

STATE OF SOUTH DAKOTA)
)ss.
COUNTY OF LAWRENCE)

IN CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT

DTRC LLC, a Nevada limited liability
company,

Plaintiff,

vs.

LAWRENCE COUNTY, SOUTH
DAKOTA, a political subdivision of the
state of South Dakota, BELLEFISH INC.,
a South Dakota corporation, MAVERIX
METALS (NEVADA) INC., a Nevada
corporation, and all persons unknown who
have or claim to have any interest or estate
in or lien or encumbrance upon the
minerals described in the Complaint or
any part of thereof and against any
personal representatives, heirs, devisees,
legatees, administrators or creditors of any
such person or persons who may be
deceased, whether such personal
representatives, heirs, devisees, legatees,
and creditors be known or unknown,

Defendants.

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COMPLAINT
FOR
QUIET TITLE TO MINERALS

COMES NOW, the above-named Plaintiff and for its cause of action states and
alleges as follows:

PARTIES

1. Plaintiff DTRC LLC, formerly known as Dakota Territory Resource Corp, is
a Nevada limited liability company which owns all of the mineral interest in the following
described land in Lawrence County, South Dakota:

**Monte Cristo No. 1, Monte Cristo No. 3 and Impire lode claims of M.S.
1677, excluding that portion now described as Lot 13 of Bellefish**

Subdivision No. 1, also described as Lots 1-12 of Bellefish Subdivision No. 1 of M.S. 1677, Section 19, Township 5 North, Range 3 East, B.H.M.

DTRC LLC's mineral interest is subject to a net smelter return of 2.5% held by Maverix Metals (Nevada) Inc. The mineral interest owned by DTRC LLC will hereinafter be described as "minerals".

2. Defendant Maverix Metals (Nevada) Inc., is a Nevada corporation which owns a 2.5% net smelter return royalty in production of the minerals.

3. Bellefish Inc. is a South Dakota corporation and the record owner of the mineral estate to Lot 13 of Bellefish Subdivision No. 1, Mineral Survey 1677.

ALLEGATIONS

4. On January 31, 1905, the United States Government issued a Patent to Charles Zoellner and Jonas Zoellner for the Impire, Monte Cristo No. 1, Monte Cristo No. 3, Gold Hill No. 1, Gold Hill No. 2, and Wild Cat lode mining claims of Mineral Survey 1677. This Patent was recorded in Book 182 on Page 452 of the records of the Lawrence County Register of Deeds.

5. Prior to the issuance of this Patent, Charles Zoellner and Jonas Zoellner conveyed all their interest in the Impire, Monte Cristo No. 1, and Monte Cristo No. 3 lode claims to M.G. Tonn in a Mining Deed dated February 2, 1903 which was recorded on June 11, 1903 in Book 170 on Page 563 of the records of the Lawrence County Register of Deeds.

6. On May 24, 1911, a Decree of Distribution from the Estate of Michael G. Tonn conveyed all of the decedent's right, title, and interest in the "Impire, Monte Cristo No. 1 and Monte Cristo No. 3 lodes or mining claims embraced in Mineral Entry No. 1380, Lot No. 1677" to Alice E. Tonn and Carrie Tonn Snedeker which was recorded on May 26, 1911 in Book 209 on Page 114 of the records of the Lawrence County Register of Deeds.

7. On August 22, 1924, Alice E. Tonn conveyed her interest in these lode claims of Mineral Survey 1677 to Carrie Tonn Snedeker in a Mining Deed recorded on August 26, 1924 in Book 220 on Page 430 of the records of the Lawrence County Register of Deeds.

8. On January 27, 1948, Carrie Tonn Snedeker conveyed all her interest in these lode claims of M.S. 1677 to Clarence L. Snedeker and Carrie Tonn Snedeker as joint tenants with right of survivorship in a Mining Deed recorded on January 27, 1948 in Book 220 on Page 559 of the records of the Lawrence County Register of Deeds.

9. Clarence L. Snedeker died on October 12, 1949.

10. As surviving joint tenant, Carrie Snedeker succeeded to the interest of Clarence L. Snedeker.

11. On June 14, 1950, Carrie Tonn Snedeker conveyed all her interest in these lode claims to Carrie Tonn Snedeker and Alice T. Smith in a Mining Deed recorded on June 14, 1950 in Book 309 on Page 17 of the records of the Lawrence County Register of Deeds.

