

**LAUGENOUR, JOHANSON & ROBINSON**

455 CAPITOL MALL, SUITE 700  
SACRAMENTO, CALIFORNIA 95814

TELEPHONE (916) 446-8866

JOHN H. LAUGENOUR  
STEPHEN H. JOHANSON  
WILLIAM E. ROBINSON  
PATRICK L. MCFARLAND  
DONALD M. MORRIS

RECORDATION NO. 15071 Filed & Recorded

October 7, 1986 OCT 15 1986 3-00 PM

INTERSTATE COMMERCE COMMISSION  
10/15/86

10.00

ICC Washington, D. C.

CERTIFIED MAIL -- RRR

Interstate Commerce Commission  
12th Street & Constitution Avenue, N.W.  
Washington, D.C. 20423

ATTENTION: MILDRED LEE, Room No. 2303

Re: Security and Payment Agreement

Dear Ms. Lee:

We enclose the notarized original and two (2) copies of the Security and Payment Agreement encumbering certain refrigerator railroad cars.

Please record the original and return the duly recorded original plus a stamped copy to the undersigned in the enclosed self-addressed envelope.

We also enclose our check in the sum of \$10.00 for your fee.

The names and addresses of the parties are as follows:

Cristy L. Young Terry,  
Trustee  
4669 Naniloa Avenue  
Salt Lake City, Utah 84117

Cindy L. Young-Owens,  
Trustee  
10057 Roseboro Road  
Sandy, Utah 84092

Debtor:

Lewis E. Young  
c/o General Delivery  
Searchlight, New Jersey

Thank you for your assistance in this matter.

Very truly yours,

LAUGENOUR, JOHANSON & ROBINSON



William E. Robinson

WER/mdl

cc: Cristy L. Young Terry  
Cindy L. Young-Owen

Interstate Commerce Commission  
Washington, D.C. 20423

OFFICE OF THE SECRETARY

10/15/86

William E. Robinson  
Laugenour, Johanson & Robinson  
455 Capitol Mall, Suite 700  
Sacramento, Calif. 95814

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 10/15/86 at 3:00pm, and assigned re-  
recording number(s). 15071

Sincerely yours,

*Noreta R. McGee*  
Secretary

Enclosure(s)

SE-30  
(7/79)

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October 7, 1986

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William E. Robinson

WER/mdl

cc: Cristy L. Young Terry  
Cindy L. Young-Owen

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JOHN H. LAUGENOUR  
STEPHEN H. JOHANSON  
WILLIAM E. ROBINSON  
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DONALD M. MORRIS

October 14, 1986

CERTIFIED MAIL -- RRR

Interstate Commerce Commission  
12th Street & Constitution Avenue, N.W.  
Washington, D.C. 20423

ATTENTION: MILDRED LEE, Room No. 2303

Re: Security and Payment Agreement/Address Correction

Dear Ms. Lee:

Attached is a copy of our October 7, 1986 cover letter transmitting a Security and Payment Agreement encumbering certain refrigerator railroad cars. The address of the debtor was erroneously listed as being in New Jersey. Correct information for the debtor is:

Lewis E. Young  
c/o General Delivery  
Searchlight, Nevada

All of the documents contained the debtor's correct address. We apologize for any confusion this may have created.

Very truly yours,

LAUGENOUR, JOHANSON & ROBINSON

  
Donald M. Morris

DMM/dml  
Enclosure

OCT 15 1986 370 1 67

SECURITY AND PAYMENT AGREEMENT

INTERSTATE COMMERCE COMMISSION

Cristy L. Young Terry and Cindy L. Young-Owens, trustees, respectively, of the Cristy L. Young Terry Family Trust of 1980 and the Cindy L. Young-Owens Family Trust of 1980, (hereinafter "Secured Party") and Lewis E. Young (hereinafter "Debtor") hereby agree as follows:

1. Schedule for Payment of Account Indebtedness

Debtor is indebted to Secured Party as a guarantor of obligations under the terms of a Royalty and Payment Agreement of even date herewith executed by Spirit Mountain Mining Company, a partnership, and which pertains to the conduct of Debtor's business. Attached hereto as Exhibit "G" and incorporated herein is the Royalty and Payment Agreement. To amortize the full amount of its present account indebtedness, Debtor agrees to make payments to Secured Party in accordance with the terms and conditions of the Royalty and Payment Agreement.

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2. Security Interest in Railroad Cars.

