ARTICLE 2 - MINING LEASE PROCEEDS

Legislative History: Ordinance No. 13-82, "Ordinance For the Distribution of Mining Proceeds," was enacted by the Papago Council on August 5, 1982 and approved by the Papago Agency Superintendent on August 13, 1982; amended on March 29, 1995 by Resolution No. 95-131 (amending Section 1(b) to reapportion royalties and general mining proceeds).
TITLE 19 - LAND

CHAPTER 3 – DISTRIBUTION OF LEASE PROCEEDS

ARTICLE 2 – MINING LEASE PROCEEDS

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ORDINANCE OF THE PAPAGO TRIBAL COUNCIL

Ordinance for the Distribution of Mining Proceeds

ORD. NO. 13-82

Authority: Under the provisions of Section 3 (1) of Article V of the Constitution of the Papago Tribe the Papago Council is granted full power and authority "(i) in accordance with all applicable (federal) laws and regulations, to use, permit, or lease tribal lands for mining purposes including oil and gas . . . , and to regulate by ordinance the distribution of all proceeds . . . derived from such lands."

THEREFORE, BE IT ENACTED by the Council of the Papago Tribe of the Papago Reservation, as follows:

Section 1 Distribution of Mining Proceeds

From the date hereof and until otherwise directed by this Council all proceeds derived from the use, permit or lease of lands of the Papago Tribe for mining purposes shall be received by and credited to the Papago Tribe, and shall be allocated as follows:

(A) Rental Income - All rental income derived under mining or business leases for the surface use of lands for mining purposes shall be divided equally, as follows:

(1) Fifty percent (50%) thereof shall be deposited to the general account of the Papago Tribe, to be expended under budgets or resolutions of the Papago Council, along with other tribal revenue, for the use and benefit of the Papago Tribe.

(2) Fifty percent (50%) thereof shall be deposited to the IIM Account of the District from whose land the rental income was produced, to be expended under budgets or resolutions of the District's Council duly approved by the Papago Council.

(B) General Mining Proceeds - Proceeds derived from the mining of ore bearing rock, coal, asphalt, oil or gas and allied substances shall be divided as follows:

(1) Fifty-five percent (55%) thereof shall be deposited to the general account of the Papago Tribe, to be expended under budgets or resolutions of the Papago Council, along with other tribal revenue, for the use and benefit of the Papago Tribe.

(2) Three percent (3%) thereof shall be deposited to the IIM Account of the District from whose lands the proceeds were produced, to be expended under budgets or resolutions of the District's Council duly approved by the Papago Council.

(3) Forty-two percent (42%) thereof shall be deposited into IIM Accounts or other interest bearing accounts and added to the funds presently on deposit in IIM Accounts established pursuant to Ordinance No. 58, and shall be held, invested and reinvested for the benefit of the eleven (11) Districts of the Papago Reservation until the Papago Council shall by resolution or superseding ordinance appropriate the funds in said accounts to or for the benefit of the various Districts of the Papago Reservation.

(C) Sand and Gravel - Proceeds derived from the mining of sand and gravel, including materials taken from a borrow pit for building construction, shall be deposited to the IIM Account of the District from whose lands the proceeds were produced, to be expended under budgets or resolutions of the District's Council duly approved by the Papago Council.
ORD. NO. 13-82
Ordinance for the Distribution of Mining Proceeds
Page Two

(D) Clay, Topsoil, Stone and Miscellaneous Rock - Proceeds derived from the mining of clay, topsoil, limestone, pumice, building stone and rock (other than rock and gravel described in Subsections B and C of this Section) shall be divided as follows:

(1) Fifty-five percent (55%) thereof shall be deposited to the general account of the Papago Tribe, to be expended under budgets or resolutions of the Papago Council along with other tribal revenue, for use and benefit of the Papago Tribe;

(2) Forty-five percent (45%) thereof shall be deposited to the IIM Account of the District from whose lands the proceeds were produced, to be expended under budgets or resolutions of the District's Council duly approved by the Papago Council.

(E) Water Used for Mining Purposes - Proceeds derived from the sale of water used for mining purposes shall be divided as follows:

(1) Fifty-five percent (55%) thereof shall be deposited to the general account of the Papago Tribe, to be expended under budgets or resolutions of the Papago Council, along with other tribal revenue, for use and benefit of the Papago Tribe;

(2) Forty-five percent (45%) thereof shall be deposited to the IIM Account of the District from whose lands the proceeds were produced, to be expended under budgets or resolutions of the District's Council duly approved by the Papago Council.

