

Recording Requested by:
Intermountain Federal Land Bank Association,
FLCA

WHEN RECORDED MAIL TO:

Intermountain Federal Land Bank Association,
FLCA
P. O. Box 1708
Fallon, Nevada 89407

BOOK **373** PAGE **94-100**
OFFICIAL RECORDS
RECORDED AT THE REQUEST OF
First American Title
2003 DEC 30 AM 10:21

EUREKA COUNTY, NEVADA
M.N. REBALEATI, RECORDER
FILE NO. **184735**
FEES **20⁰⁰**

APN 006-070-03 etal

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SUBORDINATION AND NON-DISTURBANCE AGREEMENT

NOTICE: THIS SUBORDINATION AND NON-DISTURBANCE AGREEMENT ("AGREEMENT") RESULTS IN THE OPTION ESTATE ON THE REAL PROPERTY DESCRIBED HEREIN BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS AGREEMENT is made this 1st day of December, 2003 by and among Thomas P. Connolly and Volina L. Connolly as owners of the surface estate and one-half of the mineral estate within the real property described in Exhibit "A" attached hereto and made a part hereof (the "Subject Property") and hereinafter referred to as "Optionor" or "Owners," or "Optionors/Owners," Placer Dome U.S. Inc., a California corporation, present optionee and holder of the option estate created by the Option Agreement hereinafter described and hereinafter referred to as "PDUS", and Intermountain Federal Land Bank Association, FLCA ("Lender").

WITNESSETH

THAT WHEREAS, Tom and Volina Connolly, as Optionor, executed an Option Agreement dated October 16, 2002, hereinafter referred to as the "Option Agreement," in which they granted to PDUS the exclusive and irrevocable option (the "Option") to purchase certain "Property" as defined and described in the Option Agreement (the Property covered by the Option Agreement being the same property as the Subject Property defined herein), including without limitation the surface estate and one-half of the mineral estate in such Property, and granted to PDUS the right to use the Property and to exercise other rights as defined and described in the Option Agreement, including without limitation, the right of first refusal to purchase a reserved production royalty from Optionor, all as defined in said Option Agreement and further referenced in the Short Form of Option Agreement, dated October 16, 2002, covering the Subject Property, in favor of PDUS as optionee, which Short Form of Option Agreement was recorded on November 6, 2002, as File Number 179384, in Book 353 Page 259 of the Official Records of Eureka County, Nevada; and

WHEREAS, Optionor and the Jeanette L. Baumann Trust, as lessors, and PDUS, as lessee, are parties to that Mining Lease dated October 16, 2002 (the "Mining Lease"), pursuant to which the lessors thereunder granted to PDUS a mining lease covering the Subject Property as well as that portion of the mineral estate within the lands comprising the Subject Property that is not owned by Optionor, as further

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referenced in that Short Form of Mining Lease dated October 16, 2002, which Short Form of Mining Lease was recorded on November 6, 2002, as File Number 179382, in Book 353 Page 247 of the Official Records of Eureka County, Nevada; and

WHEREAS, Owner is about to execute a deed of trust and assignment of rents (the "Deed of Trust") to secure the repayment obligations of Owner under a promissory note ("Note") in the sum of \$400,000.00, in favor of Intermountain Federal Land Bank, FLCA, hereinafter referred to as "Lender," payable with interest and upon the terms and conditions described therein, which Deed of Trust is dated December 1, 2003, and is to be recorded concurrently herewith; and

WHEREAS, the Deed of Trust encumbers the Subject Property and Optionor's interest in the Option Agreement, together with other property and rights as described in the Deed of Trust; and

WHEREAS, it is a condition precedent to obtaining said loan that said Deed of Trust shall unconditionally be and remain at all times a lien or charge upon the Subject Property, prior and superior to the Option Agreement above described and to the option estate created thereby, unless and until the Option is exercised and the Note is paid in full pursuant to the terms and conditions of this Agreement; and

WHEREAS, Lender is willing to make said loan provided the Deed of Trust securing the same is a lien or charge upon said land prior and superior to the Option Agreement above described and to the option estate created thereby and provided that PDUS agrees to subordinate and subject the Option Agreement above described, the option estate created thereby together with all rights and privileges of PDUS thereunder, to the lien or charge of the Deed of Trust in favor of Lender in accordance with the terms and conditions of this Agreement; and

