

Handwritten initials/signature

1 Michael L. Matuska
2 BROOKE · SHAW · PLIMPTON · ZUMPFT
3 State Bar No. 5711
4 1590 Fourth Street
5 Minden, Nevada 89423
6 Phone: 775-782-7171
7 Fax: 775-782-3081

U.S. DISTRICT COURT
DISTRICT OF NEVADA
ENTERED & SERVED
FEB 28 2002
CLERK, U.S. DISTRICT COURT
BY *[Signature]* DEPUTY

5 Attorney for Defendants Brooks Trust and Lyder Trust

6 Evan Bradley Beavers
7 EVAN BEAVERS & ASSOCIATES
8 1650 Highway 395, Suite 101
9 Minden, Nevada 89423
10 Phone: 775-782-5110
11 Fax: 775-782-0822

U.S. DISTRICT COURT
DISTRICT OF NEVADA
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02 FEB 27 AM 9:57
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10 Attorney for Plaintiff Washoe Tribe

BROOKE · SHAW · PLIMPTON · ZUMPFT
POST OFFICE BOX 2860
MINDEN, NEVADA 89423
(775) 782-7171

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

14 WASHOE TRIBE OF NEVADA and
15 CALIFORNIA,

CASE NO. CV-N-98-00645-ECR (PHA)

16 Plaintiff,

**STIPULATION TO JUDGMENT AND
JUDGMENT**

17 vs.

18 DONALD E. BROOKS AND LYNETTE L.
19 BROOKS, Trustees of the Brooks Family
20 Trust; DANTE LOMMORI and ELENOR
21 LOMMORI and KENNETH D. LOMMORI;
22 GLENN E. LOGAN and ELEONORANN E.
23 LOGAN, Trustees of the Glen Edwin and
24 Eleonorann E. Logan Family Trust; THE
25 BANK OF NEW YORK, Trustee under the
26 Pooling and Servicing Agreement Series
27 1994-X; E. LYLE LYDER and JAYNE A.
28 LYDER, Trustees of the E. Lyle Lyder Family
Trust; ADMINISTRATOR OF THE SMALL
BUSINESS ADMINISTRATION, an agency
of the government of the United States; and
DOES I through X,

Defendants.

SEAL
CERTIFIED TO BE A TRUE COPY
Clerk, United States District Court
By *[Signature]*
Deputy Clerk

0536431

214

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1 COME NOW Plaintiff, Washoe Tribe of Nevada and California and Defendants
2 Donald E. Brooks and Lynette L. Brooks, Trustees of the Brooks Family Trust ("Brooks Trust"),
3 and E. Lyle Lyder and Jayne A. Lyder, Trustees of the E. Lyle Lyder Family Trust ("Lyder
4 Trust"), and with regard to a portion of APN 1220-10-802-002, a portion of APN 1220-15-611-
5 015 and Carson River Claim No. 138), do hereby stipulate and agree as follows:

6 1. On or about 23 September 1871, J.R. Johnson conveyed real property to Fred
7 Banning. The deed was recorded in the Official Records of Douglas County at Book D of deeds,
8 Page 392. The disputed portion of the real property description contained in the deed is as
9 follows:

[A]ll that certain tract or parcel of land lying and being in the
County of Douglas, State of Nevada, to wit, five acres of land
embracing the South West Corner of the West half of the
North West quarter of Section Fourteen Township No. (12)
Range (20) East, the same being and lying on the South side
of the East Branch of Carson River.

14 2. Although the parties have reviewed certain historical information from sources
15 including the Douglas County Assessor, the federal water master, and the office of the state
16 engineer, the first known survey depicting the above-referenced Johnson-Banning conveyance is
17 that Record of Survey for the Washoe Tribe of Nevada and California, performed by the Murray-
18 McCormick Environmental Group and recorded in the Official Records of Douglas County on 7
19 June 1973 as Document 66702, in Book 673, Page 270. This survey depicted the property
20 conveyed from Johnson to Banning, roughly, as a five (5) acre geometrical parcel extending into
21 the East Branch of the Carson River.

