

File No. 27867

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF EUREKA
IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF EUREKA,

THOMAS W. MILLER and F. SOMMER SCHMIDT, PLAINTIFFS,

VS.

EUREKA COUNTY, a body politic of the State of Nevada; the unknown heirs at law of JOHN C. CRUMBIE, DECEASED, AND JANE DOE CRUMBIE, deceased, his wife; the unknown heirs at law of JOHN MCCABE, deceased, and JANE DOE MCCABE, deceased, his wife; the unknown heirs at law of JOHN SPENCER, deceased, and JANE DOE SPENCER, deceased, his wife; the unknown heirs at law of JOHN FLEMING, deceased and JANE DOE GLEMING, deceased, his wife; the unknown heirs at law of HENRY G. CATLIN, deceased, and JANE DOE CATLIN, deceased, his wife; the unknown heirs at law of WILLIAM C. JOY, deceased, and JANE DOE JOY, deceased, his wife; the unknown heirs at law of PRELATE D. BARKER, DECEASED, AND JANE DOE BARKER, deceased, his wife; the unknown heirs at law of S. CHARLES PRATT, deceased, and JANE DOE PRATT, deceased, his wife; the unknown heirs of J. D. WILCOX, deceased, and JANE DOE WILCOX, deceased, his wife; the unknown heirs of S. F. STOLLENWERCK, deceased, and JANE DOE STOLLENWERCK, deceased, his wife; THE CHRISTIE MINING COMPANY: THE MINERAL HILL CONSOLIDATED MINES COMPANY: VILLA P. MCLLOUD, NEVADA P. SPENCER, SPENCER PLUMMER, TOM PLUMMER, J. ROSS PLUMMER, as heirs at law of AMOS PLUMMER, deceased; MRS. JAMES G. SCRUGHAM, JAMES G. SCRUGHAM, JR., and MRS. JOSEPH KIEVIT, heirs at law of JAMES G. SCRUGHAM, deceased; FIRST DOE, SECOND DOE, and THIRD DOE, FOURTH DOE COMPANY, a corporation, and FIFTH DOE COMPANY, a corporation; together with each and all of the unknown heirs of each and all of the above-named personal defendants; also all other persons unknown claiming any right, title, estate, lien or interest in the real property described in the complaint herein, or any part thereof, adverse to plaintiffs' ownership, or any cloud upon plaintiffs' title thereto,

Defendants.

No. 2527

Filed: June 9, 1949

Clerk: Ed. Delaney

DECREE QUIETING TITLE

The above-entitled cause coming on duly and regularly to be heard as of the 9 day of June, 1949, before the above-entitled Court without a jury, no jury having been demanded by any of the parties hereto, and plaintiffs appearing by their attorney, JOHN F. SEXTON, ESQ.: no defendants having appeared in the action, and their defaults having been duly and regularly served with summons and complaint in person or otherwise in the manner provided and approved by law;

And it appearing that plaintiff, within the time provided by law, filed for record in the office of the County Recorder of the County of Eureka, State of Nevada, a notice of the pendency of this action containing a statement of the object of the action, and a particular description of the property affected thereby; that Summons herein was duly issued and has been duly and regularly published in the following newspapers: Eureka Sentinel, Eureka County, Nevada.

That the property is situate in the County of Eureka, State of Nevada, and in no other counties or states; that said publication was made once a week for a period of four successive weeks as more fully appears from the Affidavit of Publication on file herein; that the Summons in said action contained a description of the real property affected by said action, and that

said Summons was posted in a conspicuous place on each separate parcel of said property described in the Complaint, within thirty days after the issuance of said Summons, as more particularly appears from the Affidavit of Posting on file herein; that all defendants not personally served have been duly and regularly served by publication and mailing in the manner required by law, and by the Order for Publication of Summons on file herein; which said order was made pursuant to Affidavit for Publication of Summons theretofore duly filed, as more fully appears from the said Affidavit for Publication of Summons, and the said Order for Publication of Summons and Affidavit of Mailing on file herein; that all of the provisions of Section 9070 N.C.L. 1929, as amended, have been fully complied with; that, as more fully appears from the Affidavit of plaintiff's Attorney on file herein, since the commencement of said action plaintiff has neither learned the name or names of any defendants impleaded herein as unknown heirs, nor received any information indicating a line of search or inquiry which, if properly pursued, might lead to the discovery of such name or names, and that the same still remains and remain unknown to plaintiff, although diligent search and inquiry has been made by or in behalf of plaintiff and resulted in failure to learn such name or names, and that the same are still unknown to plaintiff; that, as more fully appears from the Affidavit of plaintiff's Attorney on file herein, none of said defendants is in the military or naval service of the United States; that plaintiff has never made any conveyance of said real property, or any part thereof, or any interest therein, except as hereinafter described;

