

Bureau of Indian Affairs, Interior

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AUTHORITY: Sec. 26, 41 Stat. 1248; 50 Stat. 68.

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§215.0 Definitions.

The following expressions, wherever used in the regulations in this part or leases thereunder, shall have the meaning designated in this section:

(a) *Superintendent*. The term "superintendent" shall mean any person in charge of the Quapaw Indian Agency, or having supervision under the direction of the Secretary of the Interior of the Indian restricted and trust allotted lands thereunder.

(b) *Allottee*. The term "allottee" shall mean any Indian to whom land has been allotted, or any Indian owner of land or interest therein as an heir or devisee.

(c) *Incompetent Indian*. The term "incompetent Indian" or "incompetent" shall mean any Indian who has been declared by the Secretary of the Interior to be incompetent to improve or manage his restricted or trust lands properly or with benefit to himself. The

term shall also include any Indian who is a minor and any Indian who is a legal incompetent under the laws of the State. The term shall also apply to any Indian who is in fact incompetent, and the question of whether an Indian is competent or incompetent at the time of making a lease of his restricted or trust Indian lands is one for the Secretary of the Interior to determine.

(d) *Lessee*. The term "lessee," except where otherwise modified or limited in the regulations in this part, shall mean any person, firm, or corporation, their legal representatives, heirs, or assigns, to whom a lead and zinc mining lease has been made by or on behalf of Indians under the provisions of the regulations in this part.

(e) *Lessor*. The term "lessor," except where otherwise modified or limited in the regulations in this part, shall mean any Indian owning or having any interest in restricted or trust allotted any inherited lands under the supervision of the Quapaw Indian Agency, by or for whom a lease has been executed pursuant to the regulations in this part.

(f) *Leased lands*. The terms "leased lands," "leased premises," or "leased tract" shall mean any leased restricted or trust lands within and under jurisdiction of the Quapaw Indian Agency allotted to or inherited by an Indian.

(g) *Mining operations*. The term "mining operation" or "operations," except where otherwise modified or limited in the regulations in this part or in leases thereunder shall mean actual drilling, mining, or construction on the leased lands.

§215.1 No operations until lease approved.

No operations under any lease executed under the regulations in this part shall be permitted upon any restricted or trust lands allotted to or inherited by an Indian until such lease covering such tract shall be approved by the Secretary of the Interior.

§215.2 Local representative of lessee.

Before actual drilling or development operations are commenced on the leased lands the lessee shall appoint a local or resident representative within Ottawa County, Oklahoma, on whom the superintendent may serve notice or

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otherwise communicate with in securing compliance with the regulations, and shall notify the superintendent of the name and post office address of the representative so appointed. In the event of the incapacity or absence from the county of Ottawa of such designated local or resident representative, the lessee shall appoint some person to serve in his stead, and in the absence of such representative or of notice of the appointment of a substitute any employee of the lessee upon the leased premises, or the contractor, or other person in charge of mining operations thereon shall be considered the representative of the lessee for the purpose of service of orders or notices as provided in this part, and service upon any employee, contractor, or other person shall be deemed service on the lessee. Wherever a notice is provided for in the regulations in this part or in the lease from it shall be deemed sufficient if notice has been mailed to the last known address of the lessee or his local or resident representatives, and time shall begin to run with the day next ensuing after the mailing, or from date of delivery of personal notice.

§215.3 Manner and time of royalty payments.

All royalties belonging to the lessor shall be paid to the superintendent of the Quapaw Agency at Miami, Okla., or such other official as the Secretary of the Interior may designate, for the benefit of the lessor, not later than 15 days from the 1st of each month for ore and concentrates sold during the preceding month.

§215.4 Leases to be sold at public auction.

Except as otherwise provided in the regulations in this part, no lead and zinc mining lease under this part of restricted or trust allotted and inherited Indian lands within and under the Quapaw Indian Agency shall be made except to the highest responsible bidder at public auction.

§215.5 Royalty rates.

(a) In leases offered for sale at public auction under the regulations in this part the royalty to be paid by the lessee shall be stipulated at a fixed per-

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cent of the gross proceeds of all lead and zinc ores and concentrates extracted from the leased premises, the royalty to be computed and based upon each sale of ore or concentrates separately, the rate of royalty to be determined and fixed by the Secretary of the Interior in the case of each lease prior to the offering of such lease for sale. Subject to the right of the Secretary of the Interior to reject any and all bids, leases offered for sale at public auction shall be awarded in each case to the responsible bidder submitting the highest bonus offer.

(b) In leases not offered for sale at public auction but otherwise made and entered into under the provisions of the regulations in this part the royalty stipulated and fixed therein shall be such as may be determined by the Secretary of the Interior or as may be agreed upon in each case, subject to the approval of the Secretary of the Interior.

(c) It shall be further provided, however, that said sale-price basis for the determination of the rates and amount of royalty shall not be less than the highest and best obtainable market price of the lead and zinc ores and concentrates at the usual and customary place of disposing of such ores and concentrates at the time of sale: *Provided, however,* That the right is reserved to the Secretary of the Interior to determine and declare such market price if it is deemed necessary for him to do so for the protection of the interests of the Indian lessor: *And provided further,* That the right is reserved to the Secretary of the Interior on behalf of the Indian lessors to reserve at any time it shall be deemed to be to the best interests of the Indian lessors and upon due notice to the lessee, the royalty share of the gross production of the ore and concentrates and upon such notice that the royalty share of such production shall be stored and not sold, the lessee shall be required to store, free of charge to the Indian lessors in the ore bins of said lessee, said royalty shares of the gross production of ore and concentrates, provided that the lessee may not be required to store ore or concentrates for the lessor in amounts