

1 Filed Dec 28, 1975 No. 2878
2 Stanley A. Smart, Clerk
3 By _____, Deputy

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

6 * * * * *

7 VICTOR J. HERRMAN, as Executor of the Estate of RAYMOND
8 ARTHUR BROY, also known as RAYMOND A. BROY, also known as
R. A. BROY, also known as RAYMOND BROY, Deceased,

9 Plaintiff,

10 -vs-

11 The Unknown Heirs of CHARLES L. BROY, also known as C. L.
12 BROY, and JANE DOE BROY, his wife, both Deceased, last place
13 of residence Eureka, Nevada; The Unknown Heirs of J. B. KEEN
14 and JANE DOE KEEN, his wife, both Deceased, last place of
15 residence Eureka, Nevada; The Unknown Heirs of WILLIAM GULLI-
16 FORD, also known as WM. GULLIFORD, and JANE DOE GULLIFORD,
17 his wife, both deceased, last place of residence Eureka,
18 Nevada; The Unknown Heirs of B. F. McEWEN and JANE DOE McEWEN,
19 his wife, both Deceased, last place of residence Eureka, Nevada;
20 MARGARET WEYANT, DOROTHY BROWN and RUTH NICCOLLS, individually,
21 and as heirs at law of D. M. BROY, also known as DELBERT M.
22 BROY, and RUTH D. BROY, his wife, GEORGE L. BROY, EDNA GORMAN
23 and RAYMOND ARTHUR BROY, also known as RAYMOND A. BROY, also
24 known as R. A. BROY, also known as RAYMOND BROY, all Deceased;
25 FRANK GORMAN, individually, and as an heir at law of EDNA GORMAN,
26 Deceased; THE SUMMIT QUEEN MINING COMPANY, also known as the
27 SUMMIT QUEEN MINING CO., a corporation, last known address
28 Eureka, Nevada; MINEAMERICA CORPORATION, also known as
29 MINEAMERICA CORP., also known as MinesAmerica Corporation, a
30 corporation, last known address Eureka, Nevada; EUREKA COUNTY,
31 STATE OF NEVADA; FIRST DOE; SECOND DOE; THIRD DOE; FOURTH DOE;
32 FIFTH DOE; FIRST DOE COMPANY; SECOND DOE COMPANY; THIRD DOE
COMPANY; FIRST DOE CORPORATION; SECOND DOE CORPORATION and
THIRD DOE CORPORATION; together with each and every one and all
of the unknown heirs of each and every one of the above named
Defendants, their last known addresses being Eureka, Eureka
County, Nevada, unless otherwise stated herein; and also all
other persons unknown, claiming any right, title, estate, lien
or interest in the mining claim described in the Complaint
herein adversely to the Plaintiff's ownership or any cloud
upon the Plaintiff's title thereto,

Defendants.

DECREE ESTABLISHING TITLE

This cause coming on regularly to be heard on this
28th day of November, 1975, before the above entitled
Court, sitting without a jury, the Honorable STANLEY A. SMART

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BOOK 53 PAGE 205

1 District Judge, presiding; the Plaintiff, being represented by
2 C. E. HORTON, his Attorney; and Disclaimers of Title having been
3 filed herein by each and all of the following above named Defendants,
4 to-wit:

5 MARGARET HEYANT

6 DOROTHY BROWN

7 RUTH NICCOLLS

8 FRANK GORMAN

9 EUREKA COUNTY, STATE OF NEVADA

10 It appearing to the Court that all of the Defendants
11 above named, other than those having filed Disclaimers of Title
12 herein, have been duly and regularly served with Summons and
13 Complaint in this action in the manner, form and period prescribed
14 by law, and the time having expired for all of said Defendants
15 to appear, answer or otherwise plead herein, and none of said
16 Defendants, except those having filed Disclaimers of Title, having
17 appeared within the time allowed therefor, or at all;

