

1 CASE NO. 946

NO. _____ FILED

NOV 1 1988

JOAN SHANGLE, CLERK
BY *M. Elliott* DEPUTY

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5 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
6 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO

8
9 IN THE MATTER OF THE ESTATE OF
10 ALLEN ALONZO RUSSELL,
11 Deceased.

DECREE OF PARTIAL
DISTRIBUTION OF ESTATE
AND ORDER APPROVING
INTERIM ATTORNEY FEES

12 HELEN APOLONIA BEDNAR RUSSELL, Executrix of the
13 above-entitled Estate, having filed a Petition for Partial
14 Distribution and Application for Payment of Interim Attorney
15 Fees, having given proper notice to all persons so entitled; no
16 objections having been made to said Petition; and good cause
17 appearing, the Court hereby finds.

18 1. On September 4, 1987, the above-entitled Court
19 admitted Decedent's Last Will and Testament, dated February 3,
20 1971 to probate. Decedent's Last Will and Testament contains a
21 Paragraph Second which states the following:

22 "I hereby give, devise and bequeath all of my
23 estate, of every kind, nature, and sort
24 whatsoever, to my wife, HELEN APOLONIA
BEDNAR RUSSELL."

25 ////

1 2. Petitioner is the sole heir of Decedent's estate.
2 3. One creditor's claim was filed against the
3 estate. The creditor's claim was filed by T. DAVID HORTON on
4 December 7, 1987, asserting an equitable claim for accounting of
5 mining proceeds and an unliquidated claim for money damages
6 which is now pending in the Seventh Judicial District Court of
7 the State of Nevada, in and for the County of Eureka, Case No.
8 3129, entitled "Allen Russell and Helen Russell, husband and
9 wife, Plaintiffs, v. T. David Horton, et al., Defendants." The
10 creditor's claim was rejected by the Executrix and the rejection
11 of creditor's claim was filed on January 21, 1988. The matter
12 is currently in litigation. By stipulation, The Court's
13 decision in that case shall determine the validity or invalidity
14 of the creditor's claim in this action.

15 4. There are no debts established against the estate
16 and the partial distribution of the properties hereinbelow
17 described in the estate will not cause injury to the one
18 creditor of the estate for the reasons that the properties to be
19 distributed are not involved in the subject matter of litigation
20 and the remaining assets of the estate not to be distributed
21 herein are more than sufficient to satisfy any judgment obtained
22 by T. David Horton against the estate.

23 5. The decedent's community property interest in the
24 following described property may be distributed at this time
25 without injury to the creditors of the estate:
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- (a) Thirty-seven (37) unpatented lode mining claims designated as Jay and Jay 1 through 36 located in portions of Section 5, 6, 7, 8, 17, and 18, Township 28 North, Range 53 East, Elko County, Nevada, more particularly described on Exhibit "1" attached hereto and incorporated herein;
- (b) One unpatented lode mining claim designated as May Lode Mining Claim, situate in the Bullion Mining District, Lander County, Nevada;
- (c) An undivided one-half (1/2) interest in and to that certain unpatented lode mining claim designated as Great (Big) Chief Lode Mining Claim located in Lander County, Nevada;
- (d) That certain real property described as Lot 8, Block 34, CRESCENT VALLEY RANCH AND FARMS, UNIT NO. 1, according to the official map thereof, and recorded in Book 103, Page 125, Official Records, Eureka County Recorder's Office, Eureka, Nevada.

SUBJECT TO any and all exceptions, reservations, restrictive covenants, assessments, easements, rights and rights-of-way of record.

TOGETHER WITH all buildings and improvements situate thereon, including a 1980 Van Dyke 14' x 70' mobile home.

TOGETHER WITH the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and the reversion and

1 reversions, remainder and remainders, rents,
2 issues, and profits thereof.