22 3. The next survey depicting the Johnson-Banning conveyance is that Record of Survey
23 for Washoe Tribe of Nevada and California, performed by Charles F. Cassano, PLS, and recorded
24 in the Official Records of Douglas County, Nevada on 30 December 1997 in File No. 429419,
25 Book 1297, Page 5486. This survey is a retracement of the Johnson-Banning conveyance depicted
26 on the 1973 Murray-McCormick survey.

27 4. The Washoe Tribe commenced the instant lawsuit on 20 October 1998, alleging,
28 essentially, that the property conveyed from Johnson to Banning is limited to the five (5) acre

1 parcel depicted on the 1973 Murray-McCormick survey and the 1997 Charles F. Cassano survey,
2 that the named defendant property owners Logan Trust, Brooks Trust, and Dante Lommori and
3 Elenor Lommori and Kenneth D. Lommori ("Lommoris"), are successors in interest only to that
4 five (5) acre parcel, that the Washoe Tribe of Nevada and California is the successor in interest to
5 all other property in the South West Corner of the West half of the North West quarter of Section
6 Fourteen Township No. (12) Range (20) East, and that Defendants are illegally possessing the
7 remainder of the property in the West half of the North West quarter of Section Fourteen
8 Township No. (12) Range (20) East. The Washoe Tribe of Nevada and California sought to quiet
9 title, ejectment, and trespass damages.

10 5. Defendants Lommoris were dismissed from this case on 12 January 2000 pursuant to a
11 stipulation reached with the Washoe Tribe of Nevada and California.

12 6. Defendant Logan Trust was dismissed from this case on 1 February 2001 pursuant to
13 a stipulation reached with the Washoe Tribe of Nevada and California.

14 7. Defendant Small Business Administration was dismissed from this case on 1
15 February 2001 pursuant to a stipulation reached with the Washoe Tribe of Nevada and California.

16 8. Default judgment was entered in favor of the Brooks Trust and against Unknown
17 Defendants Unknown on 3 July 2001 pursuant to Court Order.

18 8. On 4 February 2002, on behalf of Defendant Brooks Trust, Tri-State Surveying, John
19 S. Parrish, PLS, filed a Record of Survey in the Official Records of Douglas County as Document
20 No. 534004, Book No. 0202, Page No. 1174. This Record of Survey depicts, among other things,
21 that real property conveyed from Johnson to Banning in 1871 as riparian lands and including the
22 entire portion of the W 1/2 of the NW 1/4 of said Section 14, Township 12 North, Range 20 East,
23 M. D. B. & M lying southwest of and adjacent to the Ordinary High Water Mark located on the
24 left (southwesterly) bank of the East Fork of the Carson River as determined by Tri-State
25 Surveying in cooperation with personnel from the Nevada Department of Conservation and
26 Natural Resources - Division of State Lands - on 04/18/2000.

27 9. The Parties to this Stipulation do hereby stipulate and accept the riparian boundaries of
28 the Johnson-Banning conveyance as depicted on the Tri State Surveying Record of Survey

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1 recorded in the official records of Douglas County, Nevada at Document No. 534004, Book No.
2 0202, Page No. 1174.

3 10. The Parties to this Stipulation do further stipulate that Defendant Brooks Trust is a
4 successor in interest to the property conveyed from Johnson to Banning in 1871, and that the
5 Brooks Trust has valid and enforceable title to all the real property, including tenements,
6 hereditaments and appurtenances to the real property described as:

7 All that real property located in Douglas County Nevada,
8 situated in the Southwest 1/4 of the Northwest 1/4 of Section
9 14 of Township 12 North, Range 20 East, Mount Diablo Base
10 & Meridian, said real property lying to the South and West of
11 the East Branch of the Carson River, excluding that real
12 property depicted on the Official Plat Map of Gardnerville
13 Ranchos Unit 3 as filed in the Official Records of Douglas
14 County, Nevada as document number 28310 (amended 4 June
15 1965 by document number 28378), together with all and
16 singular tenements, hereditaments and appurtenances
17 thereunto belonging, or in anywise appertaining, and the rents,
18 issues and profits thereof, including those Carson River
19 surface water rights identified as Claim No. 138.
20 (A portion of A.P.N. 1220-14-000-001).

