

EUREKA COUNTY, NV

2019-238320

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COVER SHEET

THOMAS P. ERWIN P.C.

LISA HOEHNE, CLERK RECORDER

Assessors Parcel No. – 009-200-01

Recorded at the request of
and when recorded return to:

Thomas P. Erwin
Erwin Thompson Failers
241 Ridge Street
Suite 210
Reno, Nevada 89501

The undersigned affirms that this document
does not contain the personal information of any person.

Judgment and Findings of Fact and Conclusions of Law

Second Judicial District Court, Washoe County, Nevada
Case No. CV16-01162

Grantors (Defendants):

M I A Mines Company, also known as MIA Mines Company, M.I.A. Mines Company, M I A
Mines Co., MIA Mines Co., M.I.A. Mines Co., M I A Mining Company, M.I.A. Mining Company,
and MIA Mining Company
Blue Tee Corporation
American Zinc Company of Tennessee
American Zinc Company
American Zinc, Lead and Smelting Company
Azcon Corporation
AZ Holding Corporation
Western Mine Services, Inc.
Combined Metals Reduction Company
Dallas Mines, Inc.
Dallas Exploration Ltd.
Stephen Irwin
Paul Kalvin

Grantee (Plaintiff): Lone Mountain Zinc Ltd.

By


Thomas P. Erwin

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10 Attorneys for Plaintiff

11 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
12 **IN AND FOR THE COUNTY OF WASHOE**

13 Lone Mountain Zinc Ltd., a Nevada
14 corporation,

15 Plaintiff,

16 v.

17 M I A Mines Company, also known as MIA
18 Mines Company, M.I.A. Mines Company, M I
19 A Mines Co., MIA Mines Co., M.I.A. Mines
20 Co., M I A Mining Company, M.I.A. Mining
21 Company, and MIA Mining Company, an
22 unincorporated joint venture; Blue Tee
23 Corporation, a Delaware corporation, formerly
24 known as American Zinc Company of
25 Tennessee, American Zinc Company, American
26 Zinc, Lead and Smelting Company, Azcon
27 Corporation, and AZ Holding Corporation;
28 Western Mine Services, Inc., a Delaware
corporation; Combined Metals Reduction
Company, a Utah corporation; Dallas Mines,
Inc., a Delaware corporation; Dallas
Exploration Ltd., a British Columbia
corporation; Stephen Irwin; Paul Calvin; and
DOES 1-50, corporations; individuals; joint
ventures; partnerships or other business entities
unknown claiming any right, title, estate, lien or
interest (whether community, entirety, dower,
curtesy, joint tenancy, tenancy in common,
legal, equitable, contingent, vested, possessory,
mineral, surface, sub-surface, or otherwise) in
the real property described in this Complaint
adverse to plaintiff's ownership or asserting any
cloud on plaintiff's title,

Defendants.

Case No. CV16-01162

Dept. No. 10

1 **JUDGMENT OF QUIET TITLE**

2 On the date stated below, this action came on for hearing before the Court, presiding
3 without a jury, and the issues having been heard and the Court having made and entered its
4 Findings of Fact and Conclusions of Law, it is adjudged, decreed and ordered:

5 1. Lone Mountain Zinc Ltd., a Nevada corporation, is the sole and exclusive owner
6 of the Mountain View patented mining claim, also known as the Mountain View Mine and
7 Mountain View Lode patented lode mining claim, Patent No. 1231073, Mineral Survey No.
8 4830, Assessor's Parcel No. 009-200-01, situated in Eureka County, Nevada ("the Property"),
9 free and clear of all claims asserted or which may be or which might have been asserted by any
10 defendant, including, without limitation, all unknown persons and entities.

11 2. None of the defendants or any unknown person or entity has any claim, estate,
12 interest, lien or right in or to the Property or a cloud on the title to the Property.

13 3. The defendants, and each of them, and all unknown persons and entities shall be
14 and are forever barred from asserting any claim whatever in the Property adverse to plaintiff.

15 4. Plaintiff is awarded plaintiff's taxable costs of this action.

16 Dated March 14, 2019.

17 

18 District Judge

19
20
21
22
23
24
25
26 **CERTIFIED COPY**

27 The document to which this certificate is attached is a full, true and correct copy of
28 the original on file and of record in my office.

DATE: 3/14/19
JACQUELINE BRYANT, Clerk of the Second Judicial
District Court, in and for the County of
Washoe, State of Nevada.

By  Deputy

COPY



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11 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

12 **IN AND FOR THE COUNTY OF WASHOE**

13 Lone Mountain Zinc Ltd., a Nevada
14 corporation,

15 Plaintiff,

16 v.

