

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving a Plan for Closure of Ponds at Cyprus Tohono Mine)

RESOLUTION NO. 05-739

1 **WHEREAS, the Cyprus Tohono mine has been operated by Cyprus Tohono Corporation ("Cyprus**
2 **Tohono") under a lease with the Tohono O'odham Nation since 1987, and was**
3 **previously operated by other mining companies including Hecla and Noranda; and**
4 **WHEREAS, in 1975 Hecla constructed Evaporation Ponds 1, 2 and 3 and Tailings Ponds A and B,**
5 **and since that time Hecla, Noranda and Cyprus Tohono have deposited materials in**
6 **these Evaporation and Tailings Ponds; and**
7 **WHEREAS, after receiving complaints from North Komelik Community, Sif Oidak District and the**
8 **Tohono O'odham Nation about water quality at the North Komelik drinking water**
9 **wells and at monitor wells close to the Evaporation Ponds, and about bird kills at the**
10 **Evaporation Ponds and other places at the mine site, Cyprus Tohono agreed to**
11 **perform early closure of the Evaporation Ponds and the Tailings Ponds; and**
12 **WHEREAS, in 2003, at the request of the Tohono O'odham Nation, the United States**
13 **Environmental Protection Agency performed a Preliminary Assessment / Site**
14 **Inspection under the requirements of the federal Comprehensive Environmental**
15 **Response, Compensation and Liability Act, 42 U.S.C. sections 9601-9675, ("CERCLA"),**
16 **which study indicated that the Evaporation and Tailings Ponds area should be closed**
17 **to prevent further air pollution and groundwater contamination; and**
18 **WHEREAS, in March 2004 Cyprus Tohono voluntarily produced a plan for closure of the**
19 **Evaporation and Tailings Ponds, called an Engineering Evaluation and Cost Analysis**
20 **("EE/CA"), also under the requirements of CERCLA; and**
21 **WHEREAS, after dialogue with representatives of North Komelik community, Sif Oidak District,**
22 **the Tohono O'odham Nation, the United States Environmental Protection Agency, the**
23 **Bureau of Land Management, the Bureau of Indian Affairs, and the United States Fish**
24 **and Wildlife Service, Cyprus Tohono produced several more drafts of the EE/CA and**
25 **ultimately produced a final EE/CA on October 31, 2005; and**
26 **WHEREAS, the final EE/CA provides information on six alternatives for closure of the**
27 **Evaporation and Tailings Ponds, some of them providing for closure in place and**
28 **some of them providing for closure by removal, and all of them providing for an**

1 earthen cap called an Evapotranspiration Cover; and

2 **WHEREAS, Alternative Six in the final EE/CA, referred to by the United States Environmental**
3 **Protection Agency as the preferred alternative, contains many of the suggestions**
4 **made by North Komelik community, Sif Oidak District and the Tohono O'odham**
5 **Nation over many years of studying the issues surrounding closure of the Evaporation**
6 **and Tailings Ponds, primarily that all of the salts, and preferably all of the materials,**
7 **in Evaporation Ponds 1 and 2 and in Tailings Pond A be removed from the unlined**
8 **ponds constructed in 1975 and be moved onto a lined repository adjacent to the heap**
9 **leach pads; and**

10 **WHEREAS, the United States Environmental Protection Agency, Cyprus Tohono and the Tohono**
11 **O'odham Nation Environmental Protection Agency made a presentation to the**
12 **Legislative Council on Monday, November 14, 2005, and the same parties held a public**
13 **meeting at North Komelik on the same date, to present information about the**
14 **alternative closure plans summarized in the final EE/CA; and**

15 **WHEREAS, at a regular meeting on November 19, 2005, the Sif Oidak District Council approved**
16 **Resolution No. 11-05-05, which approved Alternative Six in the final EE/CA as the**
17 **District's preferred closure plan for the Evaporation and Tailings Ponds and**
18 **encouraged the Nation, Cyprus Tohono and the United States Environmental**
19 **Protection Agency to move as quickly as possible to remove the problem materials**
20 **from the Evaporation and Tailings Ponds and perform final closure of the**
21 **Evaporation and Tailings Ponds area; and**