18 NOW THEREFORE, IT IS HEREBY ORDERED that the default
19 of all of the other Defendants herein named and all unknown persons
20 and all unknown heirs be, and the same is hereby, entered;

21 And it further appearing that Plaintiff, at the
22 time of filing Complaint, filed for record in the Office of
23 the County Recorder of Eureka County, State of Nevada, a notice
24 of the pendency of this action, containing a statement of the
25 object of this action and a particular description of the property
26 affected thereby; and it appearing that Summons herein has been
27 duly and regularly issued and published in the Eureka Sentinel,
28 in the Town of Eureka, County of Eureka, State of Nevada, the
29 newspaper designated by the above entitled Court, by an Order
30 made and filed herein, as the newspaper most likely to give notice
31 to all persons interested, and being a newspaper of general circula-
32 tion printed and published in the County of Eureka, State of

1 Nevada, where said property is situate and being, at least once
2 a week for a period of four (4) successive weeks, as more fully
3 appears from the Affidavit of Publication on file herein;

4 And it further appearing that a copy of the Summons
5 herein, which said Summons contained a description of the property
6 affected by this action, was posted in a conspicuous place on
7 each separate parcel of the property described in said Complaint
8 within thirty (30) days after the issuance of said Summons, as
9 more particularly appears from the Affidavit of Posting on file
10 herein;

11 And it further appearing that a copy of said Summons,
12 attached to a copy of the Complaint herein, was, within five
13 (5) days after the making of the Order for Publication of Summons
14 herein, mailed to all of the Defendants (save and except those
15 personally served with Summons within the State of Nevada, or
16 having filed Disclaimers of Title herein), with postage thereon
17 fully prepaid, as more fully appears by the Affidavit of Mailing
18 on file herein; that Plaintiff has never made any conveyance
19 of said mining claim, or any part thereof, or any interest therein,
20 and that there is no subsisting Mortgage, Deed of Trust or other
21 lien upon said described property, or any part thereof;

22 And it further appearing from an inspection of the
23 Certificate of the Secretary of State on file herein showing
24 the failure of certain corporations, (more particularly described
25 in the said Certificate of the Secretary of State), impleaded
26 as Defendants herein, to comply with the statutes in regard to
27 the appointment of resident agents or the payment of fees and
28 penalties, and from the Affidavit of Service filed herein by the
29 Sheriff of Carson City, State of Nevada; that said defaulting
30 corporations, as enumerated in the said Certificate of the Secretary
31 of State, were served as by statute provided, by delivering copies
32 of said Summons attached to copies of the Complaint herein, to

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1 WILLIAM SHACKHAMER, Secretary of State of the State of Nevada,
2 which said defaulting corporations were further served, as appears
3 by the Affidavit on file herein, by posting copies of said process
4 in the Office of the Clerk of the Court in the County of Eureka,
5 State of Nevada, being the County and Court in the State of Nevada
6 in which this action is pending, and mailing by certified mail,
7 addressed to the last known addresses of the following corporations.

8 Defendants herein:

9 THE SUMMIT QUEEN MINING COMPANY, also known
10 as the SUMMIT QUEEN MINING CO.

11 MINESAMERICA CORPORATION, also known as
12 MINESAMERICA CORP., also known as Mines-
America Corporation.

13 And to the last known officers of said corporation, copies of
14 the Summons and copies of the Complaint, as more fully appears
15 from the Affidavit of Hailing on file herein;

16 And it further appearing that all of the requirements
17 of the laws of the State of Nevada for service of Summons by
18 publication have been fully complied with, and that none of the
19 Defendants appeared at the time of the trial of said matter;

20 And it further appearing through documentary and
21 oral proof presented to the Court that all of the facts, statements,
22 allegations and matters set forth in Plaintiff's verified Complaint
23 filed herein are true; that Plaintiff now is and by himself and
24 his predecessors in interest have been continuously and for more
25 than fifteen (15) years next immediately preceding the filing
26 of his Complaint herein in the actual, exclusive, continuous,
27 uninterrupted, open, notorious, peaceful and adverse possession
28 of said mining claim, claiming to own the same in fee against
29 the whole world; that Plaintiff and his predecessors in interest
30 have, during the period of five (5) years next preceding the
31 filing of the Complaint herein, paid all taxes of every kind
32 levied or assessed and due against said mining claim, or any

