

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Request that EPA Expedite Cyprus' Permitting Process)

RES. NO. 422-87

1 WHEREAS, the Tohono O'odham Nation ("Nation") has leased certain
2 lands and mineral resources to Cyprus Casa Grande
3 Corporation ("Cyprus") for the mining of copper ores and
4 the operation of the existing concentrates roasting
5 facility ("facility") located thereon; and

6 WHEREAS, the Nation has authorized these mining and mineral
7 processing operations; and

8 WHEREAS, the Legislative Council has determined that:

- 9 1) Cyprus has sought the required environmental permits
10 and has worked to satisfy the environmental concerns
11 of both the United States Environmental Protection
12 Agency ("EPA") and the Nation;
- 13 2) The EPA, without consultation with the Nation, has
14 demanded that the facility, though an existing
15 facility, must meet the new source prevention of
16 significant deterioration permit requirements of the
17 Clean Air Act;
- 18 3) These permit requirements have resulted in delays in
19 necessary repair work to the facility, threaten to
20 delay operations indefinitely, and may even render
21 operations economically impossible;
- 22 4) Delays in the start of operations at the facility
23 will have very harmful economic impacts on the
24 Nation and its members for the following reasons:
- 25 a) The facility will create seventy-five
26 (75) badly needed jobs.
- 27 b) The Nation estimates that if operations
28 do not begin promptly, and assuming
29 full production of the roasting plant
30 and a copper price of \$.85 per pound (which is
31 below the current price of \$1.10), the Nation
32 will lose \$5,384,500 in annual revenues. The
cost in revenue lost to the Nation due to delays
in start-up alone is approximately \$61,750 per
month, not inclusive of profits lost to Indian
businesses.
- c) The only way economically to recover copper from
the Nation's mineral deposit leased to Cyprus is
by in-situ leaching of copper ores, using acid
produced in the operation of the roaster.
Estimates are that the solid in-situ leach
program will, when completed, generate for the
Nation an additional \$220,000 in revenues per
month, estimated at a copper price of \$.85 per
pound. These revenues are the sole source of
revenue for several of the district governments
of the Tohono O'odham Nation; and

1 WHEREAS, the "keynote" of EPA policy on Indian lands is "... to
2 give particular consideration to tribal interests in
3 making Agency policy, and to insure the close involve-
4 ment of Tribal Governments in making decisions and
5 making environmental programs affecting reservation
6 lands." (EPA Policy for the Administration of Envi-
7 ronmental Programs on Indian Reservations, 11/8/84); and

8 WHEREAS, Region 9 Indian Policy Implementation Strategy - Prin-
9 ciple 1, states, "The agency stands ready to work dir-
10 ectly with Indian Tribal Governments on a one-to-one
11 basis (the Government to Government relationship),
12 rather than as subdivisions of other governments.

13 WHEREAS, EPA policy on Indian lands states that "Where the Tribe
14 has a substantial proprietary interest in ...the
15 privately owned or managed facility, EPA will ..." work
16 cooperatively with tribal leadership to develop means to
17 achieve compliance. (Principle 8, EPA Policy for the
18 Administration of Environmental Programs on Indian
19 Reservations, 11/8/84). Clearly the Nation, as lessor
20 of the land on which the facility is located and as a
21 participant in the profits generated from this facility,
22 has a substantial proprietary and economic interest in
23 the facility; and

24 WHEREAS, the President's Federal Indian Policy, published on
25 January 24, 1983, stresses the principle of Indian
26 "self-government." The revenues earned by the Nation
27 from these mining and mineral processing facilities are
28 essential to the Nation's self-government. EPA policy
29 on Indian reservations recognizes its federal trust
30 responsibility to Indian Nations. Thus, EPA may not
31 exercise its environmental regulatory authority in such
32 a manner that the larger interests of the Nation and the

1 Federal Government's trust responsibility to the Nation
2 is circumvented.

3
4 NOW, THEREFORE, BE IT RESOLVED for the reasons stated above, that
5 the Legislative Council formally requests the
6 Environmental Protection Agency Region 9 give careful
7 consideration to the interests of the Nation as required
8 by EPA policy and to expedite the permitting process in
9 order that mining and mineral processing operations at
10 the Cyprus Casa Grande operation may begin as soon as
11 possible.

12 BE IT FURTHER RESOLVED that the Chairman and other appropriate
13 officers of the Nation take all steps necessary to
14 implement the purposes of this resolution.