12. On November 15, 1951, the Lawrence County Treasurer issued a Tax Deed to Lawrence County for the following described property:

Mineral Survey No. 1677 consisting of the Monte Cristo No. 1 & 3, Gold Hill Nos. 1 & 2, and Wild Cat Lodes in the Ida Gray Mining District in Twp 5, N of Range 3, East B.H.M in Lawrence County, South Dakota containing 44.10 acres more or less.

This excludes any interest to Carrie L. Snedeker.

This Tax Deed was recorded on November 15, 1951 in Book 295 on Page 86 of the records of the Lawrence County Register of Deeds and is attached hereto as Exhibit "1".

13. On February 8, 1954, Carrie Tonn Snedeker, Alice T. Smith, and Kinsely O. Smith conveyed the Monte Cristo No. 1, Monte Cristo No. 3 and Impire lode claims of M.S. 1677 to Northwest Wood Preserving Company in a Warranty Deed recorded on July 14, 1954 in Book 323 on Page 157 of the records of the Lawrence County Register of Deeds.

14. On April 10, 1961, Northwest Wood Preserving Company conveyed these lode claims to Geraldine W. Berry in a Quitclaim Deed recorded on April 21, 1961 in Book 353 on Page 305 of the records of the Lawrence County Register of Deeds.

15. On October 2, 1972, Geraldine W. Berry conveyed these lode claims of M.S. 1677 to Bellefish Inc. in a Warranty Deed recorded on October 4, 1975 in Book 419 on Page 377 of the records of the Lawrence County Register of Deeds.

16. On October 24, 1974, a Plat was recorded that subdivided the subject mineral lode claims of M.S. 1677 into Lots 1 through 13 of Bellefish Subdivision No. 1. This Plat was recorded on November 1, 1974 in Book 6 on Page 369 of the records of the Lawrence County Register of Deeds.

17. On January 17, 1975, Bellefish Inc. conveyed Lot 1 of the Bellefish Subdivision No. 1 to Reginald A. Darrow and Phyllis R. Darrow in a Warranty Deed

recorded on April 10, 1978 as Document No. 78-1315 of the records of the Lawrence County Register of Deeds.

18. On January 17, 1975, Bellefish Inc. conveyed Lot 11 of the Bellefish Subdivision No. 1 to Bessie M. Hahn in a Warranty Deed recorded on February 11, 1975 in Book 419 on Page 415 of the records of the Lawrence County Register of Deeds.

19. On March 18, 1975, Bellefish Inc. conveyed the surface estate of Lot 13 of Bellefish Subdivision No. 1 to Ronald Cooper and Ruther Cooper in a Deed recorded on August 28, 1998 as Document No. 98-3836 of the records of the Lawrence County Register of Deeds. Bellefish Inc. reserved all of the mineral interest for Lot 13 within this Deed.

20. On March 31, 1975, Bellefish Inc. conveyed the surface estate of Lot 6 to Cary M. Rae and Edith L. Rae in a Deed recorded on June 2, 1975 in Book 423 on Page 86 of the records of the Lawrence County Register of Deeds. Bellefish Inc. reserved all the mineral interest for Lot 6 within this Deed.

21. On December 23, 1989, Bellefish Inc. conveyed the mineral estate for Lots 2 through 7 and Lot 12 on M.S. 1677 to Homestake Mining Company in a Deed recorded on December 29, 1989 as Document No. 89-4621 of the records of the Lawrence County Register of Deeds.

22. On June 18, 1990, an Order Determining Inheritance Tax and Dissolving Joint Tenancy was recorded as Document No. 90-2449 of the records of Lawrence County Register of Deeds for the purpose of terminating the joint tenancy of Phyllis Rae Darrow in Lot 1 of Bellefish Subdivision No. 1 in favor of the surviving joint tenant Reginald A. Darrow.

23. On June 20, 1990, Reginald A. Darrow conveyed Lot 1 to Homestake Mining Company in a Warranty Deed recorded on June 28, 1990 as Document No. 90-2649 of the records of the Lawrence County Register of Deeds.

24. On August 2, 1990, Bessie M Hahn conveyed Lot 11 to Homestake Mining Company in a Warranty Deed recorded on August 6, 1990 as Document No. 90-3227 of the records of the Lawrence County Register of Deeds.

25. On October 23, 2020, Homestake Mining Company conveyed all its interest in the minerals to Dakota Territory Resource Corp in a Quitclaim Deed recorded on October 23, 2020 as Document No. 2020-6746 of the records of the Lawrence County Register of Deeds.