And it appearing through documentary and oral proofs presented to the Court that all of the facts, things and matters set forth in plaintiff's Complaint are true and that plaintiff is the owner in fee simple, under and pursuant to valid deeds of conveyance, and now is, and he and his predecessors in interest have been and were continuously for more than fifteen years next immediately preceding the filing of the Complaint herein, in the actual, exclusive, continuous, uninterrupted, open, notorious, peaceful and adverse possession of the said real property, claiming to own and hold the same in fee against the world; and that plaintiffs and their predecessors have, for more than five years next immediately preceding the filing of the Complaint herein, paid all of the taxes of every kind, levied or assessed or due against the said real property or any part thereof;

NOW, THEREFORE, the Court having fully considered testimony given under oath and other evidence introduced upon said hearing with respect to plaintiff's title and with respect to the title or claim of defendants, known or unknown, and with respect to any adverse claims to or clouds upon said real property or any part thereof, and the Court being fully advised as to the law and the facts in the premises and it appearing that the plaintiff is entitled to the relief prayed for;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

That each and every defendant herein was duly and regularly served with Summons and Complaint in person or otherwise, as required by law, and full jurisdiction to hear and determine said cause and to make and enter this decree was and is vested in this Court.

That plaintiffs are the owners of and seized in fee simple absolute and in the actual and peaceable possession of the real property described in the Complaint herein, and of each and every parcel thereof.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED:

That defendants above named and all persons holding through or under them or any of them, and all other persons except plaintiff herein and his successors in interest, be, and they hereby are, and each of them hereby is, perpetually enjoined and restrained from asserting any right, title, interest, claim, estate or possession in or lien upon said property or any part thereof, adverse to the plaintiff herein.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED:

That the said property herein referred to and described in said Complaint and whose title is hereby quieted, established and determined in the plaintiff, comprises that certain real property, particularly described as follows:

G.L.O. No. 5357, Mineral Cert. No. 523

Beginning at corner No. 1, a post marked "No. 1, U.S. Survey No. 39", situate on Easterly boundary of Survey No. 38, patented to John Spencer et al, with their claim upon the Great Republic and Troy Consolidated Lode, from which the corner common to sections two (2), three (3), ten (10) and eleven (11) in Township 26, North, Range 52 East, M.D.M. bears south thirty-two (32) degrees, eleven (11) minutes west at the distance of ten hundred and fourteen (1014) feet, and U.S. Mineral Monument No. 1, bears south two (2) degrees forty-seven (47) minutes west, at the distance of four hundred and one (401) feet, thence from said corner No. 1, south eighty-three (83) degrees, East, seventy-two (72) feet to corner No. 2, a Post marked "No. 2, U.S. Survey No. 39". Thence, south seven (7) degrees West, two hundred (200) feet to Corner No. 3, a post marked No. 3, U.S. Survey No. 39, thence south thirty-eight (38) degrees East, one hundred and six (106) feet to corner No. 4, a post marked "No. 4, U.S. Survey No. 39," thence south seven (7) degrees West, nine hundred and twenty-five (925) feet to corner No. 5, U.S. Survey No. 39," thence north eighty-three (83) degrees west, one hundred and forty-seven (147) feet to corner No. 6, a post marked No. 6, U.S. Survey No. 39". Thence north seven (7) degrees East, three hundred and forty-five and two tenths (345 and 2/10) feet to a point on Easterly boundary of Survey No. 27, made for the Austin Lode, from which Post No. 1 of said survey No. 37 bears north sixteen (16) degrees, forty-five (45) minutes, east at the distance of one hundred and ninety-two (192) feet, five hundred and forty (540) feet to Post No. 1 of said survey No. 38, and northerly boundary of and survey No. 37, twelve hundred (1200) feet to the place of beginning, containing three and seventy hundredths (3 & 70/100) acres of land, more or less, and embracing twelve hundred (1200) linear feet of the Spencer and North Pole Consolidated Lode.

