

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving Access and License Agreement for Monitor Wells at the Desert Diamond
Casino Hotel Property)

RESOLUTION NO. 11-056

1 **WHEREAS, since 1942, industrial activity at the Tucson International Airport east of the San**
2 **Xavier District boundary has caused a plume of groundwater contamination one-half**
3 **mile wide and five miles in length that extends into a portion of the aquifer underlying**
4 **San Xavier District; and**

5 **WHEREAS, in 1982, the site was identified as a federal Superfund site and the United States**
6 **Environmental Protection Agency ("USEPA") began working with the City of Tucson**
7 **and the parties responsible for the groundwater contamination to identify the extent**
8 **of the contamination and to clean up the site; and**

9 **WHEREAS, as a result of the contamination, eleven drinking water wells owned by the City of**
10 **Tucson and additional private wells have been shut down; and**

11 **WHEREAS, in February 2000, a consent decree was signed by the USEPA and the responsible**
12 **parties, and as part of the implementation of the consent decree these parties have**
13 **requested permission to construct and operate up to three monitor wells on the**
14 **property subleased by the Tohono O'odham Gaming Enterprise from the San Xavier**
15 **Development Authority, which in turn has been leased by the San Xavier Development**
16 **Authority from allottee landowners; and**

17 **WHEREAS, an Access and License Agreement (the "Agreement") for the monitor wells has been**
18 **negotiated between the Tohono O'odham Nation, the Tohono O'odham Gaming**
19 **Enterprise, the San Xavier Development Authority, and the Bank of New York Mellon**
20 **Trust Company, N.A., which is the Trustee under a Soils Remediation Trust Fund**
21 **Agreement that was put in place by the parties to the consent decree to govern the**
22 **environmental remediation activities under the consent decree; and**

23 **WHEREAS, the term of the Agreement is for ten years, with the possibility of extension for an**
24 **additional ten years upon further review and approval of the extension by the**
25 **Legislative Council; and**

26 **WHEREAS, the drilling and operation of the monitor wells will be under the supervision of the**
27 **Nation's Water Resources Department under permits granted under the authority of**
28 **the Interim Allottee Water Rights Code, 25 Tohono O'odham Code, Chapter 3, or any**
29 **successor water code; and**

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1 **WHEREAS, under the terms of the Agreement, the Nation and San Xavier District will have the**
2 **opportunity to take split samples of the groundwater when the well operator**
3 **withdraws water for a sample; and**

4 **WHEREAS, the Agreement has been reviewed by the Office of Attorney General, the Nation's**
5 **Environmental Protection Office, the Nation's Water Resources Department and the**
6 **legislative Water Resources and Domestic Affairs Committees, which recommend**
7 **approval by the Legislative Council.**

8 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council approves the**
9 **Access and License Agreement for monitor wells at the Desert Diamond Casino Hotel**
10 **property substantially in the form attached hereto and authorizes the Chairman of the**
11 **Nation to sign and administer the Agreement.**

12 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 09TH Day**
13 **of FEBRUARY, 2011 at a meeting at which a quorum was present with a vote of 2,421.0 FOR; -0-**
14 **AGAINST; -0- NOT VOTING; and 174.50[03] ABSENT, pursuant to the powers vested in the Council**
15 **by Article VI, Section 1 (f) and Article XVII, Section 2 of the Constitution of the Tohono O'odham**
16 **Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting**
17 **Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16**
18 **of the Act of June 18, 1934 (48 Stat. 984).**

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20 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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23 *Felicia Mueny for*
24 **Verlon M. Jose, Legislative Chairman**

25
26 *11th* day of *February*, 2011

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30 **ATTEST:**

31 *Evonne Wilson*

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33 **Evonne Wilson, Legislative Secretary**

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35 *11* day of *February*, 2011.

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37 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham**
38 **Nation on the 11th day of February, 2011 at 7:08 o'clock, P.M.,**
39 **pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective**
40 **upon his approval or upon his failure to either approve or disapprove it within 48 hours of**
41 **submittal.**

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TOHONO O'ODHAM LEGISLATIVE COUNCIL


Verlon M. Jose, Legislative Chairman

APPROVED

on the 11 day of February, 2011

DISAPPROVED

at 4:24 o'clock, P.M.


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

Returned to the Legislative Secretary on the 11 day of

February, 2011, at 4:41 o'clock, P.M.


Evonne Wilson, Legislative Secretary

ACTION: APPROVING ACCESS AND LICENSE AGREEMENT FOR MONITOR WELLS AT THE DESERT DIAMOND CASINO HOTEL PROPERTY

MOVED: COUNCILWOMAN WAVALENE ROMERO

SECOND: COUNCILWOMAN PAMELA ANGHILL

DATE: FEBRUARY 09, 2011

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF Oidak 198.7	1. WAVALENE ROMERO (Nicholas Jose)	99.35	X			
	2. MARY LOPEZ ()	99.35	X			
SELLS 449.6	1. KIMBERLY LISTO ()	224.80	X			
	2. EVELYN B. JUAN MANUEL ()	224.80	X			
SCHUK TOAK 159.0	1. FRANCES B. CONDE (Fredrick Jose)	79.50	X			
	2. LINDA PARLEY (Agnes Joaquin)	79.50	X			
SAN XAVIER 204.7	1. FELICIA NUÑEZ ()	102.35	X			
	2. OLIVIA VILLEGAS-LISTON (<i>Absent</i>) (Eugene Enis) (<i>Present</i>)	102.35	X			
SAN LUCY 187.1	1. LORRAINE EILER ()	93.55	X			
	2. GLORIA RAMIREZ ()	93.55	X			
PISINEMO 184.5	1. CHESTER ANTONE (Tony Murrietta)	92.25	X			
	2. EDWARD MANUEL (Gerald Fayuant)	92.25	X			
HICKIWAN 174.5	1. MICHELLE ORTEGA ()	87.25				X
	2. SANDRA ORTEGA ()	87.25				X
GU VO 206.3	1. GRACE MANUEL ()	103.15	X			
	2. PAMELA ANGHILL (Angela Ortiz)	103.15	X			
GU ACHI 230.1	1. TIMOTHY L. JOAQUIN ()	115.05	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	115.05	X			X
CHUKUT KUK 277.0	1. ETHEL GARCIA (Sara Mae Williams)	138.50	X			
	2. VERLON M. JOSE ()	138.50	X			
BABOQUIVARI 324.0	1. FRANCES MIGUEL (Roberta Harvey)	162.0	X			
	2. FRANCES G. ANTONE (Vernon Smith)	162.0	X			
TOTAL		2,595.50	2,421.0	-0-	-0-	174.50 [03]