1 part thereof;

2 NOW, THEREFORE, the Court having fully examined
3 into and determined the legality of Plaintiff's title and of
4 all the titles and claims of all the Defendants and their unknown
5 heirs and all unknown persons and all adverse claims to and estate
6 interest, right, lien and clouds upon said mining claim and every
7 part thereof described in said Complaint; that the Court being
8 fully advised in the premises, and it appearing that Plaintiff
9 is entitled to the relief prayed for;

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that
11 Plaintiff is the owner of the hereinafter described property,
12 which is situate and being in the County of Eureka, State of
13 Nevada.

14 1. That CHARLES L. BROY, also known as C. L. BROY,
15 J. B. KEEN, WILLIAM GULLIFORD, also known as WM. GULLIFORD, and
16 B. F. McEWEN were the original patentees of the hereinafter described
17 mining claim, and said interests are still of record in their
18 names.

19 2. That CHARLES L. BROY, also known as C. L. BROY,
20 and JANE DOE BROY, his wife, are deceased, and the names of their
21 heirs are unknown; that CHARLES L. BROY executed a Quitclaim
22 Deed to THE SUMMIT QUEEN MINING COMPANY, under date of September
23 11, 1916, conveying an undivided one-half (1/2) in and to said
24 mining claim, and which said Quitclaim Deed is of record in the
25 Office of the Eureka County Recorder under File No. 11532, Book
26 18, Deeds, Page 173, and was recorded October 6, 1916.

27 3. That J. B. KEEN and JANE DOE KEEN, his wife,
28 are deceased, and the names of their heirs are unknown.

29 4. That WILLIAM GULLIFORD, also known as WM. GULLIFORD,
30 and JANE DOE GULLIFORD, his wife, are deceased, and the names
31 of their heirs are unknown.

32 5. That B. F. McEWEN and JANE DOE McEWEN, his wife,

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1 are deceased, and the names of their heirs are unknown.
2 6. That D. M. BROY, also known as DELBERT M. BROY,
3 acquired title to said mining claim by virtue of the execution
4 of a Tax Deed from Ed Delaney, County Treasurer of Eureka County,
5 State of Nevada, and which said Deed was dated September 7, 1928,
6 and is of record in Liber 20 of Deeds, Page 302, Eureka County
7 Recorder's Office, and was recorded on September 13, 1928; that
8 thereafter the said D. M. BROY, also known as DELBERT M. BROY
9 and RUTH D. BROY, his wife, conveyed their interest in said mining
10 claim to MinesAmerica Corporation, and which said Deed is dated
11 September 10, 1931, and is of record in the Office of the Eureka
12 County Recorder under File No. 19069, Book 21, Deeds, Page 60,
13 and was recorded on November 25, 1931; that thereafter the said
14 MINESAMERICA CORPORATION, also known as MINESAMERICA CORP., also
15 known as MinesAmerica Corporation, conveyed its interest in said
16 mining claim to D. M. BROY, and which said Deed is dated October
17 16, 1934, and is of record in the Office of the Eureka County
18 Recorder under File No. 20189, Book 21, Deeds, Page 238, and
19 was recorded on January 28, 1935.

20 7. That the said D. M. BROY, also known as DELBERT
21 M. BROY, died at San Francisco, California, on April 3, 1962,
22 and the said RUTH D. BROY, his wife, is deceased; that the said
23 D. M. BROY, also known as DELBERT M. BROY, and RUTH BROY, left
24 them surviving the following children, DOROTHY BROWN and RUTH
25 NICHOLLS.