WHEREAS, it is to the mutual benefit of the parties hereto that Lender make such loan to Owner; and PDUS is willing that the Deed of Trust securing the same shall, when recorded, constitute a lien or charge upon the Subject Property which, subject to the terms and conditions of this Agreement is prior and superior to the Option Agreement above described and to the option estate created thereby, so long as Lender agrees subject to the terms and conditions of this Agreement to recognize and not to disturb all of the rights of PDUS, its successors and assigns, under the Option Agreement and the Mining Lease; and

WHEREAS, under the terms and conditions of the Option Agreement and the Mining Lease, Optionor could not pledge the Subject Property as collateral under the Deed of Trust without the consent of PDUS.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce Lender to make the loan above referred to, and in order to induce PDUS to consent to the lien upon the Subject Property created by the Deed of Trust, it is hereby declared, understood and agreed by Lender, PDUS and Optionors/Owners as follows:

- (1) That subject to all of the terms and conditions of this Agreement, said Deed of Trust securing said Note in favor of Lender, shall be and remain at all times a lien or charge on the Subject Property prior and superior to the Option Agreement above described, to the option estate created thereby and to all rights and privileges of PDUS and any other person or entity exercising any

rights or privileges thereunder, unless and until the Option is exercised and the Note is paid in full pursuant to the terms and conditions of this Agreement, and said Option Agreement, the option estate created thereby together with all rights and privileges of PDUS thereunder is hereby subjected, and made subordinate, to the lien or charge of the Deed of Trust in favor of Lender on the terms and conditions of this Agreement.

- (2) PDUS, and any other person or entity exercising any rights under the Option Agreement, will take title to the Property defined and described in the Option Agreement (and all other rights or privileges defined and described in the Option Agreement) free of the lien or charge of the Deed of Trust in favor of Lender, so long as PDUS or such other person or entity complies with the provisions of Section 6 below.
- (3) That Lender would not make its loan above described, and PDUS would not consent to the creation of the lien above described, without this Agreement.
- (4) That this Agreement shall be the whole and only agreement with regard to (a) the subjection and subordination of the Option Agreement above described and the option estate created thereby together with all rights and privileges of PDUS thereunder to the lien or charge of the Deed of Trust in favor of Lender above referred to and (b) the recognition by Lender of all of the rights of PDUS under the Option Agreement and the Mining Lease, and shall supersede and cancel, but only insofar as would affect the priority between the Option Agreement and the Deed of Trust hereinbefore specifically described, any prior agreements between the parties as to such subjection or subordination or recognition.
- (5) Subject to the terms and conditions of this Agreement, the Lender hereby recognizes and agrees not to disturb all of the rights of PDUS, its successors and assigns, under the Option Agreement and the Mining Lease. Without limiting the foregoing, Lender hereby acknowledges and agrees that PDUS' rights to use the Subject Property under the terms of the Option Agreement and the Mining Lease may be in conflict with the limitations and restrictions on rights to use the Subject Property contained in the Deed of Trust and other agreements between Lender and Optionors/Owners. Lender agrees that PDUS' exercise of its rights to use the Subject Property under the Option Agreement and the Mining Lease do not and shall not constitute a breach of any of the provisions of the Deed of Trust or any other agreement between Lender and the Optionors/Owners, and that Lender will not take any action or make any claim seeking to limit PDUS' exercise of those rights. If the Subject Property is acquired by Lender or any third party other than PDUS (by way of foreclosure, deed in lieu of foreclosure, or otherwise pursuant to the Deed of Trust or any other agreement to which Optionors/Owners and Lender are parties), PDUS, the Lender and Optionors/Owners acknowledge and agree that the Mining Lease and the Option Agreement shall remain in full force and effect and all rights, title, interest and privileges of Optionors/Owners under the Mining Lease and the Option Agreement, including but not limited to the right to be paid the Purchase Price (with the term "Purchase Price" having the meaning in this Agreement as it is defined in the Option Agreement) if the option to purchase the Subject Property is exercised and any and all royalties, as well as all of the obligations of Optionors/Owners under the Mining Lease and the Option Agreement, shall also be acquired and assumed by the Lender or such third party, such that Optionors/Owners will no longer have any rights, title, interest and/or privileges under the Mining Lease and the Option Agreement. In addition, if the Lender or the trustee under the Deed of Trust initiate foreclosure proceedings against the Subject Property (by way of foreclosure, deed in lieu of foreclosure, or otherwise pursuant to the Deed of Trust or any other agreement to which Optionors/Owners and Lender are

