

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving Access Agreement for ASARCO LLC for Tract 1 of Mission Mine)**

RESOLUTION NO. 07-192

1 **WHEREAS, ASARCO LLC, formerly known as ASARCO Incorporated ("Asarco"), has been mining**
2 **copper at the Mission Mine in San Xavier District since 1959, leasing areas known as**
3 **Tract 1 (including a portion of the San Xavier north pit), Tract 2 (including portions of**
4 **the San Xavier south pit and north pit), and Tract 3 (the business leases including the**
5 **tailings ponds); and**

6 **WHEREAS, in 2001 Asarco stopped active mining in Tract 1, and in January 2005 the Bureau of**
7 **Indian Affairs, with the approval of the San Xavier Allottee Association, San Xavier**
8 **District, and the Tohono O'odham Nation, terminated the mining lease for Tract 1 due**
9 **to non-payment of advance minimum royalties; and**

10 **WHEREAS, in August 2005 Asarco filed a voluntary bankruptcy petition, and has not yet decided**
11 **whether to assume or reject any of the Mission Mine leases, but is in the process of**
12 **negotiating a reclamation plan with the mining allottees, San Xavier District, and the**
13 **Tohono O'odham Nation; and**

14 **WHEREAS, Asarco has an obligation to install certain stormwater controls at Tract 1, to monitor**
15 **the water level and sample the pit water for water quality, and to perform**
16 **reclamation, and for these purposes it needs access to Tract 1, but its right of access**
17 **is uncertain due to the terminated mining lease; and**

18 **WHEREAS, an Access Agreement has been negotiated between the Bureau of Indian Affairs, the**
19 **San Xavier Allottee Association, the San Xavier District, the Tohono O'odham Nation,**
20 **and Asarco, and has been approved and executed by each of these entities except for**
21 **the Tohono O'odham Nation; and**

22 **WHEREAS, San Xavier District separately provided an authorization letter to Asarco dated August**
23 **21, 2005, granting Asarco access to Tract 1; and**

24 **WHEREAS, the Natural Resources Committee has reviewed the Access Agreement and**
25 **recommends approval by the Legislative Council.**

26 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council hereby**
27 **approves the Access Agreement substantially in the form attached hereto, and**
28 **authorizes and directs the Chairwoman of the Nation to execute it.**

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1 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 09TH Day
2 of APRIL, 2007 at a meeting at which a quorum was present with a vote of 1,923.25 FOR; -0-
3 AGAINST; 517.55 NOT VOTING; and 03 ABSENT, pursuant to the powers vested in the Council by
4 Section 1 (i) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono
5 O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary -
6 Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48
7 Stat. 984).

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9 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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13 Verlon M. Jose, Legislative Chairman

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15 11 day of April, 2007

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17 ATTEST:

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21 Lucille Lopez, Acting Legislative Secretary

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23 09 day of April, 2007.

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25 Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono
26 O'Odham Nation on the 11 day of April, 2007 at 4:34 o'clock,
27 P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become
28 effective upon her approval or upon her failure to either approve or disapprove it within 48 hours
29 of submittal.

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31 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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35 Verlon M. Jose, Legislative Chairman

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39 APPROVED

on the 12 day of April, 2007

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41 DISAPPROVED

at 3:25 o'clock, P.M.

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45 VIVIAN JUAN SAUNDERS, CHAIRWOMAN
46 TOHONO O'ODHAM NATION
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Returned to the Legislative Secretary on the 12 day of

April, 2007, at 3:23 o'clock, P.M.

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

ACTION: APPROVING ACCESS AGREEMENT FOR ASARCO LLC FOR TRACT 1 OF MISSION MINE

MOVED: COUNCILWOMAN FRANCES ANTONE

SECOND: COUNCILMAN GERALD FAYUANT

DATE: APRIL 09, 2007

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 310.8	1. FRANCES MIGUEL (Vernon J. Smith)	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. SHIRLEY SANTOS-MOLINA ()	83.70	X			
	2. SANDRA ORTEGA ()	83.70	X			X
PISINEMO 171.8	1. BARBARA SALVICIO ()	85.90	X			
	2. GERALD FAYUANT ()	85.90	X			
SAN LUCY 169.0	1. LORRAINE EILER ()	84.50	X			
	2. GLORIA RAMIREZ ()	84.50	X			
SAN XAVIER 193.8	1. FELICIA NUÑEZ ()	96.90	X			
	2. OLIVIA VILLEGAS-LISTON (Eileen A. Estrada-Lopez)	96.90	X			
SCHUK TOAK 146.9	1. FRANCES B. CONDE ()	73.45	X			
	2. PHYLLIS JUAN ()	73.45	X			X
SELLS 421.0	1. MARLENE SARAFICIO-JUAN ()	210.50			X	X
	2. EVELYN B. JUAN MANUEL (Kimberly Listo)	210.50			X	
SIF OIDAK 186.7	1. WAVALENE ROMERO (Isidro Lopez)	93.35	X			
	2. DARLENE ANDREW (Rita Wilson)	93.35	X			
TOTAL		2,440.80	1,923.25	-0-	517.55	[03]

**PASSED VOTES