

Official Record

Recording requested By  
PARSON BEHLE & LATIMER

Lincoln County - NV

Leslie Boucher - Recorder

Fee: \$45.00

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RPTT:

Recorded By: AE

Book- 264 Page- 0157



0138463

APN N/A

APN \_\_\_\_\_

APN \_\_\_\_\_

Deed Reserving Net Smelter Return Royalty

**Title of Document**

**Affirmation Statement**

X I, the undersigned hereby affirm that the attached document, including any exhibits, hereby submitted for recording does not contain the social security number of any person or persons. 9Per NRS 239B.030)

\_\_\_\_ I, the undersigned hereby affirm that the attached document, including any exhibits, hereby submitted for recording does contain the social security number of a person or persons as required by law:

(State specific law)

Oliver M. Kell  
Signature

Attorney  
Title

\_\_\_\_\_  
Signature

May 5, 2011

Date

Grantees address and mail tax statement:

Rutherford Day

109 Shadow Lane

Las Vegas, Nevada 89106



**EXHIBIT B**

**DEED RESERVING NET SMELTER RETURN ROYALTY**  
dated and effective as of ("Effective Date") between

**Grantor; DESERT HAWK RESOURCES INC. ('DHRI')**

**- and -**

**Grantee; RUTHERFORD DAY ("OWNER")**

DHRI the Grantor shall include all of Grantor's successors-in-interest, including without limitation, assignees, partners, joint venture partners, lessees and when applicable mortgagees and affiliated companies having or claiming an interest in the royalty.

Rutherford Day the Grantee shall include all of Grantee's successors-in-interest, including without limitation assignees, partners, joint venture partners, lessees and when applicable mortgagees and affiliated companies having or claiming an interest in the royalty or the Participating interest of the Grantee.

**Term.** The term of this Deed shall be perpetual, it being the intent of the Parties hereto that the Royalty constitutes a covenant running with the land and affecting each of the Properties and all successions thereof whether created privately or through governmental action. In the event a court of competent jurisdiction determines that the term of this Deed violates the Rule Against Perpetuities, then the term of this Deed shall automatically be revised and reformed to coincide with the maximum term permitted by the Rule Against Perpetuities, and this Deed shall not be terminated solely as a result of a violation of the Rule Against Perpetuities.

The OWNER of the Property listed in the attached Lease/Purchase Agreement hereto (all collectively the "Property"), to have and hold forever **RESERVING TO THE OWNER, ITS SUCCESSORS AND ASSIGNS FOREVER**, a net smelter return royalty (the "royalty") payable in gold equivalent in-kind and calculated from the refined metal poured from the smelter of gold and silver produced from the property and shipped to the refinery by or for the account of DHRI as follows:

1. (a) The royalty for gold shall be determined by multiplying the number of ounces of gold derived from the Property and thereafter actually sold to a purchaser or credited to the account of DHRI by a smelter, refiner or other processor during a quarter, by the Average London Final Fix, and deducting from the resulting amount all Deductible Amounts for such shipments, and then multiplying the resulting amount by a single royalty percentage for such quarter of 3.0 percent.



(b) The royalty for silver shall be determined by multiplying the number of ounces of silver derived from the Property and thereafter actually sold to a purchaser or credited to the account of DHRI by a smelter, refiner or other processor during a quarter, by the Average London Final Fix and deducting from the resulting amount all Deductible Amounts for such shipments, and then multiplying the resulting amount by a single royalty percentage for such quarter of 3.0 percent.

The silver ounces are then multiplied by the spot price of silver and then divided by the spot price of gold to determine the gold equivalent ounces of the silver.

(c) The gold ounces and the equivalent gold ounces derived from the silver are added together to determine the total equivalent gold ounces to be delivered in-kind to the Owner. A maximum of 4,000 gold equivalent ounces at a royalty rate of 3% will be delivered to the OWNER.

(d) As used in this Deed:

(i) The term "Average London Final Fix" means the arithmetic mean of the London Final Fix per ounce of gold for each trading day in a quarter calculated to the nearest thousandth of a dollar and rounded to hundredths of a dollar.

(ii) The term "Average Silver Price" means the arithmetic mean of the London Final Fix per ounce of silver for each trading day in a quarter calculated to the nearest thousandth of a dollar and rounded to hundredths of a dollar.

