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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,)	
)	CIV-S 02-0288 DFL/DAD
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	APPOINTING TRUSTEE
ALL BENEFICIAL INTEREST IN A)	
SECURED PROMISSORY NOTE)	
DATED JULY 1, 1999, IN THE)	
AMOUNT OF \$5,500,000.00,)	
SECURED BY DEED OF TRUST)	
DATED MARCH 26, 1999, TO 38)	
UNPATENTED MINING CLAIMS IN)	
SIERRA COUNTY, NEW MEXICO)	
)	
Defendants,)	
)	
)	

This matter comes before the Court on the United States of America's ex parte application for appointment of a Trustee to receive the defendant asset which has been forfeited to the United States by Final Judgment of Forfeiture entered on or about August 14, 2002.

Substantially for the reasons given in the United States' application, the Court has determined that it would be in the interest of the Government, and in the public interest, to appoint a Trustee. Accordingly, the Court makes the following orders:

Robb Evans is hereby appointed Trustee for the purpose of receiving the above-captioned asset, managing it, and liquidating it for the protection of the United States. The trusteeship shall be carried out in accordance with the terms of the Court's Order Appointing Trustee filed October 20, 2000, which order appointed Robb Evans to serve as trustee over assets forfeited in the related case of United States v. Wilcoxson, CR S-99-0359 DFL, as appropriate to the defendant asset herein. A copy of the October 20, 2000 Order Appointing Trustee is attached hereto as **Exhibit A** and its terms are incorporated herein by reference.

IT IS SO ORDERED.

DATED: August 16, 2002

DAVID F. LEVI

UNITED STATES DISTRICT JUDGE

PAUL L. SEAVE
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BENJAMIN B. WAGNER
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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CR-S 99-0359 DFL
v.)	
)	
LARRY WILCOXSON,)	<u>ORDER</u>
DAVID BAXTER,)	APPOINTING TRUSTEE
C. WILLIAM GORDIN,)	
ROXANNE ALBAUGH, and)	
JOHN F. WITZKE,)	
)	
Defendants,)	
)	
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This matter comes before the Court on October 19, 2000, on the Government's motion for appointment of a Trustee to receive assets subject to the preliminary order of forfeiture entered October 19, 2000, (hereinafter the "Subject Property"), and to manage such assets, and liquidate them for the purpose of forfeiture. See 18 U.S.C. § 982(b)(1), incorporating 21 U.S.C. § 853(g). Substantially for the reasons given in the Government's Motion, the Court has determined that it would be in the interest of all parties, and in the public interest, to appoint a Trustee for these purposes. Accordingly, the Court makes the following orders:

Robb Evans is hereby appointed Trustee for the purposes of receiving the Subject Property, managing the Subject Property, and liquidating the Subject Property for the

protection of the United States. The Trustee shall have the power to transfer, assign, turnover or otherwise convey the Subject Property, with directions and authority to accomplish the following:

- A. Assume and maintain full control of the Subject Property.
- B. Collect, marshal, maintain and take custody, control, and possession of the Subject Property, wherever located, including the income and profits therefrom, and all sums of money now or hereafter due or owing.
- C. Perform all acts necessary in any jurisdiction to protect, conserve, preserve, and prevent from waste or dissipation the funds, property, premises, accounts, and other assets of the Subject Property in order to insure that funds are available for the protection of the United States.
- D. Enter into agreements in connection with administration of the Subject Property, including, but not limited to: (1) the retention and employment of managers, agents, investigators, attorneys or accounts of the Trustee's choice, including, without limitation members and employees of the Trustee's firm, to assist, advise, and represent the Trustee; (2) the movement and storage of any equipment, furniture, records files or other physical property relating to the Subject Property; and (3) the retention of auctioneers or other professional to assist in the liquidation of the Subject Property.
- E. Prosecute, compromise, adjust, intervene in or become party to such actions or proceedings in state, federal, or foreign courts that the Trustee deems necessary and advisable to reserve or increase the value of the Subject Property, or that the Trustee deems necessary and advisable to carry out the Trustee's mandate under this Order, and likewise to defend, compromise, or adjust or otherwise dispose of any and all actions or proceedings instituted against the Trustee or the Subject Property that the Trustee deems necessary and advisable to preserve the Subject Property or that the Trustee deems necessary and advisable to carry out the Trustee's mandate under this Order.
- F. Liquidate the Subject Property and all assets transferred to the Trustee in accordance with the terms of this Order or any prior or subsequent order of this Court; and to transfer the Subject Property to storage facilities, cancel leases, terminate and enter contracts.
- G. Execute all bills of sale and deeds to personal and real property coming into the possession of the Trustee.
- H. Prepare and submit periodic reports, as necessary, to this Court and to the Plaintiff United States, describing the Trustee's efforts to comply with the terms of this Order, and recommendations of any additional action required by this

Court to ensure that the Subject is preserved in order to protect the United States and any third-party claimant, as may be approved by the Court.

I. The Trustee and those he employs are entitled to reasonable compensation for the performance of duties pursuant to this Order, and for the costs of actual out-of-pocket expenses incurred by them, including ordinary and necessary expenses incurred by the Trustee for professional and other services, from the Subject Property without the need for Court approval and such payments shall have priority over all other distributions from the Subject Property assets. The periodic reports to the Court, as referenced in paragraph H. above, shall include information regarding the Trustee's fees and out-of-pocket expenses.

J. The Trustee shall maintain with the Clerk of this Court a bond in the sum of \$50,000 with sureties to be approved by the Court, conditioned that the Trustee will well and truly perform the duties of the office and abide by and perform all acts the Court directs.

K. The Subject Property shall be liquidated and held and maintained by the Trustee pending further Order of this Court.

L. Consistent with the provisions in section II.B. of his plea agreement, Larry Wilcoxson shall cooperate fully with the Trustee in: (A) collecting, marshaling, or maintaining of custody, possession and control of the Subject Property, or with the liquidation of the Subject Property; (B) executing any documents required to forfeit the Subject Property to the Government; and (C) preventing disbursement of any money, property, or assets derived from unlawful activities, if said disbursements are within the defendant's direct or indirect custody or control.

M. If, in the course of executing his duties, the Trustee discovers or has reason to believe the existence of other assets not identified in the preliminary order of forfeiture, the Trustee shall notify counsel for the United States who shall take any action deemed appropriate under the circumstances.

IT IS SO ORDERED.

DATED: October 19, 2000

DAVID F. LEVI

UNITED STATES DISTRICT JUDGE
