

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing Expenditure of Funds up to \$800,000 from SAWRSA Trust Fund as a
Loan to Asarco LLC)

RESOLUTION NO. 08-362

1 **WHEREAS, the Southern Arizona Water Rights Settlement Act Amendments of 2004, which**
2 **became Title III of the Arizona Water Settlements Act, P.L. 108-451, approved the**
3 **Asarco Settlement Agreement which was an attachment to the Tohono O'odham**
4 **Settlement Agreement; and**

5 **WHEREAS, the Asarco Settlement Agreement was signed by the Tohono O'odham Nation, the San**
6 **Xavier District, the United States of America, Asarco Incorporated, and the allottee**
7 **representatives in the United States v. Tucson and the Alvarez v. Tucson lawsuits and**
8 **was dated June 12, 2006; and**

9 **WHEREAS, in the Asarco Settlement Agreement, Asarco Incorporated, now named Asarco LLC**
10 **("Asarco"), agreed to use Central Arizona Project ("CAP") water from the Tohono**
11 **O'odham Nation's CAP allocation, rather than groundwater, for its mining purposes,**
12 **with the goal of replenishing the groundwater aquifer and stopping land subsidence**
13 **at San Xavier District, and the Nation agreed to loan Asarco up to \$800,000 for**
14 **construction of a pipeline and pump and other infrastructure to facilitate Asarco's**
15 **use of CAP water at the Mission Mine; and**

16 **WHEREAS, Asarco will pay the Nation for the delivery cost of the CAP water at the rate of \$15 per**
17 **acre-foot for water used to process Indian ore, and \$20 per acre-foot for water used**
18 **to process non-Indian ore, which funds will be deposited in the Alvarez Groundwater**
19 **Settlement Fund controlled by the San Xavier Allottees Association until the fund**
20 **reaches \$1.5 million; and**

21 **WHEREAS, the groundwater which remains in the ground due to Asarco's use of CAP water will**
22 **generate marketable long-term storage credits for the Nation under the state of**
23 **Arizona legal framework for storage of groundwater, which groundwater credits are**
24 **valued at \$40 per acre-foot for purposes of the Agreement, but which may be sold by**
25 **the Nation for more than that amount as dictated by the market for storage credits;**
26 **and**

27 **WHEREAS, Asarco will repay the loan of up to \$800,000 by providing the Nation the long-term**
28 **storage credits valued at \$40 per acre-foot, which loan must be repaid within 14**
29 **years; and**

30 **WHEREAS, Asarco has begun use of CAP water using temporary equipment as of January 16,**
31 **2008, and has begun construction of the permanent pipeline and infrastructure for**
32 **transporting CAP water to its mills at Mission Mine; and**

RESOLUTION NO. 08-362

(Authorizing Expenditure of Funds up to \$800,000 from SAWRSA Trust Fund as a Loan to Asarco LLC)

Page 2 of 3

1 **WHEREAS, Asarco will report its monthly construction expenditures to the Nation, and the**
2 **Nation will reimburse Asarco for those monthly expenditures and account for the**
3 **funds as a loan to Asarco on a Note signed by Asarco; and**
4 **WHEREAS, this proposal has been reviewed by the Water Resources Committee and the Budget**
5 **and Finance Committee, which recommend approval by the Legislative Council.**
6 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council authorizes**
7 **expenditure of funds from the SAWRSA Trust Fund of up to \$800,000 as a loan to**
8 **Asarco, contingent upon obtaining a letter of credit from Asarco as security for the**
9 **loan, which loan will be repaid by Asarco in accordance with the terms of a Note**
10 **substantially in the form attached hereto, and directs the Treasurer of the Nation to**
11 **disperse the funds and account for their repayment in accordance with the plan**
12 **outlined in this resolution and in the Asarco Settlement Agreement dated June 12,**
13 **2006.**

