

1 CASE NO. 3776
2 Dept. II

FILED

'91 NOV 25 P2:47

138508

ELKO CO. DISTRICT COURT
CLERK _____ W

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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
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8
9 IN THE MATTER OF THE ESTATE OF

10 BATTISTA TOMERA JR., A.K.A. BATTISTA
11 TOMERA, A.K.A. BUTCH TOMERA,
12 Deceased.

ORDER DISTRIBUTING
MINERAL ESTATE, MINING
AND OIL AND GAS LEASES

13 MATTHEWS AND WINES, P.C. and McMULLEN MCPHEE & COMPANY, Co-
14 Executors of the ESTATE OF BATTISTA TOMERA JR., A.K.A. BATTISTA
15 TOMERA, A.K.A. BUTCH TOMERA, deceased, have petitioned this Court
16 for an Order Distributing the Mineral Estate, Mining and Oil and
17 Gas Leases and net income received from minerals and mining since
18 September 6, 1988 to the specific Devisees named in the Last Will
19 and Testament of Decedent. The Court, having considered the
20 Petition and being fully advised in these premises, hereby finds:

21 1. That Decedent owned an interest in the mineral estate in
22 certain real property located in Elko and Eureka Counties, Nevada,
23 more particularly described in Exhibit "A", attached hereto and
24 incorporated herein by this reference.

25 2. That those mineral interests are currently recorded in
26 the name of the ESTATE OF BATTISTA TOMERA, JR., pursuant to this
27 Court's Order of Dissolution of Partnership, entered by this Court
28

1 on August 14, 1989.

2 3. That the August 14, 1989 Order was recorded on August 14,
3 1989, in Book 692, at Page 145, as File Number 280192, Official
4 Records, Elko County, Nevada, and on August 15, 1989, in Book 200,
5 at Page 526, as File Number 128935, Official Records, Eureka
6 County, Nevada.

7 4. That pursuant to the terms of Decedent's Last Will and
8 Testament, THOMAS J. TOMERA and PATSY SUE TOMERA are entitled to
9 Decedent's entire mineral interest, including all mining and
10 mineral and Oil and Gas Leases, together with all net proceeds
11 therefrom, wherever situate.

12 5. That Decedent's surviving souse, RUTH TOMERA, is not
13 entitled to any share of this Estate, and this Court should divest
14 her of any right, title, interest, estate or claim to any property
15 belonging to this Estate.

16 THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED,
17 PURSUANT TO THE FOREGOING:

18 That all mineral interest belonging to the ESTATE OF BATTISTA
19 TOMERA JR., or in which BATTISTA TOMERA, JR., or his Estate is
20 interested, and any and all right, title, interest and estate
21 thereto, together with any and all right, title, interest or estate
22 in and to all mining, mineral and oil and gas leases and all net
23 proceeds therefrom, are hereby set over and distributed to THOMAS
24 J. TOMERA and PATSY SUE TOMERA. The real property subject to this
25 distribution is described in Exhibit "A" attached hereto.
26 Decedent's surviving spouse, RUTH TOMERA, is hereby divested of any
27

1 and all claim, right, title, interest or estate in and to the
2 property distributed hereby, and this distribution shall terminate
3 any interest which she may claim herein. A copy of this Order
4 shall be recorded in Elko and Eureka Counties to effect this
5 transfer.

6 DATED this 25th day of November, 1991.

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8 /s/ Jack B. Ames
9 DISTRICT JUDGE

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CERTIFICATION OF COPY

STATE OF NEVADA)
COUNTY OF ELKO
I, KAREN VASQUEZ, CLERK AND EX-OFFICIO
CLERK OF THE DISTRICT COURT OF THE FOURTH
DISTRICT OF THE STATE OF NEVADA, IN AND FOR THE
COUNTY OF ELKO, DO HEREBY CERTIFY THAT THE
ANNEXED IS A TRUE AND CORRECT COPY OF
THE INSTRUMENT AS THE SAME APPEARS ON FILE OF
RECORD IN MY OFFICE.

Witness my hand and the seal of said court affixed this

25th day of November A.D., 19 91

KAREN VASQUEZ • County Clerk

By Wm Smith Deputy Clerk

EXHIBIT "A"

PARCEL ONE:

TOWNSHIP 30 NORTH, RANGE 52 EAST, M.D.B.&M.

Section 1: All
Section 5: All
Section 8: All
Section 9: All
Section 11: All
Section 13: All
Section 16: $W\frac{1}{2}$ $NW\frac{1}{4}$
Section 23: $N\frac{1}{2}$; $SE\frac{1}{4}$
Section 25: All
Section 27: $SE\frac{1}{4}$

TOWNSHIP 30 NORTH, RANGE 53 EAST, M.D.B.&M.