To secure all of Debtor's indebtedness to Secured Party, now existing or hereafter arising, and to secure the payment obligations specified above, Debtor hereby assigns to Secured Party, and grants Secured Party, a continuing security interest in the following property (hereinafter referred to as the "Collateral"):

- a. fifty refrigerated railroad cars, serial numbers
- 451-872; 451-950; 451-504; 451-764; 451-635; 451-590; 451-916;
- 451-835; 451-536; 451-954; 451-772; 451-897; 451-576; 451-621;
- 451-692; 451-977; 451-855; 451-703; 451-560; 451-529; 451-761;
- 451-974; 451-592; 451-574; 451-805; 451-821; 451-866; 451-714;
- 451-599; 451-934; 451-912; 451-438; 451-676; 451-660; 451-685;
- 451-544; 451-939; 451-672; 451-878; 451-818; 451-749; 451-636;
- 451-948; 451-853; 451-718; 451-648; 451-877; 451-849; 451-958;
- 451-745.

3. Other Agreements of Debtor.

Debtor warrants, covenants and agrees that:

a. All of the above-mentioned Collateral is located on Assessor's Parcel No. 72-045-32 thru 36 ("Parcel") situated on White Rock Road in the general vicinity of Sunrise Boulevard, Rancho Cordova, California.

b. Debtor is the owner and presently in possession of the Collateral.

c. Debtor shall not remove, or permit removal of, the Collateral from the Parcel without prior written approval of Secured Party unless required to do so by the owner of said Parcel, in which case Secured Party shall be advised by Debtor of the new location of the Collateral.

d. He will sign such financing statements, in any form satisfactory to Secured Party, which Secured Party may at any time desire in order to perfect the security interest created by this Agreement, and will execute and deliver to Secured Party any instrument, document, assignment or other writing which may be necessary or convenient to Secured Party to carry out the terms of this Agreement, to perfect their security interest or to facilitate the collection of Collateral, if necessary.

e. Secured Party, or any other persons designated by them, shall have the right to call at the debtor's place or places of business at any reasonable times, without hindrance or delay, and inspect the Collateral or Debtor's books, records, journals, orders, receipts and any correspondence and other data relating to the Collateral. Debtor shall furnish copies of Debtor's records relating to the Collateral as well as a statement of the location thereof to Secured Party within thirty (30) days of mailing by Secured Party of written notice to Debtor requesting same addressed by Secured Party to Debtor as follows: Lewis E. Young, c/o General Delivery, Searchlight, Nevada 89046.

f. Until Debtor's obligations secured under this Agreement have been paid in full, Debtor will not transfer, sell, assign or otherwise dispose of any of the collateral now owned without the express written approval of Secured Party.

4. Default: Remedies.

If Debtor shall fail to pay when due any amount payable on any indebtedness of Debtor secured hereby, or shall fail to observe or perform any of the provisions of this Agreement, then Debtor shall be in default hereunder. When Debtor is so in default, all of the indebtedness secured hereby shall become immediately due and payable at Secured Party's option without notice to Debtor, and Secured Party may proceed to enforce payment of the same and to exercise any or all of the rights and remedies afforded to Secured Party by the California Commercial Code or by this Agreement, or by applicable law, and may, in connection therewith:

- a. Enter Debtor's premises to assemble and take possession of the Collateral;
- b. Require Debtor to assemble the Collateral and make its possession available to Secured Party at a place designated by Secured Party as reasonably convenient to both parties;
- c. Apply the proceeds received from the sale or disposition of the Collateral on default of Debtor, in addition to the items specified in the California Commercial Code, or applicable law, to the payment of reasonable attorney's fees and expenses of assembly, possession and sale incurred by Secured Party as a result of Debtor's default.

5. Release.

So long as there is no default under the provisions of the Royalty Payment Agreement attached hereto, Secured Party shall release its security interest provided for herein in five percent (5%) increments with each reduction of indebtedness to Secured Party by One Hundred Thousand Dollars (\$100,000.00).

6. Waiver.

Neither the acceptance by Secured Party of any partial or delinquent payments of Debtor nor the failure of Secured Party to

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exercise any of their rights or remedies on default of Debtor shall constitute a waiver of such default or delinquency, a modification of this Agreement, or a waiver of any subsequent default or delinquency by Debtor.

7. Attorney's Fees.

Should any litigation be commenced between the parties concerning this Agreement, or the rights and duties of any party in relation thereto, the party prevailing in such litigation shall be entitled to a reasonable sum as and for its attorney's fees in such litigation.

8. Time of the Essence.

Time is hereby expressly declared to be of the essence of this Agreement.