3 (3) The following personal property:

- 4 (1) One Allis Chalmers Tractor HD-7,
5 3 cylinder, Detroit Diesel with
6 Hydraulic Doser (Vintage: Circa
7 (1940):
- 8 (2) One Gardner-Denver Compressor (1975),
9 165 p.s.i., V-4 Gas Engine;
- 10 (3) One Lincoln Welder, Wisconsin V-4
11 Cylinder With Accessories;
- 12 (4) One Gardner-Denver Compressor
13 (Vintage: Circa 1940):
- 14 (5) One 1961 Ford Dump Truck,
15 F600; and
- 16 (6) One 1981 Ford Pick-Up, Four Wheel
17 Drive, 6 Cylinder.

18 6. No bond should be required of Petitioner for
19 partial distribution to occur because there are no other
20 creditor's claims except that claim involving the properties
21 which will remain in the estate and the value of the remaining
22 assets, remaining cash, and expected income to the estate render
23 a bond unnecessary.

24 7. GOICOCHEA & DI CRAZIA, LTD., of Elko, Nevada,
25 have performed legal services for the estate by acting as
26 attorneys for the Executrix of the estate. In addition, said
attorneys have been involved in extraordinary services because
of the litigation against the estate. The Executrix and said
attorneys have agreed that a reasonable fee for services to date
would be the sum of ELEVEN THOUSAND ONE HUNDRED NINETY-TWO

1 DOLLARS and 50/100 (\$11,192.50), together with certain advanced
2 costs in the amount of THREE HUNDRED SIXTY-SIX DOLLARS and
3 59/100 (\$366.59).

4 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND
5 DECREED AS FOLLOWS:

6 1. Due and legal notice of the hearing for the
7 Petition for Partial Distribution and Application for Payment of
8 Interim Attorney Fees has been given to all persons interested
9 in said estate or entitled to notice thereof;

10 2. That the Petition for Partial Distribution and
11 Application for Payment of Interim Attorney Fees is hereby
12 approved and allowed as rendered herein.

13 3. That the decedent's community property interest
14 in the following property is hereby distributed to HELEN
15 APPOLO니아 BEDNAR RUSSELL as her sole and separate property:

16 (a) Thirty-seven (37) unpatented lode mining
17 claims designated as Jay and Jay 1 through
18 36 located in portions of Section 5, 6, 7,
19 8, 17, and 18, Township 28 North, Range 53
20 East, Elko County, Nevada, as more fully
21 described on Exhibit "1" attached hereto
22 and incorporated herein;

23 (b) One unpatented lode mining claim designated
24 as May Lode Mining Claim, situate in the
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Bullion Mining District, Lander County,
Nevada;

(c) An undivided one-half (1/2) interest in and
to that certain unpatented lode mining claim
designated as Great (Big) Chief Lode Mining
Claim located in Lander County, Nevada;

(d) That certain real property described as
Lot 8, Block 34, CRESCENT VALLEY RANCH AND
FARMS, UNIT NO. 1, according to the official
map thereof, and recorded in Book 103, Page
125, Official Records, Eureka County
Recorder's Office, Eureka, Nevada.

SUBJECT TO any and all exceptions,
reservations, restrictive covenants, assess-
ments, easements, rights and rights-of-way
of record.

TOGETHER WITH all buildings and improvements
situate thereon, including a 1980 Van Dyke
14' x 70' mobile home.

TOGETHER WITH the tenements, hereditaments,
and appurtenances thereunto belonging or in
anywise appertaining, and the reversion and
reversions, remainder and remainders, rents,
issues, and profits thereof.

(e) The following personal property:

- (1) One Allis Chalmers Tractor HD-7,
3 cylinder, Detroit Diesel with
Hydraulic Doser (Vintage: Circa
1940);
- (2) One Gardner-Denver Compressor (1975),
165 p.s.i., V-4 Gas Engine;
- (3) One Lincoln Welder, Wisconsin V-4
Cylinder with Accessories;
- (4) One Gardner-Denver Compressor
(Vintage: Circa 1940);

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(5) One 1963 Ford Dump Truck,
F600; and

(6) One 1981 Ford Pick-Up, Four Wheel
Drive, 6 Cylinder.