21 11. As part of this stipulation, the Brooks Trust will quitclaim the following described
22 real property to the Washoe Tribe of Nevada and California:

23 All that real property located in Douglas County, Nevada,
24 situate in the Southwest 1/4 of the Northwest 1/4 of Section
25 14, Township 12 North, Range 20 East, Mount Diablo Base &
26 Meridian, lying and being to the North and East of the
27 Ordinary High Water Mark (OHW) of the East Branch of the
28 Carson River, as that OWH was located on 18 April 2000 and
depicted on the record of survey filed on behalf of Grantor on
the 4th day of February, 2002, Book 0202, Page 1174, as
Document No. 534004 in the Official Records of Douglas
County, Nevada including all lands that may accrete to the
North and East of the OHW after 18 April 2000,

Together with all and singular the tenements, hereditaments
and appurtenances thereunto belonging or in anywise
appertaining, and any reversions, remainders, rents, issues or
profits thereof.

Reserving unto Grantor the following described real property:

All that real property located in Douglas County, Nevada,
situate in the Southwest 1/4 of the Northwest 1/4 of Section

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1 14, Township 12 North, Range 20 East, Mount Diablo Base &
2 Meridian, said real property lying to the South and West of the
3 OHW of the East Branch of the Carson River as that OHW is
4 described in the "Notes" of that Record of Survey filed for
5 record the 4th day of February 2002 in Book 0202, Page 1174,
6 Document No. 534004 in the Official Records of Douglas
7 County, excluding that real property depicted on the Official
8 Plat Map of Gardnerville Ranchos Unit 3 as filed in the
9 Official Records of Douglas County, Nevada as document
10 number 28310 (amended 4 June 1965 by document number
11 28378),

12 Together with all and singular tenements, hereditaments and
13 appurtenances thereunto belonging, or in anywise
14 appertaining, and the rents, issues and profits thereof,
15 including those Carson River surface water rights identified as
16 Claim No. 138.

17 Upon the execution of the quitclaim deed, the Washoe Tribe shall have valid and
18 enforceable title to the property conveyed by the quitclaim deed as against the Brooks Trust.

19 WHEREFORE, the Parties to this Stipulation do hereby agree and stipulate as follows:

- 20 1. That judgment be entered in favor of Defendants and against the Washoe Tribe of
21 Nevada and California on all causes of action alleged in the Complaint and that the Complaint be
22 dismissed with prejudice;
- 23 2. That judgment be entered in favor of the Brooks Trust quieting title against the Washoe
24 Tribe of Nevada and California based on the legal description contained in paragraph 10 above;
- 25 3. That the Brooks quitclaim to the Washoe Tribe that property described in paragraph 11,
26 and that upon the execution of the quitclaim deed title to the property conveyed by the quitclaim
27 deed shall be quieted in favor of the Washoe Tribe and against the Brooks Trust;
- 28 4. That the judgment entered in accordance with this Stipulation and the Judgment
against Unknown Defendants entered on 3 July 2001 are and shall be final judgments and may be
recorded as such;

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///
///

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1
2 5. That any and all motions be denied as moot with the entry of the stipulated judgment.

3
4 DATED: 22nd February, 2002.

BROOKE · SHAW · PLIMPTON · ZUMPFT

5 By: [Signature]
MICHAEL L. MATUSKA
6 S.B. 5711
1590 4th Street
7 Minden, Nevada 89703
Attorney for Brooks Trust and
8 Lyder Trust

9 DATED: 25th February, 2002.

EVAN BEAVERS & ASSOCIATES

10 By: [Signature]
11 EVAN BEAVERS
1650 Highway 395, Suite 101
12 Minden, Nevada 89423
Attorney for Plaintiff Washoe Tribe of
13 Nevada and California

14
15 JUDGMENT

16 Based on the Stipulation to Judgment, and for good cause appearing, it is hereby ordered
17 that judgment is entered in accordance with the terms of the Stipulation to Judgment.

18
19 DATED: 26 February, 2002

20 [Signature]
UNITED STATES DISTRICT JUDGE

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23
24
25 REQUESTED BY
Brooke Shaw et al
IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

26
27 2002 MAR -7 PM 3: 02

28 LINDA SLATER
RECORDER

PAID 19⁰⁰ DEPUTY