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MEMORANDUM

To: Dave McCracken, The New 49'ers Legal Fund
From: James L. Buchal
Date: June 13, 2014
Re: Oral Argument in People v. Rinehart

The California Court of Appeals has granted Mr. Rinehart's request for oral argument and issued an order stating that "the parties shall be prepared to discuss the holding in *South Dakota Mining Ass'n v. Lawrence County*, 155 F.3d 1005 (8th Cir. 1998). We consider this to be a good sign that the Court of Appeals is correctly focusing on the case closest on point. *Lawrence County* squarely held that a prohibition on new surface mining permits (not all mining) in a specific area was pre-empted by federal law because the regulation was prohibitory in character, rather than regulatory. So too is the State of California's refusal to issue suction dredge permits.

The State's attorney is presently attempting to reschedule the oral argument date (now set for July 28th) because of scheduling conflicts. The argument date may slip a few weeks until the same panel of three reviewing judges which has already studied the case will be having argument before it.

We want to thank the leading donor The New 49'ers Legal Fund, as well as Western Mining Association, for their generous support to fund the costs of appearing before the Court in Sacramento to make the argument. It is only the continuing and generous support of the mining community that has enabled Mr. Rinehart to pursue this important test case on federal pre-emption.

Sincerely,



James L. Buchal