

RESOLUTION OF THE PAPAGO COUNCIL

RES. NO. 85-71

WHEREAS, on the 28th day of October, 1971, the Papago Council adopted Resolution No. 75-71 which (1) approved the Settlement Agreement dated November 3, 1971 in the litigation now pending between the Papago Tribe of Arizona and certain Papago allottees against the American Smelting and Refining Company, hereinafter called ASARCO, (2) granted ASARCO exclusive right to locate water wells on tribal property described as the Southwest Quarter and the East half of the Northeast Quarter, Section 26, Township 16 South, Range 13 East, G&SRB&M, Pima County, Arizona, and provided that for each producing well which ASARCO drills, it shall receive a business lease on a square parcel 100 feet on each side surrounding the well site for a term coterminous with the mining leases ASARCO has in the San Xavier District, but in no event longer than 99 years; and (3) approved the form of business lease for each such well site leased in the form marked Exhibit A attached to such resolution; and

WHEREAS, Paragraph XI of such Settlement Agreement provides that the Plaintiffs in such litigation shall use their best efforts to procure all necessary consents and approvals from the Papago Indian allottee owners and the B.I.A. for an option for a commercial lease to ASARCO in a form heretofore approved by ASARCO by a letter dated October 25, 1971, on as much as three contiguous sections of land on the Reservation to be selected by ASARCO adjacent or proximate to Section 20, 21, 28, and 29, Township 16 South, Range 13 East, G&SRB&M, Pima County, Arizona, presently under commercial lease to ASARCO, at fair market rental value for a term of 25 years for waste and tailings dumping and for location of mining plant structures and equipment related to ASARCO's mining operations to be conducted on the mining leases and mineral properties in the vicinity thereof and for any other uses which ASARCO desires in aid of such mining operations and recovery of minerals; and

WHEREAS, by a memorandum dated November 9, 1971 to the Commissioner of Indian Affairs, Harrison Loesch, Assistant Secretary of Interior, Public Land Management, reviewed and approved the aforesaid Settlement Agreement dated November 3, 1971 together with the aforesaid forms of water well site lease and dump site lease, subject to the following conditions:

## 1. Water well site leases:

(a) Applications for necessary rights-of-way shall be made pursuant to 25 CFR Part 161.

(b) Water site leases shall be limited to a term of 25 years with one option to renew for a period of 25 years pursuant to the provisions of the Act of August 9, 1955, 25 U.S.C. 414-415d.

## 2. Dump site leases:

(a) Paragraph 4 of dump site lease shall contain the following provision: "Nothing in the lease shall be construed as a waiver of any tax immunity the lessor or the land covered by this lease may enjoy."

(b) Paragraph 13 of dump site leases shall require not more than 24 hours notice prior to inspection.

(c) Dump site leases shall require the lessee to comply with applicable CFR regulations, including 25 CFR Part 177.

(d) Dump site leases shall be limited to a term of 25 years with one option to renew for a period of 25 years pursuant to the provisions of the Act of August 9, 1955, 25 U.S.C. 415-415d; and

WHEREAS, the said water well site lease form and dump site lease form have been modified to conform to the aforesaid conditions, copies of the revised form of said leases being marked Exhibit A and B respectively, and attached hereto and made a part hereof;

NOW, THEREFORE, be it resolved that the Papago Council hereby approves the forms of water well site lease, marked Exhibit A attached hereto, and the dump site lease, marked Exhibit B and attached hereto, and recommends that the owners of the allotments of the lands to be included in the aforesaid dump site lease grant to ASARCO a lease or leases to such lands in the form of Exhibit B.

The foregoing Resolution was duly enacted by the Papago Council on the 7<sup>th</sup> day of December, 1971, at a meeting at which a quorum was present with a vote of 19 for, 0 against, 1 not voting, and 2 absent, pursuant to authority vested in The Papago Council by Sections 2(a), (c) and (h), and 3(e), (h) and (k) of Article V of the Constitution and By-Laws of The Papago

Tribe of Arizona ratified by The Papago 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 review by the Secretary of the Interior.

ATTEST:

THE PAPAGO COUNCIL

Betsy J. Norris  
BETSY J. NORRIS  
Secretary

By: Augustine B. Lopez  
AUGUSTINE B. LOPEZ  
Chairman

Joseph M. Lucero  
JOSEPH M. LUCERO  
Superintendent  
The Papago Agency

Recommended for Approval:  
Date Dec. 16, 1971

