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12/11/2014

12:59 PM

**Official Record**

Recording requested By  
ROBERT WINES

Eureka County - NV

Mike Rebaleati - Recorder

Fee \$23.00

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RPTT:

Recorded By: LH

Book- 576 Page- 0021



0228901

APN: None

**Recording Requested By:**

Name: Robert J. Wines, Prof. Corp.

Address: 687 6<sup>th</sup> Street, Suite 1

City, State, Zip: Elko, NV 89801

**Send Tax Statement To:**

Name: Frank Diaz

Address: P.O. Box 109

City, State, Zip: Malin, OR 97732

Order Settling First and Final Accounting; Order for Payment of  
Attorney Fees; Order for Distribution and Discharge of Personal Representative

**Please complete the cover page, check one of the following and sign below.**

☒ I the undersigned hereby affirm that this document submitted for recording  
does not contain a social security number.

OR

☐ I the undersigned hereby affirm that this document submitted for recording  
contains a social security number of a person as required by law:

  
ROBERT J. WINES

\_\_\_\_\_  
Attorney  
Title

1 CASE NO. PR-P1-12-138

2 Dept. 1

NOV -5 PM 3:53

1000 DISTRICT COURT

FRK DEPUTY *lf*

3  
4  
5  
6 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
7 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO  
8

9 IN THE MATTER OF THE ESTATE OF  
10 JULIANA DIAZ aka,  
JULIANA IRENE DIAZ,

11 Deceased.  
12

**ORDER SETTLING FIRST AND  
FINAL ACCOUNTING; ORDER  
FOR PAYMENT OF ATTORNEY  
FEES; ORDER FOR DISTRIBUTION  
AND DISCHARGE OF PERSONAL  
REPRESENTATIVE**

13 FRANK DIAZ the duly appointed and qualified Executor of the above captioned Estate filed  
14 herein his Amended Petition to Settle First and Final Accounting; Petition for Payment of Attorney  
15 Fees; Petition for Distribution and Discharge of Personal Representative; Notice of Hearing having  
16 been given as required by law; this being the time and place scheduled for the hearing; the Court,  
17 being fully advised in this matter, finds as follows:

18 **DEATH OF DECEDENT.**

19 1. Decedent, JULIANA DIAZ died on the 21<sup>st</sup> day of August, 2012, in Tule Lake, State  
20 of California, and at the time of her death, she was a resident of Malin, Oregon. A copy of her  
21 Certificate of Death is contained in the file of this action.

22 **PROBATE OF ESTATE.**

23 2. A Petition for Summary Administration of Decedent's Estate was filed December 3,  
24 2012. Notice of Hearing was given by mail and by publication for the time and to the persons  
25 required by law. A hearing was set for the matter, and on January 16, 2013, Summary  
26 Administration of this Estate was ordered; FRANK DIAZ was appointed as Executor thereof and  
27 subscribed his Oath of Office; on February 12, 2013, he was duly appointed as Personal  
28 Representative and has served in that capacity since that date.



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3. Due to inadvertence, a copy of Decedent's Last Will and Testament, dated March 17, 2011, was not admitted to Probate at that time, although all proceedings in this action were conducted as though the Last Will and Testament had been duly admitted. On February 24, 2014, a Petition to Open, Publish and Admit Will to probate was filed and on June 6, 2014, the Court opened, published and admitted Decedent's Last Will and Testament to Probate.

**DEVISEES AND HEIRS AT LAW.**

4. To the best information and belief of Petitioner, at the time of her death, Decedent was married and was survived by her spouse and one (1) child. The names and addresses of the heirs-at-law and Devisees of the Decedent, to the best knowledge and information of the Petitioner are:

**NAME AND ADDRESS**

**RELATIONSHIP**

Frank Diaz  
P.O. Box 109  
Malin, OR 97732

Spouse

Delyle Diaz  
P.O. Box 676  
Merrill, OR 97633

Son

**HISTORICAL MATTERS/INVENTORY.**

5. The Executor filed his Inventory and Record of Value on August 14, 2013; a copy of the Inventory was mailed to all heirs-at-law on September 10, 2013, as shown by the Affidavit of Mailing contained in the file. That Inventory established the opening value of this Estate at \$181,088.86.