17 M I A Mines Company, also known as MIA
18 Mines Company, M.I.A. Mines Company, M I
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20 Co., M I A Mining Company, M.I.A. Mining
21 Company, and MIA Mining Company, an
22 unincorporated joint venture; Blue Tee
23 Corporation, a Delaware corporation, formerly
24 known as American Zinc Company of
25 Tennessee, American Zinc Company, American
26 Zinc, Lead and Smelting Company, Azcon
27 Corporation, and AZ Holding Corporation;
28 Western Mine Services, Inc., a Delaware
corporation; Combined Metals Reduction
Company, a Utah corporation; Dallas Mines,
Inc., a Delaware corporation; Dallas
Exploration Ltd., a British Columbia
corporation; Stephen Irwin; Paul Calvin; and
DOES 1-50, corporations; individuals; joint
ventures; partnerships or other business entities
unknown claiming any right, title, estate, lien or
interest (whether community, entirety, dower,
curtesy, joint tenancy, tenancy in common,
legal, equitable, contingent, vested, possessory,
mineral, surface, sub-surface, or otherwise) in
the real property described in this Complaint
adverse to plaintiff's ownership or asserting any
cloud on plaintiff's title,

Defendants.

Case No. CV16-01162

Dept. No. 10

1 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

2 This action seeks to quiet title to plaintiff's interest in the Mountain View patented
3 mining claim, also known as the Mountain View Mine and the Mountain View Lode patented
4 lode mining claim. The Court sitting without a jury held a hearing on plaintiff's claims for
5 relief on March 14, 2019.

6 **A. Findings of Fact.**

7 **Substantive Facts**

8 1. This is an action affecting title and possession to the Mountain View patented
9 mining claim, also known as the Mountain View Mine and the Mountain View Lode patented
10 lode mining claim, Patent No. 1231073, Mineral Survey No. 4830, Assessor's Parcel No. 009-
11 200-01, situated in Eureka County, Nevada, together with all appurtenances to and
12 improvements on the patented mining claim, referred to in these Findings of Fact and
13 Conclusions of Law as the "Property". Plaintiff claims title to the Property.

14 2. Plaintiff acquired all right, title and interest in and to the Property by the
15 Quitclaim Deed from Combined Metals Reduction Company, a Utah corporation, to plaintiff
16 dated September 21, 2015, recorded in the Office of the Eureka County Recorder on September
17 28, 2015, Document No. 229890, and corrected by the Correction of Quitclaim Deed Dated
18 September 22, 2016, recorded in the Office of the Eureka County Recorder on September 22,
19 2016, Document 231969.

20 3. Defendant M I A Mining Company, also known as M I A Mines Co., MIA
21 Mines Co., M.I.A. Mines Co., MIA Mining Company, M.I.A. Mining Company, and MIA
22 Mining company, was an unincorporated joint venture; the joint venture was dissolved; based
23 on statements in instruments recorded in the Office of the Eureka County Recorder one member
24 of the joint venture was American Zinc Company of Tennessee.

25 4. Defendant Blue Tee Corporation, a Delaware corporation, was formerly a Maine
26 corporation, and was formerly named American Zinc Company of Tennessee, American Zinc
27 Company, American Zinc, Lead and Smelting Company, Azcon Corporation, and AZ Holding
28 Corporation; according to the records of the Nevada Secretary of State, the corporation is not

1 qualified to transact business in the State of Nevada; the corporation does not maintain an office
2 or place of business in the State of Nevada; the corporation is or was a subsidiary of Gold Fields
3 Mining Company, a division of Hanson Natural Resources Company, a Delaware general
4 partnership, which conveyed all of its right, title, and interest to Combined Metals Reduction
5 Company, Plaintiff's predecessor-in-interest, by the Quitclaim Deed dated August 17, 1993,
6 recorded in the Office of the Eureka County Recorder on October 19, 1993, Document 147080.

7 5. Defendant Western Mine Services, Inc., is or was a Delaware corporation;
8 according to the records of the Nevada Secretary of State, the corporation is not qualified to
9 transact business in the State of Nevada.

10 6. Defendant Combined Metals Reduction Company is or was a Utah corporation;
11 according to the records of the Nevada Secretary of State, the corporation is not qualified to
12 transact business in the State of Nevada.

13 7. Dallas Exploration Ltd. is or was a British Columbia corporation which
14 maintained its principal place of business in Vancouver, British Columbia; according to the
15 records of the Nevada Secretary of State, the corporation is not qualified to transact business in
16 the State of Nevada.

