

1 CASE NO. 3776

2 Dept. 1

FILED

'89 FEB. 13 19.59

3
4 CLERK KAREN VASQUEZ
DEPUTY Judy Smith

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6 126445

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8 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
9 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO

10
11 IN THE MATTER OF THE ESTATE OF
12 BATTISTA TOMERA JR., A.K.A. BATTISTA
13 TOMERA, A.K.A. BUTCH TOMERA,

ORDER AUTHORIZING
CONVEYANCE OF REAL
AND PERSONAL PROPERTY
TO COMPLETE CONTRACT
AND FOR AUTHORITY TO
EXECUTE MINERAL LEASE

14 Deceased.

15
16 The Petition of MATTHEWS AND WINES, P.C., a Nevada
17 Professional Corporation and McMULLEN MCPHEE & CO., a Nevada
18 General Partnership, filed in this Court on January 27, 1989,
19 praying for authority to execute documents to convey real and
20 personal property, and for authorization to lease minerals; the
21 hearing having been set for Monday, February 13, 1989, at the
22 hour of 9:30 A.M. of said day, at the Elko County Courthouse,
23 Elko County, Nevada; the matter having come on regularly for
24 hearing at said time and place, and it appearing that due notice
25 of said hearing has been given as required by law, as more fully
26 appears from the Affidavit of mailing in file herein, which is
27 hereby referred to and made a part hereof; the Court having heard

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1 testimony in support of the Petition, the Court finds as follows:

2 A. That on February 14, 1986, decedent entered into a
3 contract to sell real property and option. Said option is in
4 favor of Julian Tomera Ranches, Inc., Stone House Division, for
5 the sum of \$86,000.00. The option has been exercised; Decedent
6 could be compelled to convey the property if he was living, and
7 the co-executors should complete the transaction, paying necessary
8 costs and expenses of closing.

9 B. That during 1973, Decedent sold certain real property
10 in Eureka County, Nevada; as part of the transaction, the Decedent
11 was named as a beneficiary under a Deed of Trust recorded March
12 14, 1979; at Book 69, Page 265 as File Number 67925, Official
13 Records, Eureka County, Nevada. The Deed of Trust was re-recorded
14 on April 23, 1979, at Book 70, Page 66, as File Number 68149,
15 Official Records, Eureka County, Nevada. The entire purchase
16 price has been paid in full, and the co-executors should instruct
17 the Trustee or substitute Trustee to reconvey the title, and
18 should pay necessary costs and expenses of reconveying the title.

19 C. Newmont Exploration Limited has presented to the
20 co-executors a mineral or mining lease on terms and conditions
21 which are beneficial to the Estate, providing both income to the
22 Estate and a basis for establishing an inventory value for the
23 same. The terms of the lease, as set forth in the Petition, are
24 advantageous to the Estate; the lease for a period of fifteen
25 years, and for so long thereafter as minerals shall be produced
26 on the property, is reasonable. The executors should be
27 authorized to execute the mineral lease.
28

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1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

2 1. The co-executors are authorized and directed to convey
3 the real and personal property described in Exhibits "A" and "B"
4 pursuant to the terms of the option.

5 2. The co-executors are authorized and directed to instruct
6 the Trustee, or substitute Trustee, under the Deed of Trust
7 recorded March 14, 1979, at Book 69, Page 265, as File Number
8 67925, Official Records, Eureka County, Nevada, and re-recorded
9 April 23, 1979, at Book 70, Page 66, as File Number 68149,
10 Official Records, Eureka County, Nevada, to reconvey the title to
11 the property to the persons entitled without warranty;

12 3. The co-executors are authorized to enter into a mineral
13 or mining lease on the property described in Exhibit "C" on the
14 terms and conditions described and for a period of 15 years or as
15 long thereafter as minerals shall be produced.

16 4. The co-executors are authorized and directed to pay all
17 necessary and proper costs and expenses associated with the above
18 transactions.

19 5. The co-executors are instructed to record a certified
20 copy of this Order in the Official Records of Elko County, Nevada
21 and in Official Records of Eureka County, Nevada.

22 DATED this 13 day of Feb, 1989.

23 CERTIFICATION OF COPY

24 STATE OF NEVADA
COUNTY OF ELKO

25 I, KAREN VACQUEZ, COUNTY CLERK AND EX OFFICIO THE
26 DISTRICT CLERK OF ELKO COUNTY, NEVADA, DO HEREBY
27 CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY
28 OF THE ORIGINAL AS FILED AND OF RECORD IN THE
OFFICE OF THE COUNTY CLERK AND DISTRICT CLERK OF ELKO COUNTY, NEVADA.

Witness my hand and the seal of said County on
the 13 day of Feb AD 1989.