Section 7: All (fractional)
Section 9: $SW\frac{1}{4}$
Section 17: All
Section 19: All (fractional)
Section 21: All
Section 27: $W\frac{1}{2}$ $NW\frac{1}{4}$; $SE\frac{1}{4}$ $NW\frac{1}{4}$; $SW\frac{1}{4}$; $W\frac{1}{2}$ $SE\frac{1}{4}$; $SE\frac{1}{4}$ $SE\frac{1}{4}$; and all other lands lying westerly of the ridge which runs through said Section 27.
Section 29: All

TOWNSHIP 31 NORTH, RANGE 51 EAST, M.D.B.&M.

Section 1: That portion lying easterly and northerly of the center line of Nevada State Highway 51, as the same is now constructed.

TOWNSHIP 31 NORTH, RANGE 52 EAST, M.D.B.&M.

Section 2: Lots 1, 2, 3 and 4; $S\frac{1}{2}$ $N\frac{1}{2}$; $S\frac{1}{2}$
Section 3: $E\frac{1}{2}$ $NE\frac{1}{4}$
Section 5: $N\frac{1}{2}$ $NE\frac{1}{4}$; $N\frac{1}{2}$ $NW\frac{1}{4}$
Section 6: That portion of the $SE\frac{1}{4}$ $SW\frac{1}{4}$ lying northerly of the center line of Nevada State Highway 51 as the same is now constructed.
Section 7: That portion lying easterly and northerly of the center line of Nevada State Highway 51 as the same is now constructed.
Section 11: All

Those portions of Sections 1 and 12, Township 31 North, Range 52 East, lying westerly of a fence line more particularly described as follows:

Section 12: SW $\frac{1}{4}$ SW $\frac{1}{4}$
 Section 13: All
 Section 14: NE $\frac{1}{4}$ NE $\frac{1}{4}$; SW $\frac{1}{4}$ NE $\frac{1}{4}$; N $\frac{1}{2}$ NW $\frac{1}{4}$; SE $\frac{1}{4}$ NE $\frac{1}{4}$; NW $\frac{1}{4}$ SW $\frac{1}{4}$
 Section 15: All
 Section 17: All
 Section 21: All, EXCEPTING from Section 21, a parcel deeded to WESTERN UNION TELEGRAPH CO., a corporation, by Deed recorded in Book 37, of Official Records at Page 217, Elko County, Nevada records, described as follows:

Beginning at the West one-quarter Corner of said Section 21, said Corner being an 18" x 5" chiseled limestone in a rock mound, thence South 80°37'03" East, 972.12 feet to the true point of beginning; thence North 87°48'42" East, 208.71 feet; thence South 2°11'18" East 208.71 feet to a point, which bears North 60°51'28" West, 4,530.07 feet more or less from the Southeast Corner of said Section 21, said Corner being a notched stone; thence South 87°48'42" West, 208.71 feet; thence North 2°11'18" West, 208.71 feet to the true point of beginning.

Section 23: All

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

Section 1: W $\frac{1}{2}$
 Section 4: W $\frac{1}{2}$ NE $\frac{1}{4}$; W $\frac{1}{2}$;
 Lot 1 (NE $\frac{1}{4}$ NE $\frac{1}{4}$); SE $\frac{1}{4}$ NE $\frac{1}{4}$; SE $\frac{1}{4}$
 Section 5: SW $\frac{1}{4}$ SE $\frac{1}{4}$; SE $\frac{1}{4}$ SW $\frac{1}{4}$; SE $\frac{1}{4}$ SE $\frac{1}{4}$
 Section 8: W $\frac{1}{2}$ SE $\frac{1}{4}$; NE $\frac{1}{4}$ SW $\frac{1}{4}$; SE $\frac{1}{4}$ SE $\frac{1}{4}$; W $\frac{1}{2}$ NE $\frac{1}{4}$; E $\frac{1}{2}$ NW $\frac{1}{4}$; E $\frac{1}{2}$ NE $\frac{1}{4}$; NE $\frac{1}{4}$ SE $\frac{1}{4}$
 Section 9: All
 Section 10: SW $\frac{1}{4}$ NE $\frac{1}{4}$
 Section 11: All
 Section 13: All
 Section 14: SW $\frac{1}{4}$ NW $\frac{1}{4}$; NE $\frac{1}{4}$ SW $\frac{1}{4}$; E $\frac{1}{2}$; N $\frac{1}{2}$ NW $\frac{1}{4}$; SE $\frac{1}{4}$ NW $\frac{1}{4}$; W $\frac{1}{2}$ SW $\frac{1}{4}$; SE $\frac{1}{4}$ SW $\frac{1}{4}$
 Section 15: All
 Section 16: All
 Section 17: All that portion lying easterly of the easterly boundary line of the Western Pacific Railway Company's right-of-way.
 Section 20: E $\frac{1}{2}$; SW $\frac{1}{4}$ SW $\frac{1}{4}$; E $\frac{1}{2}$ SW $\frac{1}{4}$
 Section 21: All
 Section 23: All
 Section 24: SW $\frac{1}{4}$ SW $\frac{1}{4}$
 Section 26: All
 Section 28: All
 Section 29: All

Section 31: N $\frac{1}{2}$
Section 33: N $\frac{1}{2}$
Section 35: All

TOWNSHIP 32 NORTH, RANGE 54 EAST, M.D.B.&M.

