson, Legislative Secretary**

**ACTION: APPOINTING A NEGOTIATING TEAM TO FINALIZE THE TERMS OF THE GRANT OF EASEMENT FOR RIGHTS-OF-WAY FOR THE 1997-2017 TIME PERIOD BETWEEN THE TOHONO O'ODHAM NATION AND THE EL PASO NATURAL GAS COMPANY AND APPROVING DISTRIBUTION OF REVENUES TO THE NATION, THE SIF Oidak DISTRICT, AND THE HICKIWAN DISTRICT**

**MOVED: COUNCILMAN TIMOTHY JOAQUIN**

**SECOND: COUNCILWOMAN LORRAINE EILER**

**DATE: MAY 13, 2011**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
<b>SIF Oidak</b> 198.7	1. WAVALENE ROMERO (Nicholas Jose)	99.35		X		
	2. MARY LOPEZ ( )	99.35		X		X
<b>SELLS</b> 449.6	1. KIMBERLY MULL ( )	224.80	X			
	2. EVELYN B. JUAN MANUEL ( )	224.80	X			
<b>SCHUK TOAK</b> 159.0	1. FRANCES B. CONDE (Stanley Stephans)	79.50		X		X
	2. FREDRICK JOSE (Phyllis Cachora)	79.50		X		
<b>SAN XAVIER</b> 204.7	1. FELICIA NUÑEZ ( )	102.35		X		X
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	102.35		X		
<b>SAN LUCY</b> 187.1	1. LORRAINE EILER ( )	93.55	X			
	2. GLORIA RAMIREZ ( )	93.55	X			X
<b>PISINEMO</b> 184.5	1. CHESTER ANTONE ( <i>Absent</i> ) (Tony Murrietta) ( <i>Present</i> )	92.25	X			
	2. EDWARD MANUEL (Gerald Fayuant)	92.25	X			
<b>HICKIWAN</b> 174.5	1. MICHELLE ORTEGA ( )	87.25		X		
	2. SANDRA ORTEGA ( )	87.25		X		
<b>GU VO</b> 206.3	1. GRACE MANUEL ( )	103.15		X		
	2. PAMELA ANGHILL (Angela Ortiz)	103.15	X			
<b>GU ACHI</b> 230.1	1. TIMOTHY L. JOAQUIN ( )	115.05	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	115.05	X			
<b>CHUKUT KUK</b> 277.0	1. ETHEL GARCIA ( <i>Absent</i> ) (Sara Mae Williams) ( <i>Present</i> )	138.50		X		
	2. VERLON M. JOSE ( )	138.50		X		
<b>BABOQUIVARI</b> 324.0	1. FRANCES MIGUEL (Roberta Harvey)	162.0	X			X
	2. FRANCES G. ANTONE ( <i>Absent</i> ) (Vernon Smith) ( <i>Present</i> )	162.0	X			
<b>TOTAL</b>		<b>2,595.50</b>	<b>1,478.45</b>	<b>1,117.05</b>	<b>-0-</b>	<b>[05]</b>