KAREN VACQUEZ County Clerk
By John Smith Deputy Clerk

13/ Joe O. McDaniel
DISTRICT JUDGE



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EXHIBIT "A"

REAL PROPERTY OWNED BY TOMERA BROTHERS

A. PARCEL 1

A parcel of land located in Section 4, T. 32 N., R. 52 E., M.D.B. & M., Elko County, Nevada, more particularly described as follows:

Commencing at the NW corner of said Section 4, thence S $89^{\circ}47'00''$ E 1,095.12 feet along the north line of said Section 4 to Corner No 1, the true point of beginning,

thence continuing S $89^{\circ}47'00''$ E 2,747.15 feet along the north line of said Section 4 to Corner No. 2, being a point on the westerly line of Nevada State Highway 278,

thence S. $3^{\circ}40'04''$ E 1,706.23 feet along the said westerly line of State Highway 278 to Corner No. 3, being a point on the northwesterly line of the Western Pacific Railroad,

thence S $38^{\circ}16'33''$ W 1,206.63 feet, more or less, along the said northwesterly line of the Western Pacific Railroad to Corner No. 4, a point on the east-west quarter Section line of said Section 4,

thence West 63.69 feet more or less along the east-west quarter Section line of said Section 4, being the said northwesterly line of the Western Pacific Railroad to Corner No. 5,

thence S $38^{\circ}16'33''$ W 609.35 feet more or less along the said northwesterly line of the Western Pacific Railroad to Corner No. 6,

thence N $60^{\circ}37'21''$ W 1,337.86 feet to Corner No. 7,

thence N $67^{\circ}57'53''$ W 271.59 feet to Corner No. 8,

thence N $41^{\circ}22'16''$ W 1,284.46 feet to Corner No. 9,

thence N $26^{\circ}01'02''$ E 135.94 feet to Corner No. 10,

thence N $34^{\circ}59'30''$ W 671.15 feet to Corner No. 11, being a point on the southeasterly line of the Southern Pacific Railroad,

thence from a tangent bearing N $35^{\circ}10'14''$ E on a curve

to the right along the said southeasterly line of the Southern Pacific Railroad having a radius of 2,091.83 feet through a central angle of $27^{\circ}13'27''$ for an arc length of 993.94 feet to Corner No. 12,

thence N $62^{\circ}23'41''$ E 207.05 feet along the said southeasterly line of the Southern Pacific Railroad to Corner No. 1, the true point of beginning containing 191.02 acres more or less.

This parcel is subject to all rights of way and easements existing or of record.

B. PARCEL 2

A parcel of land being portions of Sections 4, 8, 9, 16, and 17, T 32 N, R 52 E, M.D.B. & M., Elko County, Nevada, more particularly described as follows:

Beginning at the SE corner of said Section 17, being Corner No. 1, the true point of beginning,

thence N $0^{\circ}05'22''$ E 1,970.22 feet along the easterly line of said Section 17 to Corner No. 2, being a point on an existing fence.

thence N $36^{\circ}52'08''$ E 858.53 feet along an existing fence to Corner No. 3,

thence N $36^{\circ}34'50''$ E 2,168.21 feet along an existing fence to Corner No. 4,

thence N $36^{\circ}55'34''$ E 736.76 feet along an existing fence to Corner No. 5,

thence N $17^{\circ}13'35''$ E 5,499.29 feet along an existing fence to Corner No. 6,

thence N $17^{\circ}48'21''$ E 2,658.50 feet along an existing fence to Corner No. 7,

thence N $68^{\circ}16'07''$ W 585.31 feet along an existing fence to a point on the easterly R/W line of Nevada State Route 278, being Corner No. 8,

thence from a tangent bearing S $25^{\circ}28'39''$ W on a curve to the right having a radius of 1,700.00 feet through a central angle of $22^{\circ}10'27''$ for an arc length of 657.92 feet along the said easterly Highway R/W to Corner No. 9,

thence S 47°39'06" W 1,396.37 feet along the said easterly Highway R/W to Corner No. 10,

thence N 0°07'46" W 135.03 feet along the said easterly Highway R/W to Corner No. 11,

thence S 47°39'06" W 531.94 feet along the said easterly Highway R/W to Corner No. 12,

thence from a tangent bearing S 47°39'06" W on a curve to the left through a central angle of 22°17'10" for an arc length of 933.52 feet along the said easterly Highway R/W to Corner No. 13,

thence S 25°21'56" W 8,649.59 feet along the said easterly Highway R/W to Corner No. 14,

thence N 2°23'28" W 107.36 feet along the said easterly Highway R/W to Corner No. 15,

thence S 25°21'56" W +3,188.92 feet along the said easterly Highway R/W to a point on the south line of said Section 17 being Corner No. 16,

thence easterly +3,384.93 feet to Corner No. 1, the point of beginning containing 765.58 acres more or less.

This parcel is subject to all easements, leases and rights-of-way existing or of record.

C. PARCEL 3

All that certain real property situate in the County of Eureka, State of Nevada, more particularly described as follows:

TOWNSHIP 32 NORTH, RANGE 52 EAST, M.D.B. & M.

Section 20: That portion of W1/2 NW1/4; NW1/4 SW1/4 lying easterly of the easterly boundary line of the Western Pacific Railway Company's right-of-way.

