

D.J.E. JUL 20 1981

FALCONBRIDGE NICKEL MINES LIMITED

INTER-OFFICE MEMORANDUM

DATE: July 16, 1981

TO: D. J. Emery

COPIES TO: JLM, JOK, J.M.DaC.

FROM: E. A. Seth

SUBJECT: Agreement dated April 18, 1967 between Supercrest Mines Limited and Giant Yellowknife Mines Limited  
re. ownership of waste from Supercrest's Akaitcho Mine

This is to confirm the views I expressed in connection with the above-noted matter at the meeting with John Kachmar and you last Thursday, July 9, 1981. At issue is the ownership of waste material from ores processed by Giant from Supercrest's Akaitcho Mine.

Paragraph 1 of the above-noted Agreement provides, in effect, that for a period of ten years (or such lesser time as Giant continues to operate its Mine and Mill) Giant will develop, mine, mill, receive and process, for and on behalf of Supercrest, gold ores delivered from Supercrest's Akaitcho Mine subject to the terms and conditions of the Agreement. Although the words underlined imply that Giant, in receiving and processing such ores, would be acting as Supercrest's agent, paragraph 2.12 expressly provides that nothing contained in the Agreement shall constitute Giant as Supercrest's agent. In other words, the provisions of paragraph 2.12 expressly negate the implication of an agency relationship which would otherwise apply. If Giant was acting in such an agency capacity, title to the metals recovered as well as the waste from such ores would remain with Supercrest.

Regarding the processing of ores from the Akaitcho Mine, paragraph 2.6 of the Agreement gives Giant the right to intermix such ores with other ores at any stage in the process of crushing, storage, hauling or hoisting.

Additionally, paragraph 2.7 gives Giant the further right to determine, in accordance with its general practice, "...what minerals in the Akaitcho Mine constitute ores which may economically justify processing and treatment, and which minerals may be classified as waste ...". The said paragraph goes on to provide that Giant may, in the course of mining, remove and dispose of minerals, from the Akaitcho Mine, classified by Giant as waste. It further provides that title, to all minerals so removed, classified and deposited as waste shall vest in Giant and that Supercrest expressly waives and releases all title to and claims it may have with respect to such waste.

In view of the above-mentioned provisions of paragraph 2.7 that:

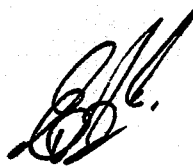
- (i) permit Giant, in accordance with its general practice, to determine what constitutes ores which economically justify processing and treatment;
- (ii) allow Giant to classify and deposit material as waste;
- (iii) expressly stipulate that title to such waste material vests in Giant; and
- (iv) take away, by means of the express waiver and release, all rights which Supercrest may have to the ownership of and all claims it may have against Giant with respect to such waste,

it is my opinion that all ores, so previously classified and deposited by Giant as waste belong solely to Giant.

However, having so opined, if through the use of improved process technology new or additional quantities of minerals which previously were lost can now be recovered from ores which Giant would formerly have classified as waste, the value of minerals so recovered must, of course, be accounted for to Supercrest in accordance with the terms of the Agreement.

There are, I understand, corresponding if not identical provisions in the Agreement dated June 1, 1966 between Lolar Mines Limited and Giant regarding Giant's right, inter alia, to determine what minerals from the Lolar Mine economically justify processing and treatment and what minerals may be classified by it as waste to which title vests in Giant. To the extent that those provisions in the Lolar/Giant Agreement correspond or are identical with the provisions in the aforementioned Supercrest/Giant Agreement, the same conclusions as aforesaid would apply.

If you wish to discuss this matter further, please let me know.



E. A. Seth

EAS:dt