9. Benefit of Agreement.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns, but shall not inure to the benefit of any other person, firm or corporation.

10. Construction.

The laws of the State of California shall govern the

construction, interpretation and enforcement of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed the 12 day of August, 1986.

SECURED PARTY:

THE CRISTY L. YOUNG FAMILY TRUST  
OF 1980

By: Cristy L. Young Terrey  
CRISTY L. YOUNG TERRE, Trustee

THE CINDY LOU YOUNG-OWENS FAMILY  
TRUST OF 1980

By: Cindy L. Young-Owens  
CINDY L. YOUNG-OWENS, Trustee

DEBTOR:

Lewis E. Young  
LEWIS E. YOUNG  
c/o General Delivery  
Searchlight, Nevada



Staple

STATE OF CALIFORNIA

COUNTY OF Sacramento } SS.

On this the 26th day of August 1986, before me the undersigned, a Notary Public in and for said County and State, personally appeared Lewis E. Young

\_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person is whose name is subscribed to the within instrument and acknowledged that he executed the same.

P. Gomer

Signature of Notary

FOR NOTARY SEAL OR STAMP



OFFICIAL SEAL  
P. GOMER  
NOTARY PUBLIC CALIFORNIA  
PRINCIPAL OFFICE IN  
SACRAMENTO COUNTY  
My Commission Exp. Nov. 2, 1988

CAL-375 (Rev. 8-82), Ack. Individual

Staple



Staple

STATE OF CALIFORNIA

COUNTY OF Sacramento } SS.

On this the 12th day of August 1986, before me the undersigned, a Notary Public in and for said County and State, personally appeared Cristy L. Young Terry and Cindy L. Young-Owens

\_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person s whose name s are subscribed to the within instrument and acknowledged that they executed the same.

P. Gomer

Signature of Notary

FOR NOTARY SEAL OR STAMP



OFFICIAL SEAL  
P. GOMER  
NOTARY PUBLIC CALIFORNIA  
PRINCIPAL OFFICE IN  
SACRAMENTO COUNTY  
My Commission Exp. Nov. 2, 1988

CAL-375 (Rev. 8-82), Ack. Individual

Staple

ROYALTY PAYMENT AGREEMENT

Spirit Mountain Mining Company, a partnership comprised of Cary L. Young and Craig L. Young (hereinafter "Payor"), hereby agree to pay to Cristy L. Young Terry and Cindy L. Young-Owens, trustees, respectively, of the Cristy L. Young Terry Family Trust of 1980 and the Cindy L. Young-Owens Family Trust of 1980, (hereinafter referred to as "Payees") or assigns, royalties in the amount of ten percent (10%) of the Net Smelter Returns of Payor in an aggregate sum not to exceed Two Million Dollars (\$2,000,000.00).

*TEY* *CKO* *5*

All payments required to be made under this agreement shall be made in the form of lawful cash money of the United States unless, at least ten (10) days before a payment becomes due by terms hereof, Payees notify Payor of their election to receive such payment in the form of gold bullion, in which event, if such gold bullion is then in stock, such payment shall be made in the form of gold bullion. If payment is to be made in gold bullion, Payees shall be required to accept delivery of such bullion at the time designated by Payors (within the time permitted below) and at Searchlight, Nevada. All costs, including handling, storage, shipping, security and insurance and all risk of loss after the date designated by Payor for payment, shall be borne by Payees.

Payments to Payee shall be made semi-annually within ninety (90) days after the conclusion of the semi-annual accounting of Payor referred to below. Payor shall provide a first accounting to Payees on or about November 6, 1986.

Net Smelter Returns shall be defined in its ordinary and common meaning within the mining industry. Smelter costs shall not exceed reasonable and customary charges in the industry, and the prices Payor receives for its product shall not be less than reasonable and customary for the industry. It is expressly understood that this Royalty and Payment Agreement shall expire and be deemed fully satisfied at such time as Payees have received the aggregate sum of Two Million Dollars (\$2,000,000.00).

In the event of a private sale of, or a public offering of stock in, Payor, the right to receive royalties above-described may be converted by Payees as follows:

1. In the event Payor is sold to a third party other than Cary L. Young, Craig L. Young, Lewis E. Young or Bonneville Industries, Inc., or the respective spouses of the foregoing, or to any entity in which any of the foregoing individuals are stockholders, employees, partners or affiliates, Payees shall be entitled to receive at the election of Spirit Mountain Mining Company either:

- JEY* *CHP* *5*
- JEY*
- a. A continuation of royalty payments set forth above; or;
  - b. A cash payment as follows:

If the sale is made prior to May 6, 1987, the sum of One Million Dollars (\$1,000,000.00).