22 **WHEREAS, the Natural Resources and Water Resources Committees have reviewed this proposal**
23 **and recommend approval by the Legislative Council, with the stipulation that the**
24 **repository planned under Alternative Six must include a leak detection system and**
25 **a leachate collection and recovery system.**

26 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council hereby approves**
27 **Alternative Six as described in the final EE/CA, with the stipulation that the repository**
28 **planned under Alternative Six include a leak detection system and a leachate**
29 **collection and recovery system, and requests that Cyprus Tohono and the United**

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States Environmental Protection Agency move as quickly as possible to remove the problem materials from the Evaporation and Tailings Ponds and perform final closure of the Evaporation and Tailings Ponds area.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 09TH Day of DECEMBER, 2005 at a meeting at which a quorum was present with a vote of 2,247.0 FOR; 193.8 AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by Section 1(i) of Article VI 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

Evelyn B. Juan Manuel
Evelyn B. Juan Manuel, Legislative Chairwoman

12th day of December, 2005

ATTEST:

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

09 day of December, 2005.

Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono O'Odham Nation on the 12th day of December, 2005 at 4:24 o'clock, 9 .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

Evelyn B. Juan Manuel
Evelyn B. Juan Manuel, Legislative Chairwoman

APPROVED
 DISAPPROVED

on the 12 day of December, 2005
at 5:18 o'clock, 9 .M.

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

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Returned to the Legislative Secretary on the 13 day of

December, 2005, at 8:47 o'clock, A.M.

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

ACTION: APPROVING A PLAN FOR CLOSURE OF PONDS AT CYPRUS TOHONO MINE

MOVED: COUNCILWOMAN DARLENE ANDREW

SECOND: COUNCILWOMAN PHYLLIS JUAN

DATE: DECEMBER 09, 2005

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 310.8	1. FRANCES MIGUEL ()	155.40	X			
	2. FRANCES G. ANTONE (Lucilda J. Valenzuela (Norris))	155.40	X			
CHUKUT KUK 258.7	1. ETHEL GARCIA ()	129.35	X			
	2. VERLON M. JOSE (David Garcia)	129.35	X			
GU ACHI 221.6	1. TIMOTHY L. JOAQUIN (Jonas Robles)	110.80	X			
	2. CYNTHIA E. MANUEL ** (Louis L. Johnson)	110.80	X			
GU VO 193.1	1. RAYMOND VICTOR ()	96.55	X			
	2. MICHAEL FLORES (Grace Manuel)	96.55	X			
HICKIWAN 167.4	1. DELMA GARCIA (Mary E. Sam)	83.70	X			
	2. SANDRA ORTEGA ()	83.70	X			
PISINEMO 171.8	1. BARBARA SALVICIO ()	85.90	X			
	2. GERALD FAYUANT ()	85.90	X			
SAN LUCY 169.0	1. JOHN W. LAWSON, SR. ()	84.50	X			
	2. GLORIA RAMIREZ ()	84.50	X			
SAN XAVIER 193.8	1. FELICIA NUÑEZ ()	96.90		X		X
	2. OLIVIA VILLEGAS-LISTON ()	96.90		X		
SCHUK TOAK 146.9	1. FRANCES B. CONDE ()	73.45	X			
	2. PHYLLIS JUAN ()	73.45	X			
SELLS 421.0	1. MARLENE SARAFICIO-JUAN** ()	210.50	X			
	2. EVELYN B. JUAN MANUEL (Kimberly Listo)	210.50	X			
SIF OIDAK 186.7	1. WAVALENE SAUNDERS (Isidro Lopez)	93.35	X			X
	2. DARLENE ANDREW (Rita Martinez)	93.35	X			
TOTAL		2,440.80	2,247.0	193.8	-0-	[02]

**PASSED VOTES