6. The assets belonging to this Estate and located in Elko and Eureka Counties, Nevada, are generally described as a reserved mineral interest in real and mineral estate leases.

7. The property belonging to this Estate are more particularly described as follows:

**MINERAL RESERVATION:**

8. An undivided interest in and to the minerals located within that certain real property situate, lying and being in the Counties of Elko and Eureka, State of Nevada, and more particularly described as follows:

///

All of decedent's right, title, estate and interest in and to coal, oil, gas and in and to all minerals of every kind or nature whatsoever existing upon or beneath the surface of or within the following described lands, including the right, if any, to use or consume so much of the surface thereof as is reasonably necessary in prospecting for, locating, extracting, producing or mining, including open-pit mining, or transporting said hydrocarbons or minerals or any by-products thereof; the foregoing right, title and interest is subject to and conditioned upon, however, the duty to compensate for the use or consumption of the surface or interference with other surface uses, if any, based upon fair market values thereof:

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

Section 9: E $\frac{1}{2}$ SE $\frac{1}{4}$ ; SW $\frac{1}{4}$ ; W $\frac{1}{2}$ SE $\frac{1}{4}$   
Section 11: All  
Section 17: E $\frac{1}{2}$   
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 the said Section 27.

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

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

Starting at the N.E. Corner of Section 1, Township 31 North, Range 52 East, M.D.M., thence S. 9°30' W., 925 feet; thence S. 34°30' W., 3,565 feet; thence S. 16°00' W., 5,105 feet; thence S. 395 feet to a point 1,300 feet East of the S.W. Corner of Section 12, Township 31 North, Range 52 East, M.D.M.

Section 3: E $\frac{1}{2}$ NE $\frac{1}{4}$   
Section 5: S $\frac{1}{2}$ N $\frac{1}{2}$ ; S $\frac{1}{2}$ ; N $\frac{1}{2}$ N $\frac{1}{2}$   
Section 9: All  
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.M.

Section 16: W $\frac{1}{2}$ NW $\frac{1}{4}$ ; N $\frac{1}{2}$ SW $\frac{1}{4}$   
Section 17: E $\frac{1}{2}$   
Section 21: All

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

Section 1: All  
Section 3: All  
Section 5: All  
Section 6: All



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

Section 7: All  
Section 8: All  
Section 9: All  
Section 10: All  
Section 11: All  
Section 12: SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; S $\frac{1}{2}$ SE $\frac{1}{4}$   
Section 13: All  
Section 14: All  
Section 15: All  
Section 16: All  
Section 17: All  
Section 18: All  
Section 21: Lots 1, 3 and 4  
Section 22: NE $\frac{1}{4}$   
Section 23: N $\frac{1}{2}$ N $\frac{1}{2}$

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

Section 1: W $\frac{1}{2}$   
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 $\frac{1}{4}$   
Section 21: All  
Section 23: All  
Section 24: SW $\frac{1}{4}$ SW $\frac{1}{4}$   
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 3: All  
Section 9: All  
Section 13: All  
Section 27: All  
Section 29: All  
Section 31: All  
Section 33: All  
Section 35: All

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

Section 25: SE $\frac{1}{4}$ ; S $\frac{1}{2}$ SW $\frac{1}{4}$

TOWNSHIP 33 NORTH, RANGE 53 EAST, M.D.B.&M.

Section 30: S $\frac{1}{2}$ S $\frac{1}{2}$

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1 TOWNSHIP 33 NORTH, RANGE 54 EAST, M.D.B.&M.

2 Section 21: All  
3 Section 33: All

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

5 Section 21: All

6 TOWNSHIP 32 NORTH, RANGE 56 EAST, M.D.B.&M.

7 Section 4: All  
8 Section 5: All that portion lying easterly of Nevada State Route 46;  
9 Section 8: All that portion lying easterly of Nevada State Route 46 and lying northerly  
10 of the following described fence line;

11 Beginning at Corner No. 1 which is on the East line of Section 9, from which  
12 the Northeast corner of said Section 9 bears North 0°21'48" West, 118.30  
13 feet;

14 THENCE South 80°06'35" West, 1,542.55 feet to Corner No. 2;

15 THENCE South 78°50'09" West, 1,951.12 feet to Corner No. 3;

16 THENCE South 68°29'32" West, 637.88 feet to Corner No. 4;

17 THENCE South 19°47'25" West, 2,080.34 feet to Corner No. 5;

18 THENCE South 74°34'50" West, 2,242.14 feet to Corner No. 6;

19 THENCE South 89°42'07" West, 3,331.03 feet to Corner No. 7;

20 THENCE North 80°34'24" West, 388.91 feet to Corner No. 8, a point on the  
21 West line of said Section 8, the point of beginning;

22 Section 9: All that portion lying northerly of the above described fence line.

23 AND INCLUDING any and all mineral estate right, title or interest in and to any lands  
24 located within Elko or Eureka Counties which are not more specifically described above.