parties) in any bankruptcy proceedings involving Owners/Optionors, the parties agree that, to the extent permitted by law, the Lender shall be deemed, effective as of the date of such action, to have granted an option to purchase the Subject Property to PDUS, subject to all of the terms and conditions of the Option Agreement, even if the bankruptcy trustee for Owners/Optionors has rejected the Option Agreement. Notwithstanding any of the provisions of this Section 5, PDUS shall not be precluded from participating in any auction or sale of the Subject Property that is part of any judicial or administrative proceeding or proceeding in bankruptcy. As long as the Property is acquired by Lender or any third party under the Deed of Trust on or before October 16, 2007, subject to extensions of such date pursuant to the terms of the Option Agreement (the "Expiration Date"), Lender agrees that it will not disturb the Option Agreement and will allow PDUS to exercise the Option in favor of Lender (or Lender's successor in interest to the Property) in accordance with the terms of the Option Agreement, provided PDUS pays to Lender (or Lender's successor in interest to the Property) the Purchase Price identified in the Option Agreement and any royalty or other amounts payable to the Optionor under the terms of the Option Agreement.

- (6) If PDUS desires to exercise the Option prior to any foreclosure or other acquisition of the Property by Lender or any third party under the Deed of Trust, the parties hereto understand and agree that title to the Property will not transfer free and clear of the lien of the Deed of Trust unless PDUS pays off the Note in full. PDUS must secure adequate funds to pay off the Note in full from whatever source PDUS deems appropriate. However, Optionors/Owners acknowledge and agree that if PDUS exercises the Option, PDUS is authorized and directed to repay the Note in full (including interest thereon) on behalf of the Optionors/Owners by remitting all or a portion of the Purchase Price to Lender before paying the remainder of the Purchase Price to Optionors/Owners. Lender agrees that if PDUS complies with the provisions of this Section 6, then at the Closing described in the Option Agreement, Lender shall deliver to Optionors/Owners a Release and Reconveyance suitable for recording in the Official Records of Eureka County by which its lien and charge on the Subject Property is fully released. The parties hereto understand and agree that following such release, the Deed of Trust may remain effective and of record as to portions of property covered thereby other than the Subject Property. This Agreement shall terminate upon the full and final release of the Deed of Trust as to the Subject Property.
- (7) The parties agree that this Agreement shall not be amended without the prior written consent of PDUS, which such consent PDUS may withhold in its sole discretion, but not to be unreasonably withheld. The parties further agree that the principal amount of the Note secured by the Deed of Trust shall not be increased without the prior written consent of PDUS, which such consent PDUS may withhold in its sole discretion. The Lender agrees that it shall send to PDUS any notice of default, notice of sale or other notice to which it is entitled under Nevada law as the owner or holder of an encumbrance of record. None of the terms and conditions of this Agreement shall be deemed to be a waiver by PDUS of any of its rights as the owner or holder of an encumbrance of record under Nevada law.
- (8) If the Option is not exercised by the October 16, 2007 Expiration Date, subject to extensions of that date pursuant to the terms of the Option Agreement, all parties understand and agree that Lender shall be under no obligation under this Agreement or otherwise to recognize any rights or privileges of PDUS under the Option Agreement and/or allow PDUS or any other person or entity to exercise the Option. Notwithstanding the foregoing, in that event the terms and conditions of this Agreement pertaining to the Mining Lease shall remain in full force and effect.

