

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Requesting that the Bureau of Indian Affairs Initiate Proceedings to Cancel the
Kitt Peak Lease)

RESOLUTION NO. 05-130

1 **WHEREAS, the National Science Foundation has subleased land within the Kitt Peak lease**
2 **entered into on October 24, 1958 to the Smithsonian Institution Astrophysical**
3 **Observatory for the purpose of construction of a new facility called the Very**
4 **Energetic Radiation Imaging Telescoping Array System (“VERITAS”); and**
5 **WHEREAS, the Smithsonian Institution and the National Science Foundation have begun**
6 **construction of the VERITAS facility without complying with the requirements of**
7 **Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f as**
8 **amended, and 36 CFR Part 800), which deals with identification of traditional**
9 **cultural properties, including sacred sites, prior to construction of federal**
10 **undertakings, followed by consultation with the State Historic Preservation Office**
11 **and the Indian tribe on whose land the proposed project is located, regarding**
12 **possible steps which can be taken to avoid, lessen or mitigate any adverse impacts**
13 **on the traditional cultural property; and**
14 **WHEREAS, the Smithsonian Institution and the National Science Foundation have also failed**
15 **to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.,**
16 **as amended) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and**
17 **WHEREAS, these failures to comply are violations of federal law and are therefore a breach of**
18 **the Tohono O’odham Nation’s lease to the National Science Foundation, in**
19 **particular paragraph 13 on unlawful conduct, which states that “Lessee shall not**
20 **use or permit the use of any portion of the leased premises for any unlawful**
21 **purpose whatsoever . . .”; and**
22 **WHEREAS, this breach of the lease subjects the lease to cancellation by the Bureau of Indian**
23 **Affairs under the provisions of 25 CFR Part 162; and**
24 **WHEREAS, the Bureau of Indian Affairs notified the National Science Foundation of the**
25 **possible cancellation of the lease by letter dated February 11, 2005; and**
26 **WHEREAS, the Tohono O’odham Nation, by letters dated December 22, 2004 and January 27,**
27 **2005 requested that the National Science Foundation halt construction on the**
28 **VERITAS project for 60 days and complete the consultation and review process**
29 **mandated by the National Historic Preservation Act, the Endangered Species Act**
30 **and the National Environmental Policy Act; and**
31 **WHEREAS, the Arizona State Historic Preservation Office, by letters dated December 17, 2004,**
32 **and February 2, 2005, supported the Tohono O’odham Nation, recommended that**

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ATTEST:

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

15th day of March, 2005.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 15th day of March, 2005 at 3:58 o'clock, P.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

for *Isidro Lopez*
Isidro Lopez, Legislative Chairman

APPROVED on the 17 day of March, 2005

DISAPPROVED at 12:12 o'clock, P.M.

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

Returned to the Legislative Secretary on the 17th day of
March, 2005, at 1:07 o'clock, P.M.

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

ACTION: REQUESTING THAT THE BUREAU OF INDIAN AFFAIRS INITIATE PROCEEDINGS TO CANCEL THE KITT PEAK LEASE

MOVED: COUNCILWOMAN FRANCES CONDE

SECOND: COUNCILWOMAN PHYLLIS JUAN

DATE: MARCH 09, 2005

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF Oidak 192.6	1. ISIDRO LOPEZ (Nicholas Jose)	96.30	X			
	2. DARLENE ANDREW (Rita Martinez)	96.30		X		
SELLS 465.6	1. DENNIS E. JOSE ()	232.80	X			
	2. EVELYN JUAN ()	232.80	X			X
SCHUK TOAK 176.1	1. FRANCES B. CONDE ()	88.05	X			
	2. PHYLLIS JUAN ()	88.05	X			
SAN XAVIER 215.4	1. FELICIA NUÑEZ (Olivia Liston-Villegas)	107.70	X			
	2. DENNIS RAMON (Eleanor Hunter)	107.70	X			
SAN LUCY 166.3	1. JOHN W. LAWSON, SR. ()	83.15		X		
	2. GLORIA RAMIREZ ()	83.15		X		
PISINEMO 175.4	1. BARBARA SALVICIO ()	87.70	X			
	2. PATRICIA CRUZ ()	87.70	X			
HICKIWAN 170.3	1. DELMA GARCIA (Mary E. Sam)	85.15		X		
	2. SANDRA ORTEGA ()	85.15		X		X
GU VO 191.4	1. RAYMOND VICTOR ()	95.70	X			
	2. MICHAEL FLORES (Willard Manuel)	95.70	X			
GU ACHI 253.6	1. TIMOTHY L. JOAQUIN (Jonas Robles)	126.80	X			
	2. JEROME JOAQUIN (Roberta Picard)	126.80	X			
CHUKUT KUK 258.9	1. KENNETH WILLIAMS (Juanita Homer)	129.45	X			
	2. VERLON M. JOSE (David Garcia)	129.45	X			X
BABOQUIVARI 364.1	1. FRANCES MIGUEL (Lucilda Norris-Valenzula)	182.05	X			
	2. FRANCES G. ANTONE ()	182.05	X			
TOTAL		2,629.7	2,196.8	432.9	-0-	[03]

****PASSED VOTES**