

TITLE 19 - LAND

CHAPTER 3 - DISTRIBUTION OF LEASE PROCEEDS

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).

ORDINANCE OF THE PAPAGO TRIBAL COUNCIL

Ordinance for the Distribution of Mining Proceeds

ORD. NO. 13-82

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

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

9 Section 1 Distribution of Mining Proceeds

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

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

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

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

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

30 (1) Fifty-five percent (55%) thereof shall be deposited to
31 the general account of the Papago Tribe, to be expended
32 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 estab-
lished pursuant to Ordinance No. 55, 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 build-
ing 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.

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

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

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

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

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

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

27 Section 2 Delegation of Authority; Filing of Agreements

28 (A) The Papago Council does hereby delegate authority to the Council
29 of each District of the Papago Reservation in which mining
30 activities are proposed to enter into written agreements, in
31 accordance with all applicable federal laws and regulations,
32 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.

27 Section 3 Repeal of Prior Conflicting Ordinances

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

32 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,

1 ratified by the Papago Tribe on December 12, 1936, and approved by the
2 Secretary of the Interior on January 6, 1937, pursuant to Section 16 of the
3 Act of June 18, 1934 (48 Stat. 984). Said Ordinance is effective as of the
4 date of its approval by the Superintendent of the Papago Agency and is subject
5 to rescission by the Secretary of the Interior pursuant to Section 6, Article
6 V of the Constitution and By-laws.

THE PAPAGO COUNCIL

Enos J. Francisco, Jr.

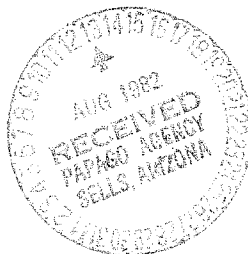
Enos J. Francisco, Jr.,
Vice Chairman

ATTEST:

Rose Johnson
Rose Johnson, Secretary

ORDINANCE APPROVED this 13 day of Aug, 1982.

Curtis C. Nordwall
Curtis C. Nordwall, Superintendent
Papago Agency



DISTRIBUTION OF MINING PROCEEDS
IN ACCORDANCE WITH PROPOSED ORDINANCE

<u>Source of Income</u>	<u>Tribe</u>	<u>All Districts IIM Accounts</u>	<u>District of Production</u>
1. Ore bearing rock, coal asphalt, oil and gas, and allied substances	55%	42%	3%
2. Surface rentals for mining purposes	50%		50%
3. Sand and gravel, including materials taken from borrow pits for building construction			100%
4. Clay, topsoil, limestone, pumice, building stone and rock	55%		45%
5. Water used for mining purposes	55%		45%

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RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving an Amendment to Ordinance 13-82)

RESOLUTION NO. 95-131

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

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

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

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

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25 **WHEREAS, by Resolution No. 07-94-01, the Sif Oidak District Council proposed**
26 **an amendment to the Ordinance which would reapportion royalties**
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28

RESOLUTION NO. 95-131

(Approving Amendment to Ordinance 13-82)

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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 13-82 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

1 (Approving Amendment to Ordinance 13-82)

2 Page 4 of 5

3 Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the
4 Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy
5 Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to
6 Section 16 of the Act of June 18, 1934 (48 Stat. 984).

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9 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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11 
12 Alex J. Ramon, Legislative Chairman

13 25th day of March, 1995

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17 **ATTEST:**

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20 Frances Antone, Legislative Secretary

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22 24th day of March, 1995

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25 Said Resolution was submitted for approval to the office of the Chairman of the
26 Tohono O'Odham Nation on the 25th day of March,
27 1995 at 3:17 o'clock, P.M., pursuant to the provisions of Section 5 of
28 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

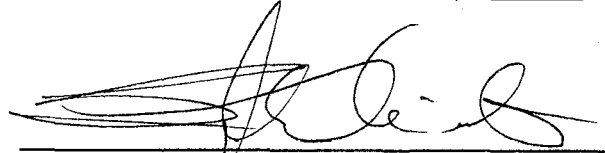

Alex J. Ramon, Legislative Chairman

APPROVED

on the 29 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

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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.

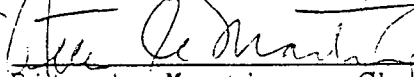
(2) Twenty percent (20%) thereof shall be deposited to the Account of the District from whose lands the proceeds were produced, to be expended under budgets or resolutions of the District's Council duly approved by the Tohono O'Odham Legislative Council.

(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-OLDAK 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-OLDAK DISTRICT COUNCIL


Rita A. Martinez, Chairperson

ATTEST:


Acting Secretary

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