17 8. Defendant Dallas Mines, Inc. is or was a Delaware corporation; according to the
18 records of the Nevada Secretary of State, the corporation is not qualified to transact business in
19 the State of Nevada.

20 9. Defendant Stephen Irwin is or was a resident of the State of Florida; Stephen
21 Irwin was a co-plaintiff in the action Stephen Irwin and Paul C. Kalvin, Plaintiffs vs. Combined
22 Metals Reduction Company, Defendant, Case No. A389696, in the Eighth Judicial District
23 Court of the State of Nevada, Clark County, Nevada; the records of the Clerk of the Eighth
24 Judicial District Court show that no actions have been taken in the lawsuit since May 13, 1999;
25 Stephen Irwin recorded a Notice of Filing Foreign Judgment in the Office of the Eureka County
26 Recorder on March 31, 1999, Document 172111; the foreign Judgment was entered on April 27,
27 1998 by the Supreme Court of the State of New York, County of New York, Case Index No.
28 603408-97; the records of the Supreme Court of the State of New York show that the action was

1 disposed; the Judgment entered in the lawsuit was not renewed as required by NRS 17.214 and,
2 accordingly, the judgment expired by limitations on June 16, 2006, six years after the date the
3 judgment was entered by the Eighth Judicial District Court; the Notice of Filing Foreign
4 Judgment remains of record in the Office of the Eureka County Recorder and is a cloud against
5 the title of Plaintiff.

6 10. Paul Calvin is deceased and was a resident of the State of New Jersey or the
7 State of Florida; the whereabouts of the heirs, successors and assigns of Paul C. Calvin are
8 unknown to Plaintiff; Paul Calvin was a co-plaintiff in the action Stephen Irwin and Paul C.
9 Calvin, Plaintiffs vs. Combined Metals Reduction Company, Defendant, Case No. A389696, in
10 the Eighth Judicial District Court of the State of Nevada, Clark County, Nevada; the records of
11 the Clerk of the Eighth Judicial District Court show that no actions have been taken in the
12 lawsuit since May 13, 1999; Paul Calvin recorded a Notice of Filing Foreign Judgment in the
13 Office of the Eureka County Recorder on March 31, 1999, Document 17211; the foreign
14 Judgment was entered on April 27, 1998 by the Supreme Court of the State of New York,
15 County of New York, Case Index No. 603408-97; the records of the Supreme Court of the State
16 of New York show that the action was disposed; the Judgment entered in the lawsuit was not
17 renewed as required by NRS 17.214 and, accordingly, the judgment expired by limitations on
18 June 16, 2006, six years after the date the judgment was entered by the Eighth Judicial District
19 Court; the Notice of Filing Foreign Judgment remains of record in the Office of the Eureka
20 County Recorder and is a cloud against the title of Plaintiff.

21 11. Defendants DOES 1-50 are corporations, individuals, joint ventures, limited
22 liability companies, partnerships, or other business entities who are:

23 a. Successors-in-interest of one or more of the specifically named
24 defendants in this action; or

25 b. Any other persons or entities whose identities are unknown to Plaintiff,
26 claiming any right, title, or estate, lien or interest (whether community, entirety, dower,
27 courtesy, joint tenancy, tenancy in common, legal, equitable, contingent, possessory, mineral,
28 surface, sub-surface, vested, or otherwise) in all or any part of the Property; or

1 c. who presently claim, have claimed, or may claim, an interest adverse to
2 Plaintiff or assert any claim or assert any cloud on Plaintiff's title to the Property.

3 12. Plaintiff and its immediate predecessor-in-interest, Combined Metals Reduction
4 Company, have paid all taxes, state, county and municipal, which have been levied on or
5 against the Property for a period of more than two (2) years before the filing of the Complaint as
6 required by NRS 11.150 and NRS 11.060.

7 13. Plaintiff and plaintiff's immediate predecessor-in-interest, Combined Metals
8 Reduction Company, acquired title to the Property under NRS 40.010 based on their exclusive,
9 open, notorious and hostile possession of the Property. For a continuous period of more than
10 fifteen (15) years before the filing of this Complaint, plaintiff and plaintiff's predecessors-in-
11 interest have been in the actual, continuous, exclusive, open and adverse possession of the
12 Property and have claimed to own the Property in its entirety against the whole world. This
13 claim of ownership, occupation and possession of the Property satisfies the requirements of
14 NRS 11.060 which allow a claimant to seek a judgment quieting title two (2) years following
15 commencement of its adverse possession.

16 14. For a continuous period of more than fifteen (15) years before the filing of the
17 Complaint plaintiff and plaintiff's immediate predecessor-in-interest, Combined Metals
18 Reduction Company and its predecessors-in-interest, have paid all ad valorem real property and
19 other taxes assessed, levied and collected against the Property.