25 **MINERAL LEASES:**

26 9. All of Decedent's interest in and to those certain mineral leases described as follows:

27 **A. Royal Standard**

28 All of Decedent's right, title and interest in and to that certain Lease, effective dated  
September 25, 2002, executed by ROYAL STANDARD MINERALS, INC., a New  
Brunswick, a Canada corporation and MANHATTAN MINING CO., a Nevada  
corporation, as Lessee, leasing the premises described therein from PETER M.  
TOMERA and TONI LYNN TOMERA, husband and wife, ELEANOR  
O'DONNELL, formerly ELEANOR TOMERA, a married woman as to her sole and  
separate property, JULIANA DIAZ, formerly JULIANA TOMERA, a married



woman as to her sole and separate property, LUCY B. MILLER, formerly LUCY B. TOMERA, a married woman as to her sole and separate property, MALFISA TOMERA, as Trustee of the JULIAN TOMERA DESCENDANT'S TRUST, a Trust existing within the JULIAN TOMERA FAMILY TRUST, U/D/T April 9, 1990, and THOMAS J. TOMERA and PATSY S. TOMERA, individually and as Trustees of the THOMAS J. TOMERA FAMILY TRUST, as Lessors; a Memorandum of Lease was recorded October 3, 2002, in Book 2, Page 35320, as File Number 488728, Official Records, Elko County, Nevada Recorder's Office.

Said Lease was amended July 14, 2010, to alter the term and the division of proceeds; the term of that Lease has been extended to September 25, 2019, and the Estate's share of the division of proceeds described in the Amended Lease is 4/18 percent of the amount due pursuant to the terms of the Lease.

The Leasehold interest was assigned by ROYAL STANDARD MINERALS, INC. and MANHATTAN MINING CO. to GOLDWEDGE, LLC dba SCORPIO GOLD during November, 2012.

The property leased hereby is 260 mineral acres, included within the description set forth above. This Lease expires September 25, 2019.

#### **B. Newmont**

All of Decedent's right, title and interest in and to that certain Lease, dated June 15, 1980, executed by and between NEWMONT EXPLORATION LIMITED, a Delaware corporation, as Lessee, and JULIAN TOMERA RANCHES, INC., a Nevada corporation, BATTISTA TOMERA, JR., and GEORGE TOMERA, as Lessors.

Said Lease was amended numerous times, which changed all parties to the Lease to the current parties of record; the Amendment February 1, 2004, extended the term of the Lease through February 1, 2024.

This Lease is for 640 acres, more or less.

#### **C. Evolving Gold**

All of Decedent's right, title and interest in and to that certain Lease, effective dated April 13, 2010, executed by and between EVOLVING GOLD CORP., a Nevada Corporation, as Lessor, and PETER M. TOMERA and TONI LYNN TOMERA, husband and wife, as to an undivided 1/6th interest, ELEANOR O'DONNELL, formerly ELEANOR TOMERA, a married woman, as her sole and separate property, as to an undivided 1/6th interest, JULIANA DIAZ, a married woman, as her sole and separate property, as to an undivided 1/6th interest, and LUCY MILLER, formerly LUCY HIGHTOWER, a married woman, as her sole and separate property, as to an undivided 1/6th interest, PETER TOMERA, THOMAS J. TOMERA, JULIANA DIAZ, LUCY B. MILLER and ELEANOR O'DONNELL, TRUSTEES OF THE JULIAN TOMERA DECEDENT'S TRUST as to an undivided 1/6th interest, and TOMAS J. TOMERA and PATSY S. TOMERA, TRUSTEES OF THE THOMAS J. TOMERA FAMILY TRUST, as to an undivided 1/6th interest, as Lessees.