4. That no bond be required of Petitioner for
partial distribution to occur.

5. That the Executrix make payment of funds of the
estate to the law firm of GOICOECHEA & DI GRAZIA, LTD., of Elko,
Nevada, for attorney fees in the amount of ELEVEN THOUSAND ONE
HUNDRED NINETY-TWO DOLLARS and 50/100 (\$11,192.50) and costs in
the amount of THREE HUNDRED SIXTY-SIX DOLLARS and 59/100
(\$366.59).

6. That the remainder of the funds and properties in
the estate shall remain in the estate pending a decree of final
distribution or other order of this Court.

DATED this 1st day of ^{Nov}~~October~~, 1988.

1st Merle Lynn H. Hoyt
DISTRICT JUDGE

SEVENTH JUDICIAL DISTRICT COURT, IN AND FOR COUNTY OF ELKO, STATE OF NEVADA	SS SEAL
I, the undersigned Court Clerk and Ex-Officio CLERK of the SEVENTH JUDICIAL DISTRICT COURT, do hereby CERTIFY that the foregoing is a true and correct copy of the original on file in my office and that I have carefully compared the same with the original.	
DISTRICT COURT, the <u>4th</u>	WITNESS, My Hand, and Seal of said day of <u>Nov</u> , 19 <u>88</u>
<u>Jan. H. Hoyt</u> County Clerk and Ex-Officio Court Clerk	<u>By: M. P. H. Hoyt</u> Deputy Clerk

EXHIBIT "1"

(ELKO PROPERTIES)

Jay and Jay 1 through 36 Unpatented Lode Claims located in portions of Sections 5, 6, 7, 8, 17 and 18, Township 28, North, Range 53 East, Elko County, Nevada, more specifically described as follows:

<u>Cl</u>	<u>Date Located</u>	<u>Section</u>	<u>Township and Range</u>	<u>BIM Serial Number</u>
	05/12/77	7	T28N, R53E, MDM	6856
011	05/12/77	7	"	6857
012	08/30/77	7, 18	"	8048
013	05/25/78	7, 8	"	24430
014	05/25/78	7, 8	"	24431
015	05/25/78	7	"	24432
016	05/25/78	7, 8	"	24433
017	05/25/78	7, 18	"	24434
018	05/26/78	7, 18	"	24435
019	05/26/78	7	"	24436
0110	05/26/78	7	"	24437
0111	05/26/78	7	"	24438
0112	05/26/78	7	"	24439
0113	05/26/78	7, 18	"	24440
0114	05/26/78	7, 18	"	24441
0115	05/26/78	18	"	24442
0116	05/26/78	18	"	24443
0117	05/26/78	7, 8, 17, 18	"	24444
0118	05/26/78	17, 18	"	24445
0119	06/12/79	8, 17, 18	"	24446
0120	06/12/79	7, 8	"	24447
0121	06/12/79	8	"	24448
0122	06/12/79	6, 7	"	24449
0123	06/12/79	7, 8	"	24450
0124	06/12/79	8	"	24451
0125	06/12/79	6	"	24452
0126	06/12/79	5, 6, 8	"	24453
0127	06/12/78	8, 17	"	71063
0128	06/12/78	8, 17	"	71064
0129	06/12/78	8	"	71065
0130	06/12/78	8	"	71066
0131	06/12/78	8	"	71067
0132	06/12/78	8	"	71068
0133	08/08/79	18	"	89297
0134	08/08/79	18	"	89298
0135	08/08/79	18	"	89299
0136	08/08/79	7, 18	"	89300

GONCOECHA & DIGRAZIA LTD.
ATTORNEYS AT LAW
SUNSHINE BUILDING, SUITE 200
FIFTH & GRAND STREETS - P. O. BOX 1100
ELKO, NEVADA 89601
(702) 739-0001

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