15 The foregoing resolution was passed by the Tohono O'odham Council
16 on the 7th day of December, 1987, at a meeting at which a
17 quorum was present with a vote of 1640.0 for; -0- against; -0-
18 not voting; and 01 absent; pursuant to the powers vested in the
19 Council by Section 1 (f) of Article VI of the Constitution of the
20 Tohono O'odham Nation on January 18, 1986, and approved by the
21 Acting Deputy Assistant Secretary - Indian Affairs (Operations)
22 on March 6, 1986, pursuant to Section 16 of the Act of June 18,
23 1934 (48 Stat. 984).

24 TOHONO O'ODHAM LEGISLATIVE COUNCIL

25 Harriet Toro
26 Harriet Toro, Legislative Chairperson

27 15th day of December, 1987.

28 ATTEST:

29 Teresa M. Choyguha
30 Teresa M. Choyguha, Legislative Secretary

31 15th day of December, 1987.

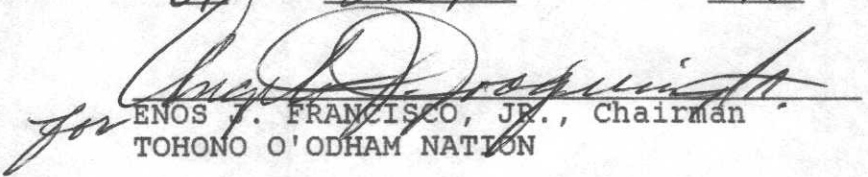
32 Said Resolution was submitted for approval to the office of the
33 Chairman of the Tohono O'odham Nation on the 17 day of
34 Dec, 1987, at 9:53 o'clock, A.M., pursuant
35 to the provisions of Section 5 of Article VII of the Constitution
36 and will become effective upon his approval or upon his failure
37 to either approve or disapprove it within 48 hours of submittal.

38 TOHONO O'ODHAM LEGISLATIVE COUNCIL

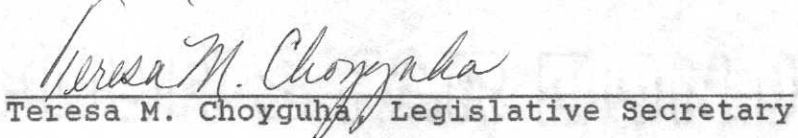
39 Andrew M. Patricia
40 For Harriet Toro, Legislative Chairperson

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[X] APPROVED) on the 21 day of Dec.,
[] DISAPPROVED) 1987 at 2:34 o'clock, P.M.

for 
ENOS J. FRANCISCO, JR., Chairman
TOHONO O'ODHAM NATION

Returned to Legislative Secretary on the 22nd day of
December, 1987, at 8:56 o'clock, A.M.


Teresa M. Choyguha, Legislative Secretary

MOVED: FERNANDO JOAQUIN

SUBJECT: REQUEST THAT EPA EXPEDITE CYPRUS'

SECOND: JOSEPH JUAN

PERMITTING PROCESS

DATE: DECEMBER 7, 1987

RESOLUTION OR ORDINANCE # 422-37

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF Oidak 138.0	1. Nicholas Jose (Letitia Garcia) 2. Willard Juan, Sr. (Melissa Gregorio)	69.0 69.0	X X			
SELLS 257.0	1. Andrew Patricio (Daniel Lopez) 2. Fred Stevens ()	128.5 128.5	X X			
SCHUK TOAK 105.0	1. Julia Carrillo (JoAnn Francisco) 2. Joseph Juan (Frances Francisco)	52.5 52.5	X X			
SAN XAVIER 126.0	1. Eugene Enis (Michael Rios) 2. Tony Felix (Carmelita Mattias)	63.0 63.0	X X			
BABOQUIVARI 241.0	1. Kenneth Chico, Sr. () 2. Joann Garcia (Frances Miguel)	120.5 120.5	X X			
GU ACHI 158.0	1. Percy Lopez () 2. Fernando Joaquin ()	79.0 79.0	X X			
PISINEMO 116.0	1. Johnson Jose () 2. Edward Manuel (Alex Antone)	58.0 58.0	X X			
SAN LUCY 85.0	1. Max Jose (Dewey Ortega) 2. John Reno ()	42.5 42.5	X X			X
GU VO 117.0	1. Virgil Lewis (Roy Montana) 2. Cross Antone (Juan Joe Cipriano)	58.5 58.5	X X			
HICKIWAN 128.0	1. Henry Ramon (Billy Manuel) 2. Lloyd Francisco (Eleanor Santos)	64.0 64.0	X X			
CHUKUT KUK 169.0	1. Rosita Ruiz (Rosemary Lopez) 2. Harriet Toro ()	84.5 84.5	X X			
TOTALS		1640.0	1,640.0	-0-	-0-	01