WARDENS COURT
MEEKATHARRA

Application Exploration Licence 53|90 (Navan Mines Pty Ltd)

Objection 32|856 (Aztec Exploration Ltd and Australian Ores and Minerals Ltd).

Application Exploration Licence 53|91 (Aztec Exploration Ltd and Australian Ores and Minerals Ltd).

REASONS FOR DECISION

These matters came on for hearing today, Mr Blaxell appearing for the objector and applicants on 53|91 and the initial applicant not being present or represented at the hearing.

Application Exploration Licence 53|90 was completed, dated 6th March, 1986 and lodged at the Office of the Mining Registrar at Meekatharra simultaneously with a surrender No 94|856 signed on behalf of the tenement holder of Exploration Licence 53|40 (Esso Exploration and Production Australia Inc.) That document was dated 31|12|85.53|91 was received on 11|3|86 at the Registrars Office (Meekatharra).

Under Section 105A, when 2 or more applications of the same ground are received the act provides for a priority to the applicant who (in the case of an Exploration Licence) first lodges his application. Todays argument is not really a question of priority, but one of whether, at the time of the applications, the land was open for mining. If the land was still subject to Exploration Licence 53|40 at that time, then it was not open for mining and neither application can succeed.

Section 95(1) enables a tenement holder to surrender his tenement.

By Section 95(6) the rights and title and interest of the holder cease "on the date the surrender is registered."

There is no doubt that the process of lodgement is separate from registration.

Regulation 106 provides for the keeping of a register at Perth, to record "in relation to each application for a mining tenement" ... (going to 106(1)(h) " the surrender .... of the tenement."

And by Regulation 110(2) that registration must be done by an authorised officer at Perth.

It was not possible for the surrender 94|856 to have been registered at Perth when it was received by the Meekatharra Registrar (is at the same time as application Exploration Licence 53|90) and having regard to Mr Winter's evidence as to the time delay in registering transactions, I am satisfied that the surrender was still not registered as at the time of receipt of Exploration Licence 53|91. Indeed there is every chance that the surrender is still unregistered - there is certainly no evidence before me that it is.

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The objection is upheld. Both applications are recommended for refusal.

No Costs.

P. S. Michelides
WARDEN

23rd July, 1986