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EUREKA COUNTY, NEVADA
M.H. REBALEATI, RECORDER
FILE NO. FEES *20⁰⁰*

191855

Judgment and Decree
(Title of Document)

FILED

AUG 25 2004

Eureka County Clerk
BY _____ Deputy

1 CASE NO. CV 0212-016

2 Dept. II

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

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JULIAN TOMERA RANCHES, INC.,
STONEHOUSE DIVISION, a Nevada
corporation; THOMAS J. TOMERA and
PATSY S. TOMERA, as Trustees of the
THOMAS J. TOMERA FAMILY TRUST;

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Plaintiffs,

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vs.

**JUDGMENT AND
DECREE**

14

V.F. NEUHAUS PROPERTIES, INC., a
foreign corporation; SPRINGCREEK
RESOURCES, INC., a foreign corporation;
ZEBRA INVESTMENTS, LTD., a foreign limited
partnership; PAUL R. MAYO, JR.; A. WADE
NOLLKAMPER; JOE McMAHON, JR.; STEVE
A. TOFTE; LOUIS A. OSWALD, III, Trustee, the
OSWALD FAMILY TRUST dated 4/27/98;
CATHERINE C. WEBB; ESTATE OF HARRY E.
WEBB, deceased; HEIRS OF CATHERINE C.
WEBB; HEIRS OF HARRY E. WEBB; HARRY
FRANCIS WEBB; BEATRICE M. GREEN;
VIRGIL GREEN; DOROTHY WEBB; JANE M.
WEBB; GEORGE G. VANNOY; GEORGE E.
VANNOY; LUCILLE VANNOY; JOHN
DOES 1-25; DOE corporations, partnerships, trusts
or companies 1-25; Also, ALL OTHER PERSONS
UNKNOWN CLAIMING ANY RIGHT, TITLE,
ESTATE, LIEN OR INTEREST IN THE REAL
PROPERTY DESCRIBED IN THE COMPLAINT
ADVERSE TO PLAINTIFFS' OWNERSHIP, OR
ANY CLOUD UPON PLAINTIFFS' TITLE THERETO;

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Defendants.

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1 **THIS ACTION** was regularly scheduled for hearing before this Court pursuant to NRS
2 40.110 on the 20th day of August, 2004. Plaintiffs **JULIAN TOMERA RANCHES, INC.**,
3 **STONEHOUSE DIVISION**, and the **THOMAS J. TOMERA FAMILY TRUST**, appeared through
4 the Affidavit of **THOMAS J. TOMERA**, President of the said Plaintiff corporation, and a Co-
5 Trustee of the said Plaintiff Trust. Plaintiffs are represented by **Richard J. Matthews** of **Matthews**
6 **& Wines, P. C. Of Elko, Nevada**.

7 The following Defendants appeared in this action, and they appeared at the hearing through
8 Stipulation for Entry of Judgment: **V.F. NEUHAUS PROPERTIES, INC.**, represented by **Matthew**
9 **C. Addison, Esq.**, of **McDonald, Carano, Wilson, LLP**, of **Reno, Nevada**; **SPRINGCREEK**
10 **RESOURCES, INC.**; **ZEBRA INVESTMENTS, LTD.**; **PAUL R. MAYO, JR.**; **A. WADE**
11 **NOLLKAMPER**; **JOE McMAHON, JR.**; **STEVE A. TOFTE**; **LOUIS A. OSWALD, III**, Trustee,
12 all represented by **John E. Marvel, Esq.** of **Marvel & Kump, LTD.** of **Elko, Nevada** (hereafter
13 collectively referred to as "Appearing Defendants").

14 The record of this action shows that the following Defendants were duly and regularly
15 served with process in this action: **CATHERINE C. WEBB, ESTATE OF HARRY E. WEBB**,
16 **deceased, HEIRS OF CATHERINE C. WEBB, HEIRS OF HARRY E. WEBB; HARRY FRANCIS**
17 **WEBB; BEATRICE M. GREEN; VIRGIL GREEN; DOROTHY WEBB; JANE M. WEBB;**
18 **GEORGE E. VANNOY; LUCILLE VANNOY; and ALL OTHER PERSONS UNKNOWN**
19 **CLAIMING ANY RIGHT, TITLE, ESTATE, LIEN OR INTEREST IN THE REAL PROPERTY**
20 **DESCRIBED IN THE COMPLAINT ADVERSE TO PLAINTIFFS' OWNERSHIP, OR ANY**
21 **CLOUD UPON PLAINTIFFS' TITLE THERETO.** Process was served on these Defendants by
22 publication on January 20, 2003, as reflected in the Affidavit of Publication filed in the record of
23 this action on January 23, 2003. More than twenty (20) days exclusive of the date of service have
24 expired since said service upon said Defendants, and no answer by said Defendants having been
25 filed or said Defendants having not otherwise appeared, and no further time having been granted,
26 the default of Defendants, **CATHERINE C. WEBB, ESTATE OF HARRY E. WEBB, deceased,**
27 **HEIRS OF CATHERINE C. WEBB, HEIRS OF HARRY E. WEBB; HARRY FRANCIS WEBB;**
28 **BEATRICE M. GREEN; VIRGIL GREEN; DOROTHY WEBB; JANE M. WEBB; GEORGE E.**

