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. <u>08-362</u>

1 WIEREAS, the sourcern Arizona water togats settlement Act Amenaments of 2004, which 2 became Title III of the Arizona Water Settlement Act, P.L. 108-51, approved the 3 Asarco Settlement Agreement which was an attachment to the Tohono O'odham 4 Settlement Agreement; and 5 WHEREAS, the Asarco SettlementAgreement 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 <u>United States of America</u> , 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 Subidence 13 at San Xavier District, and the Nation agreed to loan Asarco up to S800,000 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, the groundwater used to process Indian ore, and \$20 per acre-foot for water used 17 acre-foot for water used to process Indian ore, and \$20 per acre-foot for water used 18 toprocess non-indian o	1		the Southern Arizona Water Dights Sottlement Act American Science - 12-1
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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.

NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council authorizes 6 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 disperse the funds and account for their repayment in accordance with the plan 11 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; -0- NOT VOTING; and [07] ABSENT, pursuant to the powers vested in the Council by Section 1 (d)(2) 16 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).

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Verlon M. Jose Legislative Chairman $\frac{23}{3}$ day of $\frac{3}{400}$, 2008

ATTEST:

Lucille Lopez. Acting Legislative Secretary

13 day of Func , 2008.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 23 day of June, 2008 at 5:03 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.

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RESOLUTION NO. 08-362 (Authorizing Expenditure of Funds up to \$800,000 from SAWRSA Trust Fund as a Loan to Asarco LLC) Page 3 of 3 TOHONO,O'ODHAM LEGISLATIVE COUNCIL Verlon M. Jose, Legislative Chairman on the $\frac{23}{2}$ day of $\frac{2}{3}$ [X] APPROVED , 2008 at $\underline{-6.47}$ o'clock, $\underline{0}$ [] DISAPPROVED м. NED NORRIS, JR., CHAIRMAN **TOHONO O'ODHAM NATION** Returned to the Legislative Secretary on the $\frac{\partial \mathcal{H}}{\partial \mathcal{H}}$ day of Fund, 2008 at <u>9:37</u> o'clock, <u>A</u>.M. . MINHA 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	1. ETHEL GARCIA	132.40	х			
264.8	2. VERLON M. JOSE	132.40	x			
GU ACHI	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	113.95	x			x
227.9	2. CYNTHIA E. MANUEL ()	113.95	x			
GU VO	1. GRACE MANUEL	99.60	x			
199.2	2. RAYMOND VICTOR	99.60	X			
HICKIWAN	1. MICHELLE ORTEGA	86.00	x			x
172.0	2. SANDRA ORTEGA	86.00	x			
PISINEMO	1. CHESTER ANTONE	91.20	x			
182.4	(Tony Murrietta) 2. GERALD FAYUANT ()	91.20	х			x
SAN LUCY	1. LORRAINE EILER	90.55	x			
181.1	() 2. GLORIA RAMIREZ ()	90.55	x			x
SAN XAVIER	1. FELICIA NUÑEZ	98.25	x			x
196.5	(Adam P. Andrews) 2. OLIVIA VILLEGAS-LISTON (Eileen A. Estrada-Lopez)	98.25	X			
SCHUK TOAK	1. FRANCES B. CONDE (Fredrick Jose)	77.30	x			x
154.6	2. PHYLLIS CACHORA (Agnes Joaquin)	77.30	x			
SELLS	1. KIMBERLY LISTO	222.35	x			
444.7	2. EVELYN B. JUAN MANUEL	222.35	x			
SIF OIDAK	1. WAVALENE SAUNDERS	97.20	x			
194.4	() 2. MARY LOPEZ ()	97.20	x			x
	TOTAL	2,534.5	2,534.5	-0-	-0-	[07]