Section 2 Delegation of Authority; Filing of Agreements

(A) The Papago Council does hereby delegate authority to the Council of each District of the Papago Reservation in which mining activities are proposed to enter into written agreements, in accordance with all applicable federal laws and regulations, for the mining and sale of sand and gravel (including materials taken from a borrow pit for building construction), described in subsection C of Section 1, and of clay, topsoil, limestone, pumice, building stone, and rock, described in subsection D of Section 1, and does hereby authorize the Chairman or Vice Chairman and the Secretary of the District Council to execute such agreements for and on behalf of the Papago Tribe.

(B) The Chairman or Vice Chairman of the District Council executing an agreement in accordance with the provisions of subsection A of this section shall forthwith file copies thereof in the offices of the Treasurer and the Mining Director of the Papago Tribe.

Section 3 Repeal of Prior Conflicting Ordinances

Any provisions of Ordinances No. 39, 42 and 55, and of any other previous ordinances or resolutions relating to the distribution of proceeds derived from tribal lands for mining purposes in conflict with the provisions of this Ordinance are hereby repealed.

The foregoing Ordinance was duly enacted by the Papago Council on the 5th day of August, 1982, at a meeting at which a quorum was present with a vote of 1148.0 for; 0 against; 0 not voting; and 2 absent, pursuant to the authority vested in the Papago Council by Section 3 (1) of Article V of the Constitution and By-laws of the Papago Tribe, as amended,
ratified by the Papago Tribe on December 12, 1936, and approved by the Secretary of the Interior on January 6, 1937, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984). Said Ordinance is effective as of the date of its approval by the Superintendent of the Papago Agency and is subject to rescission by the Secretary of the Interior pursuant to Section 6, Article V of the Constitution and By-laws.

THE PAPAGO COUNCIL

Enos J. Francisco, Jr.,
Vice Chairman

ATTEST:

Rose Johnson, Secretary

ORDINANCE APPROVED this 13 day of Aug., 1982.

Curtis C. Nordwall, Superintendent
Papago Agency
<table>
<thead>
<tr>
<th>Source of Income</th>
<th>Tribe</th>
<th>IIM Accounts</th>
<th>District of Production</th>
</tr>
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<tbody>
<tr>
<td>1. Ore bearing rock, coal</td>
<td>55%</td>
<td>42%</td>
<td>3%</td>
</tr>
<tr>
<td>asphalt, oil and gas, and allied substances</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Surface rentals for mining purposes</td>
<td>50%</td>
<td></td>
<td>50%</td>
</tr>
<tr>
<td>3. Sand and gravel, including materials taken from</td>
<td></td>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>borrow pits for building construction</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Clay, topsoil, limestone, pumice, building stone</td>
<td>55%</td>
<td></td>
<td>45%</td>
</tr>
<tr>
<td>and rock</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Water used for mining purposes</td>
<td>55%</td>
<td></td>
<td>45%</td>
</tr>
</tbody>
</table>
RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving an Amendment to Ordinance 13-82)

RESOLUTION NO. 95-131

WHEREAS, Ordinance No. 13-82 establishes allocation formulas for the distribution of mining proceeds among the Tohono O'odham Nation, the District where the mining activity is situated (the "affected District") and all Districts of the Nation; and

WHEREAS, under Section 1(b) (1) of the Ordinance, royalties and other general mining proceeds are now apportioned: 55% to the Nation, 3% to the affected District and 42% to all Districts (including the affected District); and

WHEREAS, the 3% additional allocation to the affected District is inadequate to compensate the District for environmental and other adverse impacts caused by mining activities; and

WHEREAS, the Sif Oidak District is the location of the Cyprus Tohono Mine which is the principle mining activity conducted on the Nation's lands; and

WHEREAS, by Resolution No. 07-94-01, the Sif Oidak District Council proposed an amendment to the Ordinance which would reapportion royalties
RESOLUTION NO. 95-131
(Approving Amendment to Ordinance 13-32)
Page 2 of 5

and other general mining proceeds as follows: 35% to the Nation, 20% to the affected District and 45% to all Districts (including the affected District); and

WHEREAS, the Natural Resources Committee recommends enactment by the Legislative Council of the amendment to the Ordinance proposed by the Sif Oidak District Council.