14 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 13TH Day**
15 **of JUNE, 2008 at a meeting at which a quorum was present with a vote of 2,534.5 FOR; -0- AGAINST;**
16 **-0- NOT VOTING; and [07] ABSENT, pursuant to the powers vested in the Council by Section 1 (d)(2)**
17 **of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham**
18 **Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs**
19 **(Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).**

22 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

23 
24 _____
25 **Verlon M. Jose, Legislative Chairman**

26 23 day of June, 2008

27
28
29
30 **ATTEST:**

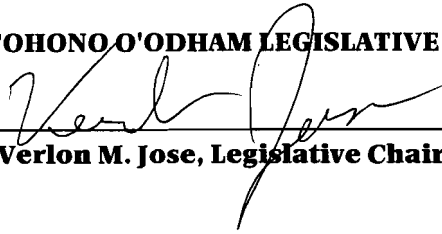
31 
32 _____
33 **Lucille Lopez, Acting Legislative Secretary**

34 13 day of June, 2008.

35
36
37 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham**
38 **Nation on the 23 day of June, 2008 at 5:05 o'clock, p.M., pursuant to**
39 **the provisions of Section 5 of Article VII of the Constitution and will become effective upon his**
40 **approval or upon his failure to either approve or disapprove it within 48 hours of submittal.**
41
42

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48

TOHONO O'ODHAM LEGISLATIVE COUNCIL



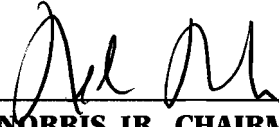
Verlon M. Jose, Legislative Chairman

APPROVED

on the 23 day of June, 2008

DISAPPROVED

at 6:47 o'clock, P.M.



NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 24 day of

June, 2008 at 9:37 o'clock, A.M.



Lucille Lopez, Acting Legislative Secretary

ACTION: AUTHORIZING EXPENDITURE OF FUNDS UP TO \$800,000 FROM SAWRSA TRUST FUND AS A LOAN TO ASARCO LLC

MOVED: COUNCILWOMAN OLIVIA VILLEGAS-LISTON **SECOND:** COUNCILWOMAN WAVALENE ROMERO

DATE: JUNE 13, 2008

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 316.9	1. FRANCES MIGUEL (Roberta Harvey)	158.45	X			
	2. FRANCES G. ANTONE (Vernon Smith)	158.45	X			
CHUKUT KUK 264.8	1. ETHEL GARCIA ()	132.40	X			
	2. VERLON M. JOSE ()	132.40	X			
GU ACHI 227.9	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	113.95	X			X
	2. CYNTHIA E. MANUEL ()	113.95	X			
GU VO 199.2	1. GRACE MANUEL ()	99.60	X			
	2. RAYMOND VICTOR ()	99.60	X			
HICKIWAN 172.0	1. MICHELLE ORTEGA ()	86.00	X			X
	2. SANDRA ORTEGA ()	86.00	X			
PISINEMO 182.4	1. CHESTER ANTONE (Tony Murrietta)	91.20	X			
	2. GERALD FAYUANT ()	91.20	X			X
SAN LUCY 181.1	1. LORRAINE EILER ()	90.55	X			
	2. GLORIA RAMIREZ ()	90.55	X			X
SAN XAVIER 196.5	1. FELICIA NUÑEZ (Adam P. Andrews)	98.25	X			X
	2. OLIVIA VILLEGAS-LISTON (Eileen A. Estrada-Lopez)	98.25	X			
SCHUK TOAK 154.6	1. FRANCES B. CONDE (Fredrick Jose)	77.30	X			X
	2. PHYLLIS CACHORA (Agnes Joaquin)	77.30	X			
SELLS 444.7	1. KIMBERLY LISTO ()	222.35	X			
	2. EVELYN B. JUAN MANUEL ()	222.35	X			
SIF OIDAK 194.4	1. WAVALENE SAUNDERS ()	97.20	X			
	2. MARY LOPEZ ()	97.20	X			X
TOTAL		2,534.5	2,534.5	-0-	-0-	[07]

****PASSED VOTES**