GREAT REPUBLIC-TROY CONSOLIDATED, G.L. NO. 8526
Mineral Certificate No. 524

Beginning at Corner No. 1, a Post marked "No. 1, U.S. Survey No. 38," situate on the northerly boundary of Survey No. 37, made for the Austin Lode from which Post No. 1 of said survey No. 37, bears south seventy-three (73) degrees, fifteen minutes East at the distance of thirty-three (33) feet, the corner common to Section two (2), three (3), ten (10), and eleven (11), in Township 26, N.R. 52 East, M.D.M. bears south sixty-six (66) degrees eleven (11) minutes West at the distance of five hundred and two (502) feet, U.S. Mineral Monument No. 1, bears north thirteen (13) degrees, twenty-eight (28) minutes East, at the distance of two hundred and sixty-two feet, and the mouth of the Queen Tunnel bears north three (3) degrees, fifty-two (52) minutes West at the distance of ten hundred and forty (1040) feet; Thence from said corner No. 1, north seventy-three degrees, fifteen (15) minutes west, one hundred and sixty-seven (167) feet to a Post No. 2 of said Survey No. 37; four hundred feet (400) to corner No. 2, a post marked "No. 2, U.S. Survey No. 38". Thence north seven degrees east, thirteen hundred and fifty (1350) feet to corner No. 3, a post marked "No. 3, U.S. Survey No. 38"; thence south seventy-three (73) degrees, fifteen (15) minutes East, four hundred (400) feet to corner No. 4, a post marked No. 4, U.S. Survey No. 38", thence south seven (7) degrees west, thirteen hundred and fifty (1350) feet to the place of beginning, containing twelve and twenty-three hundredths (12 & 23/100) acres of land, more or less, and embracing thirteen hundred and fifty (1350) linear feet of the said Great Republic and Troy Consolidated Lode.

Beginning at corner No. 1 a Post marked "No. 1, U.S. Survey No. 37", from which the corner common to sections two (2) and three (3), ten (10) and eleven (11) in Township 26, North Range 52 East, M.D.M. bears south sixty-eight (68) degrees, thirty minutes west, at the distance of five hundred and twenty-eight (528) feet and the water tank at the station on the Palisade and Eureka Railroad bears north eighty-two (82) degrees thirty (30) minutes west, thence from said corner No. 1 north seventy-three (73) degrees fifteen (15) minutes West, two hundred (200) feet to corner No. 2 a Post marked "No. 2, U.S. Survey No. 37". Thence south sixteen (16) degrees forty-five (45) minutes West, one thousand (1,000) feet to Corner No. 3 a Post marked "No. 3, U.S. Survey No. 37". Thence south seventy-three (73) degrees fifteen (15) minutes East, two hundred (200) feet to corner No. 4 a Post marked "No. 4, U.S. Survey No. 37", thence north sixteen (16) degrees, forty-five minutes East, one thousand (1,000) feet to the place of beginning, containing four (4) acres and fifty-nine hundredths (59/100) of an acre of land more or less and embracing one thousand (1,000) linear feet of said Austin Mine.

Also S E $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 3, Township 26, North, Range 52 East.

Together with all waters, water rights, rights to use of said water, dams, dtiches, canals, pipe lines, reservoirs and all other means for the diversion or use of waters appurtenant to the said property or any part thereof, or used or enjoyed in connection with mining.

DONE IN OPEN COURT as of this 9th day of June, 1949.

D.W. Priest
District Judge

STATE OF NEVADA,)
) SS.
COUNTY OF EUREKA.)

I, Ed Delaney, County Clerk and ex-officio Clerk of the Third Judicial District Court of the State of Nevada, Eureka County, do hereby certify that the annexed is a full, true and correct copy of DECREE QUIETING TITLE as appears as of record and on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand officially and affixed the Seal of said Court, at my office in the town of Eureka, this 9th day of June, A.D., 1949.

(Official Seal)

Ed Delaney, County Clerk.
And ex-officio Clerk of the District Court,
Eureka, County

Recorded at the request of John F. Sexton, June 9, A.D., 1949 at 45 minutes past 10 A.M.

Peter Merialdo--Recorder.