26 8. That the said D. M. BROY, also known as DELBERT
27 M. BROY, also left him surviving two brothers, RAYMOND ARTHUR
28 BROY, also known as RAYMOND A. BROY, also known as R. A. BROY,
29 also known as RAYMOND BROY, and GEORGE L. BROY, and a sister,
30 EDNA GORMAN.

31 9. That the said GEORGE L. BROY died on August
32 23, 1966, leaving no spouse or children surviving, but leaving

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1 him surviving a brother, RAYMOND ARTHUR BROY, also known as RAYMOND
2 A. BROY, also known as R. A. BROY, also known as RAYMOND BROY;
3 a sister, EDNA GORMAN; and two nieces, DOROTHY BROWN and RUTH
4 NICHOLLS.

5 10. That the said EDNA GORMAN died at Reno, Nevada,
6 in 1972, and left her surviving her husband, FRANK GORMAN; a
7 daughter, MARGARET WEYANT; a brother, RAYMOND ARTHUR BROY, also
8 known as RAYMOND A. BROY, also known as R. A. BROY, also known
9 as RAYMOND BROY; and two nieces, DOROTHY BROWN and RUTH NICHOLLS.

10 11. That RAYMOND ARTHUR BROY, also known as RAYMOND
11 A. BROY, also known as R. A. BROY, also known as RAYMOND BROY,
12 died on August 29, 1973, at Greenbrae, California, and his estate
13 is now in the process of being probated in the above entitled
14 Court, and wherein VICTOR J. HERRMAN has been appointed as Executor
15 therein.

16 12. That THE SUMMIT QUEEN MINING COMPANY, also
17 known as the SUMMIT QUEEN MINING CO., acquired an undivided one-
18 half (1/2) interest in said mining claim from the above named
19 CHARLES L. BROY, also known as C. L. BROY, as hereinabove set
20 forth in Paragraph 2, and which said interest is still of record
21 in said corporation's name; that THE SUMMIT QUEEN MINING COMPANY,
22 also known as the SUMMIT QUEEN MINING CO., was incorporated under
23 the laws of the State of Nevada on July 17, 1916, but forfeited
24 its right to do business in the State of Nevada on the first
25 Monday in March, 1929, for failure to file its List of Officers
26 and pay the corporation license fee as by law required.

27 13. That MINESAMERICA CORPORATION, also known as
28 MINESAMERICA CORP., also known as MinesAmerica Corporation, was
29 incorporated under the laws of the State of Nevada on September
30 18, 1930, but forfeited its right to do business in the State
31 of Nevada on the first Monday in March, 1935, for failure to
32 file its List of Officers and pay the corporation license fee

1 as by law required.

2 14. That EUREKA COUNTY, STATE OF NEVADA, acting
3 by and through its County Treasurer, executed a Tax Deed to D.
4 M. BROV, also known as DELBERT M. BROV, under date of September
5 7, 1928, as hereinabove set forth in Paragraph 6, but on the
6 date of the execution of said Tax Deed, no certificate of sale
7 or conveyance to the said EUREKA COUNTY, STATE OF NEVADA had
8 been recorded in said Eureka County Recorder's Office.

9 As to any of the unknown heirs of said parties Defen-
10 dant herein impleaded as such, the same are necessary and proper
11 parties Defendant herein; the name or names and place or places
12 of residence of the heirs or any of the other Defendants herein
13 impleaded, if any of such other Defendants be deceased, and any
14 further description that may be necessary reasonably to identify
15 such heir or heirs, are unknown to the Plaintiff. Diligent
16 search and inquiry have been made by and in behalf of Plaintiff
17 to ascertain the name or names or places of residence of such
18 heir or heirs without success, and the same remain unknown to
19 Plaintiff. The last known place of residence of any of said
20 deceased Defendants, whose heirs are unknown, and not herein
21 or in the caption hereof otherwise recited, was Eureka, Nevada,
22 Plaintiff has no knowledge of any further description that may
23 be necessary reasonably to identify any of said deceased persons
24 or their heirs at law. Their respective last known addresses
25 are as set forth in the caption to this action and as herein
26 elsewhere alleged. The findings in this paragraph contained are
27 the result of due and diligent search and inquiry made on behalf
28 of the Plaintiff.

