

RESOLUTION OF THE PAPAGO COUNCIL

RES. NO. 10-70

WHEREAS, on or about September 18, 1959, The Papago Tribe and certain allottees, as Lessors, and American Smelting and Refining Company, as Lessee, entered into the following mining leases: Lease No. 14-20-450-2740 and Lease No. 14-20-450-2741; and

WHEREAS, said lands are within the San Xavier District of The Papago Reservation, and are owned in part by The Papago Tribe and in part by said allottees; and

WHEREAS, said mining leases are for a term of ten years, expiring on September 18, 1969, and so long thereafter as the Lessee is producing minerals in "paying quantities"; and

WHEREAS, no decision has been made either by the Secretary of the Interior, or any of his authorized representatives, as to whether or not said leases have survived their original term, and American Smelting and Refining Company, the Lessee, has continued to occupy and mine upon said lands at its own peril; and

WHEREAS, American Smelting and Refining Company has violated the terms and conditions of said mining leases in the following respects:

1. Said Lessee is not producing minerals in paying quantities from either of the leased parcels of land.
2. Said Lessee has failed to exercise diligence in the conduct of prospecting and mining operations on both leases.
3. Said Lessee has held the lands covered by both leases for speculative purposes.
4. Said Lessee has violated Lease No. 14-20-450-2741 by committing waste upon the land encompassed in said lease by dumping vast quantities of waste from the Mission Mine thereon.
5. Said Lessee has violated Paragraph 4i of Lease No. 14-20-450-2741 in that it has assigned an interest in said lease by an operating agreement to Anaconda Mining Company; said agreement was entered into on or about August 13, 1968 without the permission or consent of the Lessors; and

WHEREAS, by the adoption of this Resolution The Papago Council and the San Xavier District Council are acting on behalf of The Papago Tribe and the individual Indian owners of the lands encompassed by said mineral leases;

NOW, THEREFORE, BE IT RESOLVED, That Lease Nos. 14-20-450-2740 and 14-20-450-2741 be, and they are hereby, cancelled as of this date; and

BE IT FURTHER RESOLVED, That Edward B. Berger, General Counsel for The Papago Tribe, be directed to notify American Smelting and Refining Company of said cancellation of the lease, and to institute a suit in the appropriate Court seeking whatever legal remedies are appropriate for said breaches, including damages and injunctive relief.

The foregoing Resolution was duly enacted by The Papago Council on the 5th day of June, 1970, with a vote of 20 for, 0 against, 0 not voting, and 0 absent, during a meeting at which a quorum was present, pursuant to authority vested in The Council by Sections 2(c) and 3(k) and, as amended April 9, 1960, by addition of (1) of Article V of the Constitution and By-Laws of The Papago Tribe, ratified by The Tribe on December 12, 1936, and approved by the Secretary of the Interior on January 6, 1937 (48 Stat. 984), pursuant to Section 16 of The Act of June 18, 1934. Said Resolution 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 of Article V of the Constitution and By-Laws of The Papago Tribe.

ATTEST:

THE PAPAGO COUNCIL

Phillipa A. Jose  
Phillipa A. Jose, Secretary

By Thomas A. Segundo  
Thomas A. Segundo, Chairman

Joseph M. Lucero  
Joseph M. Lucero, Superintendent  
The Papago Agency

APPROVED: June 9, 1970