(iii) The term "Deductible Amounts" means all costs paid or incurred by or for the account of DHRI during each gold-silver pour for which the royalty is determined in connection with production from the Property for (a) weighing, sampling and assaying in preparation for shipment to a smelter, refinery or purchaser; (b) shipment and transportation from the Property to the place or places of recovery, smelting, refining and sale, including insurance and in-transit security costs; (c) smelting, refining and other beneficiation and sale, including all charges, penalties and deductions; and (d) umpire charges

(iv) The terms "gold" or "silver" mean 100 percent of each ounce of gold or silver, respectively, by weight-contained in any gold or silver bullion, derived from the Property. Where gold or silver is sold as a product other than bullion, the terms shall mean the number of ounces paid for by the purchaser or the number of ounces credited to the account of DHRI (after taking into account percentage recovery) by the smelter or refiner, as the case may be.

(v) The term "ounce" means, for gold or silver, a fine troy ounce.

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- (vi) The provision in this Deed caps the royalty at 4,000 equivalent gold ounces delivered to the OWNER by DHRI.
2. DHRI does not have the right to commingle ores and minerals from the Property with ores and mineral from other properties without written approval signed by both parties. Before commingling, if agreed, ores and minerals from the Property shall be weighed, sampled and assayed, measured or gauged, by DHRI in accordance with sound mining and metallurgical practices for moisture, penalty substances and payable content. Records shall be kept by DHRI for a reasonable time showing weights, moisture and assays of payable content. Prior to commingling, DHRI shall give 30 days' notice to the OWNER specifying its decision to commingle and outlining the procedures it proposes to
3. OWNER acknowledge that DHRI shall have sole discretion whether to continue, suspend, resume or terminate operations on the Property, and sole discretion as to the manner and rate of any operations on the Property.
- (a) Each gold-silver delivery shall be accompanied by an unaudited statement in reasonable detail showing the calculations for the gold and silver.
- (b) Within 60 days after the end of each calendar year, DHRI shall deliver to the OWNER a final report for the year certified as accurate by its chief accounting or financial officer, showing in reasonable detail the calculation of the royalty for each quarter of that year and gold-silver shipments for the year. With such report, DHRI shall (if applicable) make any adjustments to the following shipment if such report indicates that the OWNER has received more or less than should have been shipped to him in respect of the royalty, then the excess shall be deducted from the next shipment or added for prior under shipment obligation owed to the OWNER pursuant to this Deed.
- (c) The final report for each calendar year shall not be subject to adjustment or challenged by the OWNER unless the OWNER delivers to DHRI written exceptions in reasonable detail within 90 days after the OWNER receive such report. The OWNER, at its expense, shall have the right to audit books and records of DHRI related to the Property as necessary to determine the accuracy of the report. The audit shall be conducted by a certified public accountant of recognized standing acceptable to DHRI. DHRI shall reimburse the OWNER for the reasonable costs of audit if it should be finally determined by arbitration as provided in this Deed that the amount of the royalty for each delivery or year in respect of which the OWNER was paid materially less than the royalty to which the OWNER was entitled. A four percent or greater change in such amount shall be deemed to be material for the purposes hereof.

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- (d) DHRI undertakes that the accounting procedures it may from time to time implement in respect of operations on the Property will be designed fairly and in a way which will provide a calculation of the royalty or payment thereof consistent with generally accepted accounting principles.
- 4. Upon reasonable notice to DHRI, the OWNER shall have the right, at its risks and expense, to have representatives of the OWNER acceptable to DHRI inspect operations conducted on the Property by or for the benefit of DHRI for the purpose of determining DHRI's compliance with this Deed.
- 5. DHRI shall have the right to require that access to the Property and its books and records be conditioned on execution by the auditor and the representatives designated by the OWNER of a written agreement that all information disclosed or made available to such persons shall be held in confidence and used solely for purposes of assuring compliance with the obligations of DHRI under this Deed and resolution of any disputes related to this Deed. Such agreement may also contain (a) an undertaking to comply with all health and safety laws, regulations and procedures from time to time in effect with respect to the Property, (b) acknowledgments of the existence of hazards and risks arising out of operations on the Property, and (c) such other terms as are from time to time contained in releases and agreements required to be executed by other visitors to the Property.
- 6. Any dispute arising out of or related to this Deed or any report, payment, audit or performance required or contemplated by this Deed shall be resolved solely by binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association then in effect. If the OWNER or DHRI wishes, in order to permit them or it to present their case in respect of a dispute, to discover information or documents in the possession of the other party, they shall have a reasonable opportunity to do so. The exclusive place of arbitration shall be Elko, Nevada. The reward of the arbitrators may be entered as a judgment in any court having jurisdiction over the person or property of the person against whom it is made. Miscalculation of amounts due the OWNER or misinterpretation of this Deed shall not be the basis for a claim of breach of fiduciary duty, or the like, nor give rise to a claim for termination or rescission of this Deed of the estate and rights acquired or held by the parties hereto.
- 7. Nothing in this Deed shall be construed to create between the OWNER and DHRI expressly or by implication, any fiduciary or other relationship of trust and confidence or other special relationship.
- 8. All royalties payable by DHRI to the OWNER shall be paid in-kind gold and silver delivered to the owner from production on the Property to such place and in such manner as may reasonably be directed by the OWNER.
- 9. The existence, interpretation, performance and breach of this Deed shall be governed by the domestic law of the State of Nevada.



