

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Regarding Spill at Cyprus Tohono Mine)**

**RESOLUTION NO. 96-079**

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3 **WHEREAS,** on about September 1, 1992, a chemical spill of raffinate occurred  
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5 at the Cyprus Tohono Corporation ("Cyprus") mine site in Sif Oidak  
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7 District of the Tohono O'odham Nation ("Nation"); and

8 **WHEREAS,** between 1992 and 1995 the United States Environmental Protection  
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10 Agency ("EPA") investigated the spill and referred the case to the  
11  
12 United States Attorney's Office for the District of Arizona; and

13 **WHEREAS,** the Nation believes that Cyprus has adequately cleaned up the  
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15 effects of the spill in response to demands by the Nation, has  
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17 implemented changes in the methods used to transport raffinate so  
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19 as to prevent future spills, has constructed a charco (holding pond)  
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21 equipped with a moisture detection device to warn of possible future  
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23 spills, and has improved its environmental preparedness through  
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25 training of its employees and management and the creation of an  
26  
27 environmental response plan; and

28 **WHEREAS,** the Nation receives substantial benefits from the operation of the  
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30 Cyprus mine in the form of employment of members of the Nation,  
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32 royalty payments to the Nation, and other benefits; and

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3 **WHEREAS,** the Nation has developed a good working relationship with Cyprus,  
4 and wishes to see the Cyprus mine continue in operation as long as  
5 Cyprus complies with applicable laws and practices designed to  
6 protect the health, safety and welfare of the Nation's members and  
7 the environmental resources and other interests of the Nation; and  
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10 **WHEREAS,** the EPA has adopted a Policy for the Administration of  
11 Environmental Programs on Indian Reservations, dated November 8,  
12 1984, which states that "The Agency, in keeping with the Federal  
13 Trust Responsibility, will assure that tribal concerns and interests are  
14 considered whenever EPA's actions and/or decisions may affect  
15 reservation environments"; and  
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18 **WHEREAS,** the Department of Justice has adopted a Policy on Indian  
19 Sovereignty and Government-to-Government Relations with Indian  
20 Tribes, dated June 1, 1995, which states that "Consistent with federal  
21 law and other Departmental duties, the Department will consult with  
22 tribal leaders in its decisions that relate to or affect the sovereignty,  
23 rights, resources or lands of Indian tribes...[and] concerning law  
24 enforcement priorities in Indian country"; and  
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**WHEREAS,** in keeping with the two federal government policies quoted above and in keeping with the sovereign status of the Nation, the Nation wishes to be fully consulted by the EPA and the U.S. Attorney's Office on all aspects of the case involving Cyprus, including any settlement negotiations or decisions regarding penalties, so that the Nation's interests in its lands, environment and economy are protected; and

**WHEREAS,** the Natural Resources Committee of the Legislative Council, together with representatives of Sif Oidak District and the Executive Office of the Nation, has met with representatives of the U.S. Attorney's Office and the EPA, and recommends the course of action outlined herein.

**NOW, THEREFORE, BE IT RESOLVED** that the Nation recommends to the United States Attorney and the EPA that the Cyprus case proceed as a civil matter or into pre-trial diversion, and that any civil penalties or conditions of pre-trial diversion imposed be devoted to projects within the Nation which promote the Nation's environmental integrity.

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**BE IT FURTHER RESOLVED** that the Nation continues to encourage the EPA and the U.S. Attorney's Office to be vigilant in enforcing environmental laws on the lands of the Nation, and to consult with the Nation regarding the enforcement of these laws on the lands of the Nation in accordance with their policies on relations with Indian tribal governments and with respect for the sovereignty of the Nation.

The foregoing Resolution was passed by the Tohono O'Odham Council on the 4TH day of MARCH, 1996 at a meeting at which a quorum was present with a vote 1,020.5 FOR; 668.5 AGAINST; 187.0 NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council by Article VI Section 1(i)(2) & (j) 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).

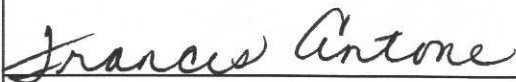
**TOHONO O'ODHAM LEGISLATIVE COUNCIL**



**Dennis Ramon, Legislative Chairman**

4<sup>th</sup> day of March, 1996

**ATTEST:**



**Frances Antone, Legislative Secretary**

4<sup>th</sup> day of March, 1996

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Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 4<sup>th</sup> day of March, 1996 at 4:45 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**



**Dennis Ramon, Legislative Chairman**

**APPROVED** on the 5 day of March, 1996

**DISAPPROVED** at 9:40 o'clock, A.M.



**EDWARD D. MANUEL, Chairman**

**TOHONO O'ODHAM NATION**

Returned to the Legislative Secretary on the 5<sup>th</sup> day of

March, 1996, at 10:32 o'clock, A.M.



**Frances Antone, Legislative Secretary**

ACTION: REGARDING SPILL AT CYPRUS TOHONO MINE

MOVED: COUNCILWOMAN MARY JANE JUAN-MOORE

SECOND: COUNCILWOMAN RITA MARTINEZ

DATE: MARCH 04, 1996

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
<b>SIF OIDAK</b> 160.0	1. MARY ANN ANTONE (Nellie Miguel)	80.0	X			
	2. RITA MARTINEZ (Maxine Norris)	80.0	X			
<b>SELLS</b> 314.0	1. JOSEPH T. JOAQUIN (Allen W. Garcia, Jr.)	157.0	X			
	2. LUCILLE ENCINAS (Cynthia Chico)	157.0	X			
<b>SCHUK TOAK</b> 117.0	1. KENNETH J. ANTONE ( )	58.5	X			X
	2. MARY JANE JUAN-MOORE ( )	58.5	X			
<b>SAN XAVIER</b> 142.0	1. DENNIS RAMON ( )	71.0		X		
	2. TONY BURRELL ( )	71.0		X		
<b>BABOQUIVARI</b> 257.0	1. EDWARD KISTO (Idella Stanley)	128.5	X			
	2. FRANCES MIGUEL (Kenneth Chico, Sr.)	128.5		X		
<b>GU ACHI</b> 187.0	1. WILLARD ANITA (Louis Johnson)	93.5			X	
	2. ALEX J. RAMON (Marian Johnson)	93.5			X	X
<b>PISINEMO</b> 135.0	1. JOHNSON JOSE (Roseleen Antone)	67.5	X			
	2. BARBARA SALVICIO ( )	67.5		X		
<b>SAN LUCY</b> 105.0	1. ALBERT MANUEL, JR. ( )	52.5		X		
	2. JOHN RENO (Mary Hoffman)	52.5		X		X
<b>GU VO</b> 134.0	1. MICHAEL FLORES ( )	67.0		X		
	2. FERN SALCIDO (Larry Montana)	67.0		X		
<b>HICKIWAN</b> 142.0	1. LLOYD FRANCISCO ( )	71.0	X			
	2. ALEX JOSE ( )	71.0	X			
<b>CHUKUT KUK</b> 183.0	1. KENNETH WILLIAMS ( )	91.5	X			
	2. DAVID GARCIA (Marvin Thomas)	91.5		X		
<b>TOTAL</b>		<b>1,876.0</b>	<b>1,020.5</b>	<b>668.5</b>	<b>187.0</b>	<b>[03]</b>

\*\*PASSED VOTES