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4 Attorneys for Intervenors  
5 THE NEW 49'ERS, INC., a California corporation, and  
6 RAYMOND W. KOONS, an individual

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF ALAMEDA

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12 LEEON HILLMAN; CRAIG TUCKER;  
13 DAVID BITTS; KARUK TRIBE; CENTER  
OF THE RIVER; KLAMATH  
14 RIVERKEEPER; PACIFIC COAST  
FEDERATION OF FISHERMEN'S  
15 ASSOCIATIONS; INSTITUTE FOR  
FISHERIES RESOURCES; CALIFORNIA  
16 SPORTFISHING PROTECTION ALLIANCE;  
and DOES 1-100,

17 Plaintiffs,

18 v.

19 CALIFORNIA DEPARTMENT OF FISH  
20 AND GAME and DONALD KOCH,  
DIRECTOR, CALIFORNIA DEPARTMENT  
21 OF FISH AND GAME, and DOES 1-100,

22 Defendants.

Case No. RG09 434444

**THE MINERS' NOTICE OF MOTION  
AND MOTION TO STRIKE  
PORTIONS OF PLAINTIFFS'  
MATERIALS IN SUPPORT OF THEIR  
MOTION FOR A PRELIMINARY  
INJUNCTION**

**Hearing:**

Date: June 9, 2009

Time: 11:00 a.m.

Judge: Hon. Frank Roesch

Dept.: 31

Trial Date: None Set

Action Filed: May 6, 2005

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24 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

25 PLEASE TAKE NOTICE that on June 9, 2009, at 11:00 a.m., or as soon thereafter as the  
matter may be heard, in Department 30 in the above-entitled court, located at United States Post

1 Office Building, 201 13<sup>th</sup> Street, Oakland, California 94612, Intervenors, The New 49'ers, Inc.  
2 and Raymond W. Koons (collectively "the Miners"), will and hereby do move the Court for an  
3 order to strike the following documents from the record for consideration of plaintiffs' motion  
4 for preliminary injunctive relief:

5 1. Exhibits B, C, F, G, H, I, J, L, O & S to the Declaration of Lynne Saxton, and the  
6 Declarations of Neil Manji and Banky Curtis included within Exhibit D to the Declaration of  
7 Lynne Saxton; and

8 2. The following portions of the Memorandum of Points and Authorities in Support  
9 of Motion for Preliminary Injunction: Page 4, line 24 through page 6, line 8; Page 6, line 11,  
10 through page 7, line 10; Page 8, lines 6-7; Page 10, lines 19-21 & 26-28; Page 11, Line 7;  
11 Page 12, lines 19-21; Page 14, lines 21-22; and Page 15, lines 5-15 & 18-19.

12 This motion is based on this Notice of Motion and Motion, the accompanying  
13 Memorandum of Points and Authorities, and the other pleadings and papers on file in this action  
14 and any written or oral evidence or argument that the Court may receive at the hearing.

15 Dated: May 18, 2009.

16 MURPHY & BUCHAL LLP

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18 By: 

19 James L. Buchal  
20 Attorneys for Intervenors  
21 THE NEW 49'ERS, INC., a California corporation,  
22 and RAYMOND W. KOONS, an individual  
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PROOF OF SERVICE

I, Carole A. Caldwell, hereby declare under penalty of perjury under the laws of the State of California that the following facts are true and correct:

I am a citizen of the United States, over the age of 18 years, and not a party to or interested in the within entitled cause. I am an employee of Murphy & Buchal, LLP and my business address is 2000 SW First, Suite 420, Portland, Oregon 97201.

On May 18, 2009, I caused the following document to be served:


THE MINERS' NOTICE OF MOTION AND MOTION TO STRIKE PORTIONS OF PLAINTIFFS' MATERIALS IN SUPPORT OF THEIR MOTION FOR A PRELIMINARY INJUNCTION

in the following manner:

- (X) (BY FEDERAL EXPRESS)
- ( ) (BY FIRST CLASS US MAIL)
- ( ) (BY FAX)
- (X) (BY E-MAIL)

*See attached service list*

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct, and that this Declaration was executed at Portland, Oregon on May 18, 2009.



Carole A. Caldwell  
Declarant

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