29 That as more fully appears from the Affidavit of
30 Plaintiff on file herein, since the commencement of said action,
31 Plaintiff has neither learned the name or names of any Defendants
32 impleaded herein as unknown heirs, nor received any information

1 indicating a line of search or inquiry which, if properly pursued,
2 might lead to the discovery of such name or names, and that the
3 same still remains and remain unknown to Plaintiff, although
4 diligent search and inquiry had been made by or on behalf of
5 Plaintiff, and resulted in failure to learn such name or names,
6 and that the same are and still remain unknown to Plaintiff;
7 that, as more fully appears from the Affidavit on file herein,
8 none of said Defendants is in the military or naval services
9 of the United States; that all of the allegations contained in
10 Plaintiff's Complaint are true;

11 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED
12 that Plaintiff is the owner of and seized in fee simple absolute
13 and in the actual and peaceable possession of the mining claim
14 described in the Complaint herein and of each and every part
15 and parcel thereof; that none of said Defendants, nor any other
16 person or persons has or have any claims, estate, interest, right,
17 title, lien, cloud or possession in or upon the property described
18 in the said Complaint, or any part thereof, adverse to the Plaintiff
19 herein or adverse to said Plaintiff's ownership thereof.

20 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED
21 that the Defendants above named and all persons holding through
22 or under them or any of them, and all other persons, except the
23 Plaintiff herein and his successors in interest, be, and they
24 and each of them are hereby, perpetually enjoined and restrained
25 from asserting any right, title, interest, claim, cloud, estate
26 or possession in or upon the said mining claim, or any part thereof,
27 adversely to the Plaintiff herein.

28 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED
29 that said mining claim herein referred to and described in said
30 Complaint, and whose title is hereby quieted, established and
31 determined in the Plaintiff herein, is situate in the County
32 of Eureka, State of Nevada, and more particularly described as

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(9)

53
BOOK PAGE 213

1 follows, to-wit:

2 KEMP AND KEEN CONSOLIDATED LODE, Survey No. 265, Mineral
3 Certificate No. 601, Patent No. 7886, which said Patent
4 is of record in the Office of the County Recorder of
5 Eureka County, State of Nevada, under File No. 60054, Book
6 51 of Official Records, Pages 487-491, recorded July 16,
7 1975, reference to which said Patent as of record is here-
8 by made and incorporated herein for all the particulars
9 thereby shown.

10 The above referred to claim is also known as The Kemp and
11 Keen Patented Mining Claim, also known as the Kemp & Keen
12 Patented Mine, also known as Kemp & Keene, also known as
13 the Kemp & Keen Mine, also known as The Kemp and Keen.

14 Together with all the dips, spurs, angles, and also all
15 the metals, ores, rock and earth therein; and all rights,
16 privileges and franchises thereto incident, appendant,
appurtenant, or therewith usually had and enjoyed; and
also all and singular the tenements, hereditaments and
appurtenances thereunto belonging, or in anywise apper-
taining, and the rents, issues and profits thereof.

Done in open Court this 28th day of November

1975.

STANLEY A. SMART
District Judge

STATE OF NEVADA,
COUNTY OF EUREKA.

I, Paul Shange 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 Deed Establishing Title # 2872 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 28th day of December, A. D. 1975



Paul Shange, County Clerk,
And ex-officio Clerk of the District Court, Eureka County.

By _____, Deputy.

RECORDED AT THE REQUEST OF C. E. HORTON
on NOVEMBER 28, 19 75, at 30 mins. past 11 A. M. in
Book 53 of OFFICIAL RECORDS, page 205-214, RECORDS OF
EUREKA COUNTY, NEVADA. WILLIS A. DePAOLI Recorder
File No. 60690 Fee \$ 12.00

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(10 and last)

BOOK 53 PAGE 214