26. On October 23, 2020, Dakota Territory Resource Corp conveyed a 2.5% net smelter returns royalty in the minerals to Homestake Mining Company in a Net Smelter

Returns Royalty Deed recorded on October 23, 2020 as Document No. 2020-6747 of the records of the Lawrence County Register of Deeds.

27. On September 29, 2022, Homestake Mining Company conveyed the 2.5% net smelter returns royalty to Maverix Metals (Nevada) Inc. in a Royalty Deed and Assignment that was recorded on October 7, 2022 as Document No. 2022-06289 of the Lawrence County Register of Deeds.

COUNT 1

**Declaratory Judgment
Nullification of Tax Deed**

Paragraphs 1 through 26 of the Complaint are hereby incorporated by this reference as if fully set forth herein.

28. On November 15, 1951, the Lawrence County Treasurer issued a Tax Deed (Book 295, Page 86) to Lawrence County for the Monte Cristo No. 1 and Monte Cristo No. 3 lode claims of M.S. 1677. Exhibit 1. The legal description in this Tax Deed specifically excluded “any interest to Carrie L. Snedeker.” At the time this Tax Deed was issued, record title subject claims of M.S. 1677 was held by Carrie T. Snedeker and Alice T. Smith.

29. The records of the Lawrence County Treasurer’s office indicate that the taxes for the Monte Cristo No. 1 and Monte Cristo No. 3 lode claims of M.S. 1677 were paid in full from 1940 through and including 1952. A true and correct copy of the Tax List of the Lawrence County Treasurer’s office for the subject claims from 1940 to 1952 are attached hereto marked Exhibits “2a-2m” and incorporated by this reference.

30. Because the taxes for 1940-1952 were paid for these lode claims in a timely manner, the Lawrence County Treasurer did not have authority to issue a tax deed on November 15, 1951.

31. The Tax Deed issued by Lawrence County Treasurer on November 15, 1951 was not valid as to the Monte Cristo No. 1 and Monte Cristo No. 3 lodes of M.S. 1677 and should be declared void ab initio.

COUNT 2

Quiet Title to Minerals

Paragraphs 1 through 27 of the Complaint are hereby incorporated by this reference as if fully set forth herein.

32. This action is brought for the purpose of determining all adverse claims to the minerals and for quieting title thereto in the Plaintiff for the ownership interest set forth in paragraph 1 of this Complaint.

WHEREFORE, Plaintiff requests judgment as follows:

As to Count 1 Nullification of Tax Deed:

1. That the Court declare the Tax Deed issued by the Lawrence County Treasurer on November 15, 1951 and recorded in Book 295 on Page 86 of the records of the Lawrence County Register of Deeds to be invalid, null and void ab initio as to Monte Cristo No. 1, Monte Cristo No. 3, and Impire lode claims of M.S. 1677.

As to Count 2 Quiet Title:

2. That the Defendants and each of them and all persons claiming under them, shall be required to set forth all their adverse claims to the Minerals;

3. All adverse claims to the minerals shall be determined by a decree of this court;

4. A determination be made as to the heirs at law, devisees, legatees of any deceased person who had in their lifetime any interest in the minerals, together with an adjudication of the rights of such personal representatives, administrators, heirs, devisees and legatees, and of all creditors of such deceased persons in and to said minerals, which shall be binding upon them and upon all the world, and if such personal representatives, administrators, heirs, devisees and legatees of such deceased persons and the creditors of such deceased persons and the unknown Defendants or any of them, shall fail to appear and set forth and to assert their interest in or claim to the minerals, they shall be by the judgment and decree of this court forever barred and enjoined from thereafter claiming or asserting any title or interest in or lien or encumbrance upon or claim to the minerals;

5. A Judgment and Quiet Title Decree that the Plaintiff owns all of the minerals subject to a 2.5% net smelter return royalty held by Maverix Metals (Nevada) Inc., and is entitled to quiet and peaceful possession of the minerals, and that all Defendants, except Maverix Metals (Nevada) Inc., and all persons claiming under them, have no estate, right, title, lien or interest in or to the minerals or any part thereof except as set forth within paragraphs 1, 2, and 3 of this Complaint;

6. The court enter judgment and decree permanently enjoining the Defendants, each of them, all persons claiming under them, from asserting any adverse claim to Plaintiff's mineral interest; and

7. For such other and further relief as the court may deem just and equitable.

Dated this 28th day of February, 2023.

BENNETT MAIN GUBBRUD & WILLERT, P.C.
Attorneys for the Plaintiff

By: /s/ Dwight A. Gubbrud

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