If the sale is made between May 6, 1987, and May 6, 1988, the sum of One Million Two Hundred Thousand Dollars (\$1,200,000.00).

If the sale is made between May 6, 1988, and May 6, 1989, the sum of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00).

If the sale is made between May 6, 1989, and May 6, 1990, the sum of One Million Four Hundred Thousand Dollars (\$1,400,000.00).

If the sale is made between May 6, 1990, and May 6, 1991, the sum of One Million Five Hundred Fifty Thousand Dollars (\$1,550,000.00).

If the sale is made between May 6, 1991, and May 6, 1992, the sum of One Million Seven Hundred Thousand Dollars (\$1,700,000.00).

If the sale is made between May 6, 1992, and May 6, 1993, the sum of One Million Nine Hundred Thousand Dollars (\$1,900,000.00).

If the sale is made after May 6, 1993, the sum of Two Million Dollars (\$2,000,000.00).

It is expressly understood and agreed that the cash payment indicated herein shall be reduced by the sum of royalty payments theretofore received by Payees; or,

c. Forty percent (40%) of the net proceeds of sale in a sum, including the sum of royalty payments made to date of sale, not to exceed Two Million Dollars (\$2,000,000.00). (Net proceeds shall be defined as gross sales consideration less broker's commissions, attorney's fees, usual and ordinary costs of sale, and unreimbursed capital contributions made to the venture by Craig L. Young, Cary L. Young, or Lewis E. Young, excluding any sums claimed for services rendered); or

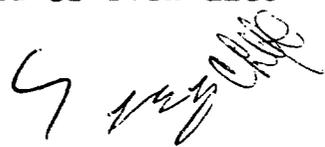
2. In the event that stock in Payor is to be sold in a public offering, Payees, at their election, shall receive any one of the following unless the duly qualified selling broker reasonably determines that a public offering cannot be made because of such election;

a. A continuation of the royalty payments of ten percent (10%) of the net smelter returns set forth above; or,

b. A cash payment as provided in Section 1b above; or,

c. A reduction of the royalty payments due to Payees at the time of public sale by one-half (50%) plus ten percent (10%) of the outstanding insider stock issued to or retained by Payor, Lewis E. Young, Cary L. Young, and Craig L. Young and its management. The remaining royalties shall be paid at the rate of five percent (5%) of the net smelter returns. In the event that the selling broker determines that a public offering cannot be made under any of the alternatives specified herein, Sellers' royalty rights nevertheless shall remain in full force and effect.

This Royalty Payment Agreement is secured by a Security and Payment Agreement executed contemporaneously and of even date herewith by Lewis E. Young.



Payor shall provide copies of annual partnership or corporate tax returns to Payees within thirty (30) days of the filing thereof and hereby represents as of the date of May 6, 1986, that the total unreimbursed capital contribution in Payor made by Cary L. Young, Craig L. Young and Lewis E. Young does not exceed the sum of One Hundred Thousand Dollars (\$100,000.00).

Neither Lewis E. Young, Cary L. Young or Craig L. Young assume any personal liability for the payment of this Royalty Agreement. Payees agree by acceptance of this Royalty and Payment Agreement to waive any such personal liability. Payees shall, however, have recourse against Payor and/or its assets and their remedies shall be cumulative. Such remedies shall include



the right to commence litigation upon the Royalty Agreement provided herein for accrued but unpaid royalties, and Payees may pursue any and all such remedies with or without first resorting to the security provided in the Security and Payment Agreement of even date herewith. Payees shall have recourse against Payor only for and in the event of a failure to pay accrued royalties.

This Royalty Payment Agreement shall be binding upon any successor corporation of Payor in which Cary L. Young, Craig L. Young, Lewis E. Young or Bonneville Industries, Inc., or the respective spouses of the foregoing, are stockholders, employees, partners or affiliates.

DATED: , 1986.

SPIRIT MOUNTAIN MINING COMPANY

By: Cary L. Young

DATED: 8/22 , 1986.

SPIRIT MOUNTAIN MINING COMPANY

By: Craig L. Young

ACCEPTED:

PAYEES:

DATED: , 1986.

Cindy L. Young-Owens, Trustee of  
The Cindy L. Young-Owens Family  
Trust of 1980

DATED: , 1986.

Cristy L. Young Terry, Trustee  
of The Cristy L. Young Terry  
Family Trust of 1980

*cyt*  
*[Signature]*