

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Request to EPA that Cyprus not be Required to Fence  
Leased Property)

RES. NO. 423-87

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 an 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, Cyprus has sought the required environmental permits and  
9 worked to satisfy the environmental concerns of both the  
10 United States Environmental Protection Agency ("EPA")  
11 and the Nation; and

12 WHEREAS, Cyprus' mineral processing facility is of great economic  
13 importance to the Nation because:

14 1) The facility will create an estimated seventy-five  
15 (75) much needed jobs.

16 2) Roasting and leaching operations will, at a copper  
17 price of \$.85 per pound, produce annual revenues to the  
18 Nation of \$5,384,500.

19 3) The only way to economically recover copper from the  
20 Nation's mineral deposit which is leased to Cyprus is to  
21 leach the copper using acid produced in the operation of  
22 the roaster. Estimates are that the solid in-situ leach  
23 program will, when completed, generate for the Nation an  
24 additional \$220,000 in revenues per month at a copper  
25 price of \$.85 per pound. These revenues are the sole  
26 source of revenue for several of the district  
27 governments of the Tohono O'odham Nation; and

28 WHEREAS, the EPA, without consultation with the Nation, has  
29 determination that this facility, though an "existing"  
30 facility, must meet the new source prevention of  
31 significant deterioration permit requirements of the  
32 Clean Air Act; and

1 WHEREAS, as part of these requirements the EPA requires that  
2 Cyprus construct a seventeen (17) mile fence around the  
3 leased land in order to keep the public away from the  
4 area; and

5 WHEREAS, this expensive requirement may cause delays in the start  
6 up of operations at the facility, thereby causing a loss  
7 of important revenue to the Nation; and

8 WHEREAS, any protection the public might receive from the  
9 construction of the fence is unnecessary because the  
10 facility is located in a very remote portion of the  
11 Nation and the Nation's laws prohibit unauthorized  
12 nonmembers from entering the Nation (see Ordinance No.  
13 3-82); and

14 WHEREAS, the fence will block the migrating path of wild game;  
15 and

16 WHEREAS, the fence will disturb the natural beauty of the open  
17 range and is thus in and of itself a form of pollution;  
18 and

19 WHEREAS, the Nation objects to the construction of the fence; and

20 WHEREAS, the "keynote" of EPA policy on Indian Lands is "... to  
21 give particular consideration to tribal interests in  
22 making Agency policy, and to insure the close  
23 involvement of Tribal Governments in making decisions  
24 and managing environmental programs affecting  
25 reservation lands." (EPA Policy for the Administration  
26 of Environmental Programs on Indian Reservations,  
27 11/8/84); and

28 WHEREAS, Region 9 Indian Policy Implementation Strategy,  
29 Principle 1 states, "The agency stands ready to work  
30 directly with Indian Tribal Governments on a one-to-one  
31 basis (the Government-to Government relationship),  
32 rather than as subdivisions of other Governments."

1 WHEREAS, EPA policy on Indian lands states that "Where the Tribe  
2 has a substantial proprietary interest in ... the  
3 privately owned or managed facility, EPA will ..." work  
4 cooperatively with tribal leadership to develop means to  
5 achieve compliance (Principle 8, EPA policy for the  
6 Administration of Environmental Programs on Indian  
7 Reservations, 11/8/84). Clearly the Nation, as lessor  
8 of the land on which the facility is located and as a  
9 participant in the profits generated from this facility,  
10 has a substantial proprietary and economic interest in  
11 the facility; and

12 WHEREAS, the President's Federal Indian Policy, published on  
13 January 24, 1983, stresses the principle of Indian  
14 "self-government." The revenues earned by the Nation  
15 from these mining and mineral processing facilities are  
16 essential to the Nation's self-government. EPA policy  
17 on Indian Lands recognizes its federal trust  
18 responsibility to Indian Nations. Thus, EPA must not  
19 exercise its environmental regulatory authority in such  
20 a manner that the larger interests of the Nation and the  
21 Federal Government's trust responsibility to the Nation  
22 are circumvented.

23 NOW, THEREFORE, BE IT RESOLVED, for the reasons stated above that  
24 the Legislative Council formally and respectfully  
25 requests the Environmental Protection Agency, Region 9  
26 to give careful consideration to the wishes of the  
27 Nation in this matter, as required by EPA policy, and  
28 not to require Cyprus to build the fence in order to  
29 receive permits for its operations.

30 BE IT FURTHER RESOLVED, that the Chairman and other appropriate  
31 officers of the Nation take all steps necessary to  
32 implement the purposes of this resolution.

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The foregoing resolution was passed by the Tohono O'odham Council on the 7th day of December, 1987, at a meeting at which a quorum was present with a vote of 1,581.5 for; -0- against; 58.5 not voting; and 01 absent; pursuant to the powers vested in the Council by Section 1 (f) of Article VI of the Constitution of 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

Harriet Toro  
Harriet Toro, Legislative Chairperson  
15<sup>th</sup> day of December, 1987.

ATTEST:

Teresa M. Choyguha  
Teresa M. Choyguha, Legislative Secretary  
15<sup>th</sup> day of December, 1987.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 17 day of Dec., 1987, at 9:54 o'clock, A.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

Andrew M. Patricio  
For Harriet Toro, Legislative Chairperson

APPROVED ) on the 21 day of Dec.,  
 DISAPPROVED ) 1987, at 2:35 o'clock, P..M.

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

Returned to Legislative Secretary on the 22<sup>nd</sup> day of December, 1987, at 8:57 o'clock, A.M.

Teresa M. Choyguha  
Teresa M. Choyguha  
Legislative Secretary

MOVED: JOHN RENO

SUBJECT: REQUEST TO EPA THAT CYPRUS NOT BE

SECOND: FRED STEVENS

REQUIRED TO FENCE LEASED PROPERTY

DATE: DECEMBER 07, 1987

RESOLUTION ~~ORDINANCE~~ # 423-87

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	1,581.5	-0-	58.5	01