EXCEPTING THEREFROM that portion of said land conveyed to the State of Nevada by Deed recorded October 21, 1954, in Book 66, Page 449, Deed Records, Elko County, Nevada, and November 12, 1954, in Book 24, Page 378, Deed Records, Eureka County, Nevada.

FURTHER EXCEPTING THEREFROM an undivided one-half (1/2) interest in and to all coal, oil, gas and other minerals of every kind and nature whatsoever existing upon, beneath the surface of, or within said land, reserved by Allen T. Griffin, et al, in Deed recorded April 19, 1969, in Book 109, Page 68, Official Records, Elko County, Nevada, and in Book 28, Page 537, Official Records, Eureka County, Nevada.

TOGETHER WITH an undivided one-half (1/2) interest in and to any and all right, title, interest and estate owned by Grantors in and to all coal, oil, oil shales, gas and minerals of any kind and nature which shall include barium sulfate, uranium and fissionable materials, rare earths and also clays, sand, gravel, stone and base materials, and geothermal resources of every kind, nature and description and their by-products, existing upon, beneath or within the above-described lands or any portion thereof with all royalties, rents and other consideration for such right, title, interest and estate reserved and all leases and other disposal thereof, including the right to use so much of the surface thereof and the subsurface thereof as may be reasonably required to prospect for, locate, develop, mine, drill, extract, produce, process, utilize, sell, market, remove and transport the same.

RESERVING, HOWEVER, to Grantors an undivided one-half interest of all right, title, interest and estate in and to all coal, oil, oil shales, gas and minerals which shall include barium sulfate, uranium and fissionable materials, rare earths and also clays, sand, gravel, stone and base materials, and geothermal resources of every kind, nature and description and their by-products, existing upon, beneath or within the above-described lands or any portion thereof with all royalties, rents and other consideration for such right, title, interest and estate reserved and all leases and other disposal thereof, including the right to use so much of the surface thereof and the subsurface thereof as may be reasonably required to prospect for, locate, develop, mine, drill, extract, produce, process, utilize, sell, market, remove and transport the same.

EXHIBIT "B"

PERSONAL PROPERTY OWNED BY TOMERA BROTHERS

ASSETS

PARTNERSHIP INTEREST - TOMERA BROTHERS

Nevada Cattle Brand Bar N (∞)
Machinery and equipment
International tractor -
Diesel Hydro-100

International tractor -
Diesel Hydro-100

Hesston three ton stack press

Hesston stack mover and grapple fork

JD 4010 tractor with F-11 loader

AC HD-5 bulldozer and blade

Bee-Gee six yard scraper

Three-way scraper blade

1979 Ford F600 stock truck and
new racks SN F61MYDE1012

1977 Chevy Scottsdale 20 Flatbed feed
truck SN CKL248J130641

1974 Form F250 Flatbed feed truck
SN F26YRDO2746

Junk iron and machinery

Lincoln Arc Welder

Shop tools

Bridge planks

1967 Chevy model 60 two-ton stock
truck with racks

ASSETS

Satellite dish

Powder River dehorning squeeze shute
branding shute and alleyway

Fairbanks-Morse livestock scales with
Powder river racks

Wheel line

Saddle

Spade bit

Snaffle bit

NEWMONT EXPLORATION LIMITED/TOMERA BROTHERS

EXHIBIT "C"

The following described lands located in Elko County, Nevada:

TOWNSHIP 32 NORTH, RANGE 52 EAST, M.D.B. & M

PARCEL 1

Section 4: All, containing 641.76 acres
Section 5: SE1/4SW1/4, SW1/4SE1/4, containing 80.00 acres
Section 8: W1/2NE1/4, E1/2NW1/4, NE1/4SW1/4, W1/2SE1/4,
SE1/4SE1/4, containing 320.00 acres

EXCEPTING from this Parcel 1 all mineral interest in Lot 1, SE1/4NE1/4, and SE1/4 of Section 4 (containing a total of 240.5 acres).

Total mineral acres in Parcel 1 = 801.26

PARCEL 2

Section 5: SE1/4SE1/4, containing 40.00 acres
Section 8: E1/2NE1/4, NE1/4SE1/4, containing 120.00 acres
Section 9: All, containing 640.00 acres
Section 10: SW1/4NE1/4, containing 40.00 acres
Section 11: All, containing 640.00 acres
Section 14: SW1/4NW1/4, NE1/4SW1/4, containing 80.00 acres
Section 21: All, containing 640.00 acres

Total mineral acres in Parcel 2 = 2200.00

NOTE: The estates or interests in the above described lands owned, controlled or otherwise claimed or held by the "Owner" as of the date of this Agreement shall constitute the "Property" subject hereof initially. However, should the Owner, during the term of this Agreement, acquire additional estates or interests in the lands generally described above, then the scope and meaning of the term "Property" as used herein shall be deemed modified to include such additional estates or interests, and such shall be subject to this Agreement.

RECORDED AT THE REQUEST OF

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Richard J. Matthews

'89 FEB 14 AM 11:27

OFFICIAL RECORDS
EUREKA COUNTY, CALIFORNIA
M.N. FERGUSON, RECORDER

FILE NO. REC 8 / 500
126485

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