20 15. Plaintiff and plaintiff's immediate predecessor-in-interest, Combined Metals
21 Reduction Company and its predecessors-in-interest, legally possessed the Property to assure
22 that no third party had entered on the Property to construct any improvements or to assert any
23 possessory interest.

24 16. Defendants have not been seized or possessed of any portion of the Property, nor
25 have defendants paid any of the ad valorem real property and other taxes assessed, levied and
26 collected against the Property at any time during five (5) years before the commencement of this
27 action and defendants are thus barred by the statute of limitations from defending against
28 plaintiff's title to the Property.

1 Mail of Thomas P. Erwin dated August 10, 2016, filed with the Court on August 10, 2016, and
2 the Affidavit of Service of Complaint and Summons by Certified Mail dated September 2, 2016,
3 filed with the Court on September 2, 2016.

4 23. None of the defendants filed an answer, motion or other responsive pleading
5 within the time allowed under the Nevada Rules of Civil Procedure Rule 12, except defendants
6 Combined Metals Reduction Company, Dallas Mines, Inc., and Western Mine Services, Inc.
7 which executed Disclaimers dated September 22, 2016, which were filed with the Court on
8 September 22, 2016. By the Disclaimers Defendants Combined Metals Reduction Company,
9 Dallas Mines, Inc. and Western Mine Services, Inc. disclaimed any right, title or interest in and
10 to the Property.

11 1. On September 7, 2016, Plaintiff filed the Application for Entry of Defaults for
12 Defendants Blue Tee Corporation, Dallas Exploration Ltd., M I A Mines Company and Stephen
13 Irwin; and on October 3, 2016 Plaintiff filed the Entry for Default of Paul Kalvin.

14 2. On September 7, 2016, Plaintiff filed the Affidavit of Thomas P. Erwin in Support
15 of Application for Entry of Defaults for Blue Tee Corporation, Dallas Exploration Ltd., M I A
16 Mines Company and Stephen Irwin, and on September 30, 2016 Plaintiff filed the Affidavit of
17 Thomas P. Erwin in Support of Application for Entry of Default for Paul Kalvin.

18 3. The Clerk of the Court entered the defaults of the following named defendants:

19 a. Blue Tee Corporation, a Delaware corporation, entered September 7,
20 2016

21 b. Dallas Exploration Ltd., a British Columbia corporation, entered
22 September 7, 2016.

23 c. M I A Mines Company, an unincorporated joint venture, entered
24 September 7, 2016.

25 d. Stephen Irwin entered September 7, 2016.

26 e. Paul Kalvin entered October 3, 2016.

27 4. On March 6, 2018, plaintiff filed plaintiff's Application for Judgment and the
28 Affidavits of Bruce Durham and J. Michael Perry in Support of the Application for Judgment

1 and the Declaration of Thomas P. Erwin in Support of the Application for Judgment.

2 5. On March 13, 2018, Plaintiff filed the Affidavit of Larry T. Atkinson in Support
3 of Application for Judgment.

4 6. On February 26, 2019, Plaintiff filed the Affidavit of Thomas P. Erwin in Support
5 of Application for Judgment.

6 **Conclusions of Law**

7 The Court makes the following Conclusions of Law:

8 1. This Court is vested with jurisdiction of the subject matter of this action pursuant
9 to Article 6, Section 6 of the Nevada Constitution and NRS 4.370(2).

10 2. Plaintiff has met all statutory requirements in attempting to locate the parties
11 who may have asserted an interest in the Property.


12 3. Plaintiff has caused the Summons and Complaint to be served in accordance with
13 the requirements of the Nevada Rules of Civil Procedure, the Nevada Revised Statutes and this
14 Court's Order for Publication of Summons entered on September 24, 2016, and this Court has
15 personal jurisdiction of the defendants and has jurisdiction of the Property subject to this action.

16 4. Plaintiff is entitled to a judgment and decree quieting title in plaintiff and
17 declaring that:

18 a. The defendants have no right, title, estate, lien or interest in and to the
19 Property.

20 b. The defendants are barred from asserting any claim against plaintiff's
21 title in and to the Property.


22 Dated March 14, 2019.

23
24 
25 District Judge

26 **CERTIFIED COPY**

27 The document to which this certificate is attached is a full, true, and correct copy of
28 the original on file and of record in my office.

DATE: 3/14/19
JACQUELINE BRYANT, Clerk of the Second Judicial
District Court, in and for the County of
Washoe, State of Nevada.

By  Deputy