Section 23: All
Section 25: All
Section 27: All
Section 29: All
Section 31: All
Section 33: All
Section 35: All

TOWNSHIP 32 NORTH, RANGE 55 EAST, M.D.B.&M.

Section 19: All
Section 31: All

TOWNSHIP 33 NORTH, RANGE 52 EAST, M.D.B.&M.

Section 33: A parcel of land located in the S $\frac{1}{2}$ SW $\frac{1}{4}$, more particularly described as follows:

Commencing at the SW corner of said Section 33, thence S. 89°47'00" E., 1,094.97 feet along the southerly line of said Section 33 to Corner No. 1, the true point of beginning, being on the southeasterly right-of-way of the Southern Pacific Railroad;

thence N. 62°23'41" E., 1,561.10 feet along said Southern Pacific right-of-way to Corner No. 2;

thence from a tangent bearing N. 62°23'41" E., on a curve to the left, with a radius of 2,952.49 feet through a central angle of 9°58'23", for an arc length of 513.92 feet along the said southeasterly right-of-way of the Southern Pacific Railroad to Corner No. 3, being a point in the existing Humboldt River;

thence S. 14°22'44" W., 1,038.27 feet along the existing Humboldt River to Corner No. 4, being on the said southerly line of Section 33;

thence N. 89°47'00" W., 1,558.00 feet along the southerly line of said Section 33 to Corner No. 1, the point of beginning.

PARCEL TWO:

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 of 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., 135.84 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

Beginning at the NE Corner of Section 1, T. 31 N., R. 52 E.; thence South 9°30' W., 925.00'; thence South 34°30' W., 3,565.00'; thence South 16°00' W., 5,105.00'; thence South 395.00' to a point 1,300' East of the Southwest corner to Section 12, T. 31 N., R. 52 E.

Section 13: All that portion of SE $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$ lying South of a fence line more particularly described as follows:

Commencing at the SE Corner of Section 13; thence North along the East line of said Section 1,520' to Corner No. 1, the Point of Beginning. Thence North 57°30' West, 330' along a fence to Corner No. 2; thence North 67°00' West 2,500' along a fence to Corner No. 3, a point on the West boundary of the E $\frac{1}{2}$ of Section 13.

Section 13: All that portion of the NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$ lying North of a fence line described as follows:

Commencing at the SE corner of Section 13, thence North along the East line of said Section a distance of 1,520 feet to Corner No. 1, the point of beginning;

thence N. 57°30' W., a distance of 330 feet along a fence to Corner No. 2;

thence N. 67°00' W., a distance of 2,500 feet more or less, along a fence to Corner No. 3, a point on the West boundary of E $\frac{1}{2}$ of Section 13, Township 31 North, Range 52 East, M.D.B.&M.

Section 17: That portion of the W $\frac{1}{2}$ lying easterly and northerly of the center line of Nevada State Highway 51 as the same is constructed.

Section 18: That portion of the E $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$ lying easterly and northerly of the center line of Nevada State Highway 51 as the same is now constructed.

TOWNSHIP 31 NORTH, RANGE 53 EAST, M.D.B.&M.

Section 1: All
Section 3: All
Section 5: All
Section 7: All
Section 9: All
Section 11: All

southeasterly line of the Southern Pacific Railroad to Corner No. 1, the true point of beginning containing 191.02 acres more or less.

PARCEL THREE:

A parcel of land being portions of Section 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., 685.31 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. $47^{\circ}39'06''$ W., 1,396.37 feet along the said easterly Highway R/W to Corner No. 10,

thence N. $0^{\circ}07'46''$ W., 135.03 feet along the said easterly Highway R/W to Corner No. 11,

thence S. $47^{\circ}39'06''$ W., 531.94 feet along the said easterly Highway R/W to Corner No. 12,

thence from a tangent bearing S. $47^{\circ}39'06''$ W., on a curve to the left through a central angle of $22^{\circ}17'10''$ 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.

PARCEL FOUR:

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 W $\frac{1}{2}$ NW $\frac{1}{4}$; NW $\frac{1}{4}$ SW $\frac{1}{4}$ lying easterly of the easterly boundary line of the Western Pacific Railway Company's right-of-way.

FURTHER CONVEYING HERewith ANY AND ALL OF GRANTORS' RIGHT, TITLE, ESTATE OR INTEREST IN AND TO ANY AND ALL LANDS OTHER THAN LANDS WHICH ARE DESCRIBED HEREIN, WHETHER SUCH INTEREST IS PRESENT OR FUTURE AND WHETHER SAID INTEREST SHALL BE CONDITIONAL, ENTIRE OR FRACTIONAL.

BOOK 228 . PAGE 204
OFFICIAL RECORDS
RECORDED AT THE REQUEST OF

Matthews & Wine
'91 DEC -5 P324

EUREKA COUNTY, NEVADA
M.N. REBALEATI, RECORDER
FILE NO. FEE \$ 1400

138508

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BOOK 228 PAGE 213