1 VANNOY; LUCILLE VANNOY; and ALL OTHER PERSONS UNKNOWN CLAIMING ANY
2 RIGHT, TITLE, ESTATE, LIEN OR INTEREST IN THE REAL PROPERTY DESCRIBED IN
3 THE COMPLAINT ADVERSE TO PLAINTIFFS' OWNERSHIP, OR ANY CLOUD UPON
4 PLAINTIFFS' TITLE THERETO, was duly entered by the Clerk of this Court on February 14,
5 2003. (Hereafter, these Defendants are collectively referred to as the "Defaulting Defendants".)

6 The record further shows that the real property, subject of this action was duly and regularly
7 posted, as shown by the Affidavit of Posting Summons filed December 19, 2002. The record
8 further shows that Plaintiffs duly and regularly recorded notices of *Lis Pendens* in Elko and Eureka
9 Counties' Recorders' Offices, all as required by law.

10 At the hearing of this matter, through the Affidavit of Thomas J. Tomera, Plaintiffs offered
11 documentary evidence and Affidavit testimony establishing JULIAN TOMERA RANCHES, INC.,
12 STONEHOUSE DIVISION'S fee simple ownership and title to the surface estate of the lands
13 described below. Plaintiffs and Appearing Defendants have stipulated to the ownership of the
14 mineral interests in the lands described below. The said Affidavit, verified Complaint and the
15 record of this action as described above establish to the Court's satisfaction the lack of any right
16 title estate or interest on the part of the Defaulting Defendants in the lands and subsurface or
17 mineral estate of the lands described below.

18 **BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING, THE COURT**
19 **HEREBY FINDS, DECREES AND RENDERS JUDGMENT AS FOLLOWS:**

20 1. That the Plaintiffs and Appearing Defendants have resolved all issues between them in
21 the above captioned action, and they have set forth their agreement in the record of this action by
22 which they fully settled all claims and issues between them and seek entry of final judgment by the
23 Court.

24 2. That Plaintiff JULIAN TOMERA RANCHES, INC., STONEHOUSE DIVISION, is now
25 and has been since 1994 the owner in fee simple and in possession of the surface estate of the
26 following described lands:

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1 TOWNSHIP 31 NORTH, RANGE 52 EAST, MDM:

2 Elko County, Nevada:

3 Section 14: SE¼;

4 Section 23: All;

5 Section 24: All;

6 Section 25: All;

7 Section 35: All;

8 Section 33: All that portion lying in Elko County, Nevada, being the easterly portion of Section 33.

9 Eureka County, Nevada:

10 Section 33: All that portion lying in Eureka County, Nevada, being the westerly portion of Section 33.

11 3. That Plaintiff THOMAS J. TOMERA FAMILY TRUST, by and through its Trustees,
12 THOMAS J. TOMERA and PATSY S. TOMERA, owns a 54.38% undivided interest in the
13 subsurface or mineral estate including all hydrocarbons and subsurface resources in all the below-
14 described lands:

15 TOWNSHIP 31 NORTH, RANGE 52 EAST, MDM:

16 Elko County, Nevada:

17 Section 14: SE¼;

18 Section 23: All;

19 Section 24: All;

20 Section 25: All;

21 Section 35: All;

22 Section 33: All that portion lying in Elko County, Nevada, being the easterly portion of Section 33.

23 4. That Plaintiff THOMAS J. TOMERA FAMILY TRUST, by and through its Trustees,
24 THOMAS J. TOMERA and PATSY S. TOMERA, owns a 59.15% undivided interest in the
25 subsurface or mineral estate including all hydrocarbons and subsurface resources in all the below-
26 described lands:

27 TOWNSHIP 31 NORTH, RANGE 52 EAST, MDM:

28 Eureka County, Nevada:

Section 33: All that portion lying in Eureka County, Nevada, being the westerly portion of Section 33.

5. That the Appearing Defendants, V.F. NEUHAUS PROPERTIES, INC.; SPRINGCREEK
RESOURCES, INC.; ZEBRA INVESTMENTS, LTD.; PAUL R. MAYO, JR.; A. WADE
NOLLKAMPER; JOE McMAHON, JR.; STEVE A. TOFTE; LOUIS A. OSWALD, III, Trustee,
together own a net profits interest, as further defined below, of 16.34% in all the below-described

1 lands:

