

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving the Cooperation and Mitigation Agreement for the Rosemont Copper Project)

RESOLUTION NO. 13-200

1 **WHEREAS, the Constitution of the Tohono O'odham Nation vests the Tohono O'odham Legislative**
2 **Council with the authority to "promote, protect and provide for . . . the general welfare**
3 **of the Tohono O'odham Nation and its members," and to "preserve and cultivate**
4 **native arts, crafts and traditions" (Constitution, Article VI, Section 1(c)(2) and Section**
5 **1(c)(8)); and**

6 **WHEREAS, Augusta Resource Corporation has proposed an open pit copper mining project, called**
7 **Rosemont Copper Project ("Project"), on 995 acres of private land and 3,670 acres of**
8 **National Forest Service land about 30 miles southeast of Tucson, Arizona near the**
9 **Santa Rita Mountains (Federal Register/Vol. 73, No.50/ Thursday, March 13,**
10 **2008/Notices, 13527); and**

11 **WHEREAS, the Nation has expressed opposition to the Project via Resolution No. 09-569; and**

12 **WHEREAS, the proposed location of the Rosemont Copper Project is on the Nation's ancestral**
13 **lands and would significantly impact, destroy, or alter cultural and archeological sites**
14 **containing numerous Archaic, Hohokam, and O'odham funerary objects, sacred**
15 **objects, and other archeological and cultural items, as well as permanently alter the**
16 **Cultural and Natural Landscapes of the area; and**

17 **WHEREAS, the Nation considers the entire Ce:wi Duag (Santa Rita Mountains) eligible for listing**
18 **as a Traditional Cultural Place/Property under the National Historic Preservation Act,**
19 **16 U.S.C. § 470a(d)(6)(A), as the area was traditionally used by Tohono O'odham people**
20 **for hunting and gathering; and**

21 **WHEREAS, the Nation has engaged with the United States Forest Service under the Section 106**
22 **process of the National Historic Preservation Act; and**

23 **WHEREAS, during the course of meetings with the United States Forest Service on Section 106**
24 **issues, Rosemont representatives approached the Nation regarding a potential**
25 **agreement to expand the Nation's museum and for that expansion to house both the**
26 **cultural resources from the Project and the cultural resources from the ANAMAX**
27 **collection; and**

28 **WHEREAS, despite the Nation's opposition to the Project, the Nation understands that the United**
29 **States Forest Service may still approve the Project over the Nation's objections and the**
30 **Nation's wishes to ensure that the cultural resources from the Project are returned to**
31 **the Nation should the Project be approved; and**

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1 **WHEREAS, the Cooperation and Mitigation Agreement for the Rosemont Copper Project provides**
2 **the Nation with the opportunity to secure the cultural resources from both the Project**
3 **area and the ANAMAX collection in a Nation facility for perpetuity; and**

4 **WHEREAS, the agreement provides for a limited waiver of the Nation's sovereign immunity in any**
5 **suit brought by Rosemont to enforce the provisions of the Cooperation and Mitigation**
6 **Agreement, provided that such agreement to waive sovereign immunity is limited to**
7 **a suit brought in the Nation's Judicial Court and the waiver does not include**
8 **consequential, special, and/or punitive damages.**

9 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that it approves**
10 **the Cooperation and Mitigation Agreement for the Rosemont Copper Project and**
11 **authorizes and directs the Chairperson of the Nation to execute the agreement in**
12 **substantially the form attached hereto.**

13 **NOW, THEREFORE, BE IT FURTHER RESOLVED that the Nation's sovereign immunity is waived to**
14 **the limited extent of any suit brought by Rosemont to enforce the provisions of the**
15 **Cooperation and Mitigation Agreement and that such agreement to waive sovereign**
16 **immunity is limited to a suit brought in the Nation's Judicial Court and the waiver does**
17 **not include consequential, special, and/or punitive damages.**

18 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 24TH Day**
19 **of MAY, 2013 at a meeting at which a quorum was present with a vote of 1,792.30 FOR; 988.30**
20 **AGAINST; [02] NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by**
21 **Article VI, Section 1 of the Constitution of the Tohono O'odham Nation, adopted by the Tohono**
22 **O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary -**
23 **Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48**
24 **Stat. 984).**

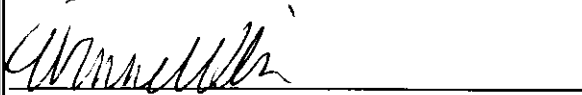
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26 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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28 **Timothy Joaquin, Legislative Chairman**

29 28 day of May, 2013

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33 **ATTEST:**

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36 **Evonne Wilson, Legislative Secretary**

37 28 day of May, 2013.

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1 Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham
2 Nation on the 28 day of April, 2013 at 9 o'clock, AM.
3 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective
4 upon his approval or upon his failure to either approve or disapprove it within 48 hours of
5 submittal.

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7 TOHONO O'ODHAM LEGISLATIVE COUNCIL

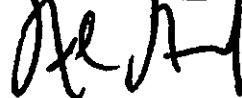
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11 Timothy Joaquin, Legislative Chairman

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17 APPROVED

on the 30th day of May, 2013

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19 DISAPPROVED

at 12:26 o'clock, P.M.

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

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30 Returned to the Legislative Secretary on the 30 day of

31 May, 2013, at 2:01 o'clock, P.M.

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36 Evonne Wilson, Legislative Secretary

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ACTION: APPROVING THE COOPERATION AND MITIGATION AGREEMENT FOR THE ROSEMONT COPPER PROJECT

MOVED: COUNCILWOMAN FRANCES B. STEPHENS

SECOND: COUNCILWOMAN LORRAINE EILER

DATE: MAY 24, 2013

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 342.0	1. FRANCES MIGUEL (Roberta Harvey)	171.0	X			
	2. FRANCES G. ANTONE (<i>Absent</i>) (Vernon Smith) (<i>Present</i>)	171.0	X			X
CHUKUT KUK 302.2	1. ETHEL GARCIA (Sara Mae Williams)	151.10	X			
	2. BILLMAN LOPEZ ()	151.10	X			
GU ACHI 244.9	1. TIMOTHY L. JOAQUIN ()	122.45	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	122.45	X			
GU VO 226.7	1. GRACE MANUEL (Floyd Flores)	113.35	X			
	2. PAMELA ANGHILL ()	113.35	X			
HICKIWAN 186.3	1. LOUIS R. LOPEZ (Michelle Ortega)	93.15	X			
	2. SANDRA ORTEGA ()	93.15	X			
PISINEMO 200.7	1. CHESTER ANTONE (Tony Murrietta)	100.35	X			
	2. EDWARD MANUEL (Gerald Fayuant)	100.35	X		X	
SAN LUCY 204.6	1. LORRAINE EILER (Diana Manuel)	102.30	X			
	2. JANA MONTANA (Gloria Ramirez)	102.30	X			
SAN XAVIER 215.8	1. HILARION CAMPUS (<i>Absent</i>) (Racheal Vilson-Stoner) (<i>Present</i>)	107.90		X		
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	107.90		X		
SCHUK TOAK 169.8	1. FRANCES B. STEPHENS (Anthony J. Rios)	84.90	X			
	2. FREDERICK JOSE (Phyllis Cachora)	84.90		X		
SELLS 475.7	1. ARTHUR WILSON (Kimberly Mull)	237.85		X		
	2. MARIA ACKERMAN ()	237.85		X		
SIF OIDAK 211.9	1. NICHOLAS JOSE ()	105.95		X		
	2. MARY LOPEZ ()	105.95		X	X	
TOTAL		2,780.60	1,792.30	988.30	[02]	[01]