

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving Agreement for Nonexercise of Certain Rights under Well Site Lease)**

RESOLUTION NO. 2000-056

1 **WHEREAS, pursuant to Resolution No. 99-467, the Tohono O'odham Legislative Council**
2 **approved a Business Lease between the Tohono O'odham Nation (the "Nation") and**
3 **the Tohono O'odham Gaming Authority (the "Gaming Authority") for lands on**
4 **which a second casino in the San Xavier District (the "Casino") will be constructed**
5 **and operated by the Gaming Authority; and**

6 **WHEREAS, water from the Central Arizona Project ("CAP") has been secured for use in**
7 **construction of the Casino; and**

8 **WHEREAS, the plans for construction and operation of the Casino include drilling and**
9 **operation of two wells ("Casino Wells") to serve as a back-up supply in the event of**
10 **an interruption in delivery of CAP construction water and to provide a permanent**
11 **water source required for Casino operations; and**

12 **WHEREAS, the Nation and Asarco Incorporated are parties to business lease No. H54-16-72,**
13 **dated April 26, 1972 and approved by the Secretary of the United States Department**
14 **of Interior on November 14, 1972 ("Well Site Lease"), pursuant to which Asarco**
15 **leases certain lands within the San Xavier Indian Reservation for the purposes of**
16 **locating and drilling water wells; and**

17 **WHEREAS, paragraph 5 of the Well Site Lease contains use and well distance limitations which**
18 **would prevent drilling of the Casino Wells and withdrawal of water for the intended**
19 **use; and**

20 **WHEREAS, the Nation and Asarco have negotiated an Agreement for Nonexercise of Certain**
21 **Rights under Well Site Lease (2/8/2000 draft), a copy of which is attached hereto (the**
22 **"Agreement"); and**

23 **WHEREAS, among other terms, the Agreement (1) removes barriers to the drilling, operation**
24 **and use of the Casino Wells, (2) contains a waiver and release of Asarco by the**
25 **Nation and Gaming Authority regarding certain water rights related to the Casino**
26 **Wells, (3) provides a limited waiver of immunity by the Nation and the Gaming**
27 **Authority for breach of the Agreement, (4) limits all parties' remedies to an action**
28 **in federal court for non-monetary relief and (5) acknowledges the validity of**

1 **Asarco's exercise of its option to renew the Well Site Lease for an additional 25-year**
2 **term through November 13, 2022; and**

3 **WHEREAS, the Tohono O'odham Legislative Council is empowered to grant a limited waiver**
4 **of immunity (1) by the Nation, and (2) by the Gaming Authority pursuant to the last**
5 **paragraph of Section 8 of the Gaming Authority Charter adopted by Resolution No.**
6 **93-311; and**

7 **WHEREAS, Asarco's negotiating representatives recommend approval of the Agreement by**
8 **Asarco; and**

9 **WHEREAS, the Chief Executive Officer of the Gaming Authority recommends approval of the**
10 **Agreement by the Authority's Management Board; and**

11 **WHEREAS, the Water Resources, Natural Resources and Commerce Committees recommend**
12 **approval of the Agreement by the Legislative Council.**

13 **NOW, THEREFORE, BE IT RESOLVED THAT:**

- 14 **1. The Tohono O'odham Legislative Council approves the Agreement for**
15 **Nonexercise of Certain Rights under Well Site Lease (2/8/2000 draft),**
16 **substantially in the form attached hereto (the "Agreement").**
- 17 **2. The Chairman of the Nation is authorized and directed to execute the**
18 **Agreement.**

19 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 10TH.**
20 **day of FEBRUARY, 2000 at a meeting at which a quorum was present with a vote of 1,164.8 FOR;**
21 **714.20 AGAINST; -0- NOT VOTING; and 286.5 [04] ABSENT, pursuant to the powers vested in the**
22 **Council by Section 1(f), 1(i)(2) and 2(d) of Article VI of the Constitution of the Tohono O'Odham**
23 **Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the**
24 **Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to**
25 **Section 16 of the Act of June 18, 1934 (48 Stat. 984).**

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27 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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30 **Dennis Ramon, Legislative Chairman**

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32 14 day of February, 2000
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ATTEST:


Julianna Saraficio, Acting Legislative Secretary

10 day of February, 20 00.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 14 day of February, 20 00 at 11:04 o'clock, A.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL



Dennis Ramon, Legislative Chairman

APPROVED

on the 14th day of February, 20 00

DISAPPROVED

at 11:20 o'clock, A.M.


EDWARD D. MANUEL, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 14 day of
February, 20 00, at 11:50 o'clock, A.M.


Julianna Saraficio, Acting Legislative Secretary

ACTION: APPROVING AGREEMENT FOR NONEXERCISE OF CERTAIN RIGHTS UNDER WELL SITE LEASE

MOVED: COUNCILWOMAN MARY ANN ANTONE

SECOND: COUNCILMAN TONY BURRELL

DATE: FEBRUARY 10, 2000

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 171.8	1. MARY ANN ANTONE (Darlene Andrew)	85.9	X			
	2. RITA MARTINEZ (Nicholas Jose)	85.9	X			
SELLS 372.7	1. DENNIS E. JOSE ()	186.35		X		
	2. EVELYN JUAN ()	186.35		X		
SCHUK TOAK 133.4	1. MARY FLORES ** ()	66.7		X		
	2. AMBROSE ENCINAS ()	66.7		X		
SAN XAVIER 165.9	1. TONY BURRELL ()	82.95	X			
	2. DENNIS RAMON ()	82.95	X			
BABOQUIVARI 286.5	1. FRANCES MIGUEL ()	143.25				X
	2. FRANCES G. ANTONE (Edward N. Kisto)	143.25				X
GU ACHI 209.6	1. CAMILLUS LOPEZ (Louis Johnson)	104.8	X			
	2. ALEX J. RAMON ()	104.8	X			
PISINEMO 156.8	1. BARBARA SALVICIO (Alex Antone)	78.4	X			
	2. JOHNSON JOSE ()	78.4	X			
SAN LUCY 128.1	1. ALBERT MANUEL, JR. ()	64.05		X		X
	2. GLORIA RAMIREZ ()	64.05		X		
GU VO 160.0	1. FERN SALCIDO ()	80.0		X		
	2. GLORIA MONTANA (Phillip Antone)	80.0	X			
HICKIWAN 158.1	1. ALEX JOSE (Shirley Santos)	79.05	X			
	2. LLOYD FRANCISCO (Susan Sam)	79.05	X			X
CHUKUT KUK 222.6	1. KENNETH WILLIAMS ()	111.3	X			
	2. DAVID GARCIA (Mary Audrey Juan)	111.3	X			
TOTAL		2,165.5	1,164.8	714.20	-0-	286.5 [04]

****PASSED VOTES**