- 10. This Deed constitutes the entire agreement between the OWNER and DHRI related to the matters referred to in this Deed and supersedes all prior discussions and negotiations. There are no conditions, covenants, agreements or understandings between OWNER and DHRI except those expressly contained in this Deed.
- 11. **Signature Page**

IN WITNESS WHEREOF, OWNER has executed this Agreement effective as of the date first above written

*Rutherford Day*  
 \_\_\_\_\_  
 Rutherford Day

*Timothy Master*  
 \_\_\_\_\_  
 Timothy Master, President, COO  
 DESERT HAWK RESOURCES INC.

State of FLORIDA )  
 ) :SS.  
 County of BROWARD )

This instrument was acknowledged before me on 12/7/10, 2010, by Rutherford Day

*Eva Waters*  
 \_\_\_\_\_  
 NOTARY PUBLIC, residing in  
Oakland Park, FL

My commission expires:  
8/18/12

NOTARY PUBLIC-STATE OF FLORIDA  
 Eva Waters  
 Commission # DD815562  
 Expires: AUG. 18, 2012  
 BONDED THRU ATLANTIC BONDING CO., INC.

*TRD*



State of TEXAS )  
:ss.  
County of KENDALL )

This instrument was acknowledged before me on December 6, 2010, by Timothy D. Master.

Lisa Kelley  
NOTARY PUBLIC, residing in

Boerne, TX



My commission expires:  
4-8-12

*[Handwritten initials]*



Recording requested By  
PARSON BEHLE & LATIMER

Lincoln County - NV  
Leslie Boucher - Recorder

Page 1 of 1 Fee: \$45.00  
Recorded By: AE RPTT:  
Book- 264 Page- 0157

STATE OF NEVADA  
DECLARATION OF VALUE FORM

1. Assessor Parcel Number(s)

- a) N/A
- b) \_\_\_\_\_
- c) \_\_\_\_\_
- d) \_\_\_\_\_

2. Type of Property:

- a)  Vacant Land
- b)  Single Fam. Res.
- c)  Condo/Twnhse
- d)  2-4 Plex
- e)  Apt. Bldg
- f)  Comm'l/Ind'l
- g)  Agricultural
- h)  Mobile Home
- Other \_\_\_\_\_

FOR RECORDER'S OPTIONAL USE ONLY

Book: \_\_\_\_\_ Page: \_\_\_\_\_  
Date of Recording: \_\_\_\_\_  
Notes: \_\_\_\_\_

3. Total Value/Sales Price of Property

\$ \_\_\_\_\_

Deed in Lieu of Foreclosure Only (value of property) ( \_\_\_\_\_ )

Transfer Tax Value: \$ 0

Real Property Transfer Tax Due \$ 0

4. If Exemption Claimed:

- a. Transfer Tax Exemption per NRS 375.090, Section N/A
- b. Explain Reason for Exemption: mineral royalty agreement - conveyance of an interest in minerals

5. Partial Interest: Percentage being transferred: \_\_\_\_\_ %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature Alison Kelle Capacity Attorney

Signature \_\_\_\_\_ Capacity \_\_\_\_\_

**SELLER (GRANTOR) INFORMATION (REQUIRED)**

Print Name: Desert Hawk Resources Inc.  
Address: 546 Fifth Ave., 5th Floor  
City: New York  
State: NY Zip: 10036

**BUYER (GRANTEE) INFORMATION (REQUIRED)**

Print Name: Rutherford Day  
Address: 109 Shadow Lane  
City: Las Vegas  
State: NV Zip: 89106

**COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)**

Print Name: Rew Goodenow  
Address: 50 W. Liberty St., Suite 750  
City: Reno

Escrow #: \_\_\_\_\_  
State: NV Zip: 89501