- (9) PDUS declares, agrees and acknowledges that:
- (a) PDUS has reviewed and acknowledges all provisions of the Note and Deed of Trust in favor of Lender above referred to and has consented to the Optionors/Owners entering into the Deed of Trust;
 - (b) Lender, in making disbursements pursuant to either the Note or the Deed of Trust is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender disburses such proceeds and any application or use of such proceeds for purposes other than those provided for in the Note or the Deed of Trust shall not defeat the subordination herein made in whole or in part; and
 - (c) Subject to and in accordance with the terms and conditions of this Agreement, PDUS intentionally subjects and subordinates the Option Agreement above described, and the option estate created thereby together with all rights and privileges of PDUS thereunder, in favor of the lien or charge upon said real property of the Deed of Trust in favor of Lender, and understands that in reliance upon, and in consideration of, this subjection and subordination, specific loans and advances are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this subjection, and subordination.
- (10) All parties hereto declare, agree and acknowledge that this Agreement shall be binding on and inure to the benefit of the parties hereto and their successors and assigns.
- (11) This Agreement shall be governed by the provisions of Nevada law, other than any provisions pertaining to conflicts of law, and the parties hereby attorn to the non-exclusive jurisdiction of the state and federal courts of Nevada with respect to any matters arising under this Agreement, and hereby waive any defenses of lack of jurisdiction, inconvenient forum or improper venue.
- (12) No assignment of any rights or obligations under this Agreement shall be made by any party without the prior written consent of the other parties, provided, however, that the parties hereby agree that PDUS may assign its rights and obligations under this Agreement to the Cortez Joint Venture without such consent. If at any time subsequent to the date of this Agreement, any provision of this Agreement shall be held by any court of competent jurisdiction to be illegal, void or unenforceable, such provision shall be of no force and effect, but the illegality or unenforceability of such provision shall have no effect upon and shall not impair the enforceability of any other provision of this Agreement, and the illegality or unenforceability of any such provision or the entire Agreement as to Optionors/Owners shall not impact its enforceability as between the Lender and PDUS.
- (13) The failure of any party at any time or times to require performance of any provision this Agreement shall not affect the right at a later time to enforce the same. No waiver by any party of any condition, and no breach of any provision, term, covenant, representation or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be construed as a further or continuing waiver of any such condition or of the breach of any other provision, term, covenant, representation or warranty of this Agreement.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR OPTION TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR PURPOSES OTHER THAN IMPROVEMENT OF THE REAL PROPERTY.

IN WITNESS WHEREOF, the parties have executed this Subordination and Non-Disturbance Agreement as of the date first set forth above.

PLACER DOME U.S. INC.,
a California corporation

OWNERS OR OPTIONORS:

J. Peter Neilans
By: J. PETER NEILANS
Its: MINE GENERAL MANAGER

Thomas P. Connolly
Thomas P. Connolly
Volina L. Connolly
Volina L. Connolly

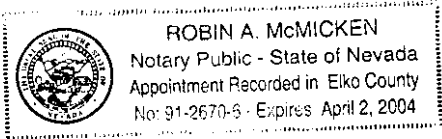
Intermountain Federal Land Bank
Association, FLCA

Ann L. ...
By: Ann L. ...
Its: Vice President & Branch Manager

State of Nevada)
County of Elko header same) ss.

On December 1, 2003 before me a Notary Public in and for said County and State, personally appeared Thomas P. Connolly and Volina L. Connolly personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signature on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

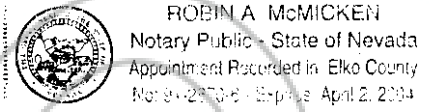
Robin A. McMicken
Signature of Notarial Officer



State of Nevada)
County of ~~Elko~~ ^{hander} ~~Orms~~) ss.

On December 1, 2003 before me a Notary Public in and for said County and State, personally appeared J. Peter Neilans, as Hine General Manager of Placer Dome U. S. Inc., a California corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signature on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

Robin A. McMicken
Signature of Notarial Officer



State of Nevada)
County of ~~Elko~~ ^{Churchill}) ss.

On December 11, 2003 before me a Notary Public in and for said County and State, personally appeared Scott McKinley, as Branch Manager/Vice President of Intermountain Federal Land Bank Association, FLCA, a Federal Instrumentality of the United States, , personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signature on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

Shyanna Nance
Signature of Notarial Officer