2 TOWNSHIP 31 NORTH, RANGE 52 EAST, MDM:

3 Elko County, Nevada:

4 Section 14: SE¼;

5 Section 23: All;

6 Section 24: All;

7 Section 25: All;

8 Section 35: All;

9 Section 33: All that portion lying in Elko County, Nevada, being the easterly portion of Section 33.

10 6. That the Appearing Defendants, V.F. NEUHAUS PROPERTIES, INC.; SPRINGCREEK
11 RESOURCES, INC.; ZEBRA INVESTMENTS, LTD.; PAUL R. MAYO, JR.; A. WADE
12 NOLLKAMPER; JOE McMAHON, JR.; STEVE A. TOFTE; LOUIS A. OSWALD, III, Trustee,
13 together own a net profits interest, as further defined below, of 8.71% in all the below-described
14 lands:

15 TOWNSHIP 31 NORTH, RANGE 52 EAST, MDM:

16 Eureka County, Nevada:

17 Section 33: All that portion lying in Eureka County, Nevada, being the westerly portion of
18 Section 33.

19 7. That the above stated 16.34% and/or 8.71% net profits interests owned by the
20 Appearing Defendants and described in Paragraphs 5 and 6 above are defined as:

21 16.34% and/or 8.71% of the net profit or profits that the THOMAS J. TOMERA FAMILY TRUST,
22 its successors or assigns, may receive from any sale or lease of any part or all of the minerals, or
23 mineral rights, at, upon or under the said lands aforementioned. It is expressly understood and
24 agreed that the said Defendants, their respective heirs, successors or assigns, shall have no right,
25 license or easement to enter upon said lands for the purpose of removing any minerals therefrom,
26 and shall have no right to sell, or to lease, or in any manner operate, or mine, any mineral deposit
27 in, upon or under said lands; it being expressly understood and agreed that said net profits interest
28 shall not be, and it is was not intended to be, a reservation by or a conveyance to, the predecessors
in interest of the said Defendants, or to create in them any estate in or to the fee in said lands, or any
part thereof. The THOMAS J. TOMERA FAMILY TRUST, its successors and assigns, shall have
full and complete ownership and control in, to and over all minerals and mineral rights in, upon or
under the said lands, and the whole thereof, with sole right and power to sell, lease or to operate the
same, subject only to the right in the said Defendants to receive from the THOMAS J. TOMERA
FAMILY TRUST the said 16.34% and 8.71% of that net profit or profits that may result from such
sale, leasing or operation of said minerals or mineral rights, as aforesaid.

8. That the Appearing Defendants' respective interests in the 16.34% and the 8.71% are:

V.F. NEUHAUS PROPERTIES, INC.: 12.50 %;

SPRINGCREEK PARTNERSHIP, LTD.: 50.00 %;

(Formerly, SPRINGCREEK RESOURCES, INC.)

1 ZEBRA INVESTMENTS, LTD.: 12.50 %;
2 PAUL R. MAYO, JR.: 12.50 %;
3 A. WADE NOLLKAMPER: 6.25 %;
4 JOE McMAHON, JR.: 2.08334 %;
5 STEVE A. TOFTE: 2.08333 %;
6 LOUIS A. OSWALD, III, Trustee: 2.0833 %.

7 9. That the Clerk of Court has duly entered the default of the Defaulting Defendants, and
8 judgment should be, AND HEREBY IS ENTERED, that none of them, their heirs, successors or
9 assigns, have any right, title, estate, claim or interest in or to the lands and subsurface estates
10 described above, to wit, CATHERINE C. WEBB, ESTATE OF HARRY E. WEBB, deceased,
11 HEIRS OF CATHERINE C. WEBB, HEIRS OF HARRY E. WEBB; HARRY FRANCIS WEBB;
12 BEATRICE M. GREEN; VIRGIL GREEN; DOROTHY WEBB; JANE M. WEBB; GEORGE E.
13 VANNOY; LUCILLE VANNOY; and ALL OTHER PERSONS UNKNOWN CLAIMING ANY
14 RIGHT, TITLE, ESTATE, LIEN OR INTEREST IN THE REAL PROPERTY DESCRIBED IN
15 THE COMPLAINT ADVERSE TO PLAINTIFFS' OWNERSHIP, OR ANY CLOUD UPON
16 PLAINTIFFS' TITLE THERETO; and they are hereby permanently enjoined and restrained from
17 asserting any such right, claim or interest.

18 10. That Plaintiffs have complied with all requirements of Chapter 40 of the Nevada
19 Revised Statutes, and are entitled to entry of Judgment.

20 11. That each party hereto shall bear his, her or its respective attorneys fees and costs
21 incurred in this matter.

22 DONE THIS DAY IN OPEN COURT, August 20, 2004,



[Signature]

DISTRICT JUDGE
SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR COUNTY OF EUREKA } SS
STATE OF NEVADA

I, the Undersigned COUNTY CLERK and Ex-Officio
CLERK of the SEVENTH JUDICIAL DISTRICT COURT do hereby CERTIFY
that the foregoing is a full, 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, this 25th day of August, 2004
Frances [Signature]
County Clerk and Ex-Officio Court Clerk
[Signature] Deputy Clerk

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