NOW, THEREFORE, BE IT RESOLVED THAT: the Legislative Council hereby amends Section 1 (b) of Ordinance 13-32 to read as follows:

(B) General Mining Proceeds - Proceeds derived from the mining of ore bearing rock, coal, asphalt, oil or gas and allied substances shall be divided as follows:

(1) Thirty-five percent (35%) thereof shall be deposited to the general account of the Tohono O'odham Legislative Council along with other tribal revenue, for the use and benefit of the Tohono O'odham Nation.

(2) Twenty percent (20%) thereof shall be deposited to the IIM Account of the District from whose lands the
RESOLUTION NO. 95-131
(Approving Amendment to Ordinance 13-82)

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proceeds were produced, to be expended under budgets or resolutions of the district's Council duly approved by the Tohono O'odham Legislative Council.

(3) Forty-five (45%) thereof shall be deposited into IIM Accounts or other interest bearing accounts and added to the funds presently on deposit in IIM Accounts established pursuant to Ordinance No. 55, and shall be held, invested and reinvested for the benefit of the eleven (11) Districts of the Tohono O'odham Nation until the Tohono O'odham Legislative Council shall by resolution or superseding ordinance appropriate the funds in said accounts to or for the benefit of the various Districts of the Tohono O'odham Nation.

The foregoing Resolution was passed by the Tohono O'Odham Council on the 22ND day of MARCH, 1995 at a meeting at which a quorum was present with a vote of 1,234.0 FOR; 135.0 AGAINST; 296.5 NOT VOTING; and 04 ABSENT, pursuant to the powers vested in the Council by Section 1(d) and Section 2(d) of
RESOLUTION NO. 95-131
(Approving Amendment to Ordinance 13-82)
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Article VI 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

Alex J. Ramon, Legislative Chairman

_ day of March , 1995

ATTEST:

Frances Antone, Legislative Secretary

_ day of March , 1995

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the _ day of March , 1995 at _ 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.
RESOLUTION NO. 95-131
(Approving Amendment to Ordinance 13-82)
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TOHONO O'ODHAM LEGISLATIVE COUNCIL

[ ] APPROVED on the 29th day of March, 1995

[ ] DISAPPROVED at 12:45 o'clock, P.M.

SYLVESTER LISTO, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 29th day of
March, 1995, at 2:43 o'clock, P.M.

Frances Antone, Legislative Secretary
RESOLUTION OF THE SIF-OIDAK DISTRICT COUNCIL
(Requesting an Amendment to Ordinance #13-82.
Regarding Mining Royalty Distributions)

RES. NO. 07-94-01

WHEREAS, The Sif-Oidak District Council has reviewed Ordinance
#13-82 of the Papago Tribal Council with respect to the
distribution of mining proceeds, and

WHEREAS, the Ordinance #13-82 has not been amended in over ten
(10) years.

NOW THEREFORE BE IT RESOLVED by the Sif-Oidak District Council that
it does hereby recommend the following revision to the Tohono
O'Odham Legislative Council with respect to the general mining
proceeds in section 1; B, 1. 2 & 3.

General Mining Proceeds - Proceeds derived
from the mining of ore bearing rock, coal,
asphalt, oil or gas and allied substances
shall be divided as follows:

(1) Thirty-five percent (35%) thereof shall be
deposited to the general account of the Tohono
O'Odham Nation to be expended under budgets or
resolutions of the Tohono O'Odham Legislative
Council, along with other tribal revenue, for
the use and benefit of the Tohono O'Odham
Nation.

(2) Twenty percent (20%) thereof shall be
deposited to the Account of the District from
whose lands the proceeds were produced, to be
expended under budgets or resolutions of the
District's Council duly approved by the Tohono
O'Odham Legislative Council.

(3) Forty-five percent (45%) thereof shall be
deposited into Accounts or other interest
bearing accounts and added to the funds
presently on deposit in accounts established
pursuant to Ordinance No. 55, and shall be
held invested and reinvested for the benefit
of the eleven (11) Districts of the Tohono
O'Odham Nation until the Tohono O'Odham
Legislative Council shall by resolution or
superseding ordinance appropriate the funds in
said accounts to or for the benefit of the
various Districts of the Tohono O'Odham Nation.
CERTIFICATION

The foregoing resolution was duly enacted by the SIF-OIDAK DISTRICT COUNCIL at a meeting held on the 22nd day of January, 1994 at which a quorum was present with a vote of 16 FOR; 0 AGAINST; 0 NOT VOTING; and 3 ABSENT.

THE SIF-OIDAK DISTRICT COUNCIL

Rita A. Martinez, Chairperson

ATTEST:

Deborah J. Brown
Acting Secretary