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PETER TOMERA, THOMAS J. TOMERA, JULIANA DIAZ, LUCY B. MILLER and ELEANOR O'DONNELL, TRUSTEES OF THE JULIAN TOMERA DECEDENT'S TRUST assigned all of the Trust's undivided 1/6th interest to JULIANA DIAZ, LUCY B. MILLER and ELEANOR O'DONNELL by Document dated April 13, 2010.

The property leased is 2,000 mineral acres; this Lease expires April 13, 2021.

**D. Gold Standard**

All of Decedent's right, title and interest in and to that certain Lease, effective dated September 17, 2010, executed by and between GOLD STANDARD VENTURES (US) INC., a Nevada Corporation ("GOLD STANDARD"), and THOMAS J. TOMERA and PATSY S. TOMERA, husband and wife, PETER M. TOMERA and TONI LYNN TOMERA, husband and wife, ELEANOR O'DONNELL, a married woman, as her sole and separate property, JULIANA DIAZ, a married woman, as her sole and separate property, and LUCY B. MILLER, a married woman, as her sole and separate property.

The property leased is 400.034 mineral acres; this Lease expires September 17, 2021.

**CREDITORS.**

10. That Notice to Creditors was given by publication commencing on May 25, 2013. Pursuant to NRS 145.060, all Creditors must file their claims within SIXTY (60) DAYS after the mailing or first publication of Notice to Creditors. Therefore, the time for Creditors to file their claims expired on July 25, 2013.

11. That the Executor has paid all funeral expenses and other similar charges which are known to him. No Creditors filed claims in this matter.

**ATTORNEY FEES/ADMINISTRATIVE COSTS/PERSONAL REPRESENTATIVE FEES.**

12. That the Executor has engaged ROBERT J. WINES, PROF. CORP. to probate this Estate. That during the normal course of this administration, the attorneys prepared documents and pleadings to insure that the Personal Representative has been properly appointed and that notice of hearings has been properly given. Creditors were given notice so all outstanding claims could be processed. The Attorneys assisted with preparation and filing of an Inventory. The attorneys have and will render further services on behalf of the Estate relative to distribution and discharge, including preparation of Receipts.

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1           13.     That the Attorneys have rendered services on behalf of this Estate with a value of  
2     \$2,170.00, together with a good faith estimate of \$600.00 for services to be rendered to discharge  
3     this Estate. An Affidavit of Counsel regarding time expended on this action, including a good faith  
4     estimate of the value of services to be rendered is contained in the file. The total value of those  
5     services is \$2,770.00. All costs have been paid.

6           14.     It is estimated that closing costs will be \$150.00.

7           15.     That the Personal Representative is entitled to payment of statutory fees and  
8     commissions; the Personal Representative hereby waives his fee.

9     **FINAL ACCOUNTING.**

10          16.     The First and Final Accounting is attached to the Petition as Exhibit "A." All  
11     expenses were necessary and were reasonable and appropriate under the circumstances of this Estate.

12          17.     This Accounting should be allowed, approved and settled as rendered.

13     **DISTRIBUTION AND DISCHARGE.**

14          18.     That the dispositive provisions of Decedent's Last Will and Testament provide as  
15     follows:

16                 "3.2 MINERAL RIGHTS. I individually own income-producing mineral rights in  
17                 Nevada. During my spouse's lifetime, my spouse shall receive all income and  
18                 dividends from such mineral rights. However, title and ownership to such mineral  
19                 rights shall pass to my son and thereafter to my sons's lineal descendants only."

20          19.     Pursuant to the provisions of Decedent's Last Will and Testament, the assets and  
21     mineral leases, described in Paragraph 8 and 9 above, should be distributed to DEL YLE DIAZ, as  
22     his sole and separate property, subject to a life estate whereby all income produced from those  
23     minerals and mineral leases should be paid over and delivered to FRANK DIAZ during his lifetime.

24                 NOW THEREFORE, IT IS THE ORDER of this Court as follows:

25          1.     That due and legal notice of the hearing of the Amended Petition to Settle First and  
26     Final Accounting; Petition for Payment of Attorney Fees; Petition for Distribution and Discharge  
27     of Personal Representative has been given to all persons interested in said Estate as required by law.

28          2.     That the First and Final Accounting is hereby approved, allowed and settled as  
rendered.

