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4 *Attorney for Defendant*

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6  
7 IN THE SUPERIOR COURT OF CALIFORNIA  
8 IN THE COUNTY SISKIYOU  
9

10 THE PEOPLE OF THE STATE OF  
CALIFORNIA,

11 Plaintiff,

12 v.

13 DYTON WILLIAM GILLILAND  
14 DOB: 10/31/1960,

15 Defendant.

Case No. MCYKCRM 15-1124

**DECLARATION OF DYTON GILLILAND**

16  
17 Dyton Gilliland states:

18 1. I am a member of The New 49'ers and engaged in the business of mining utilizing  
19 claims owned or controlled by The New 49'ers. I make this declaration in support of my motion to  
20 dismiss the complaint and suppress evidence in this action.

21 2. The conduct alleged in Counts 1-3 of the Misdemeanor Complaint occurred within  
22 the boundaries of federally-registered mining claims on federal land, on which I was operating in  
23 furtherance of the Congressionally-authorized and directed purpose to develop the mineral  
24 resources contained on those claims.

25 3. Specifically, on or about April 17, 2015, and on or about May 1, 2015, I was  
26 operating on the Ukonom Claim (No. K-25AA), under license from The New 49'ers, Inc. This is

27 DECLARATION OF DYTON GILLILAND  
28 Case No. MCYKCRM 15-1124

1 the conduct the State seeks to deem criminal in Counts 1 & 2 of the Misdemeanor Complaint. And  
2 on or about May 7, 2015, I was operating on the Doolittle Rapids Claim (No. K-22A), under license  
3 from The New 49'ers, Inc. This is the conduct the State seeks to deem criminal in Count 3 of the  
4 Complaint.

5 4. With respect to both of these claims, motorized devices classified by the State of  
6 California as "suction dredges" are the only feasible means of exploiting the valuable gold deposits  
7 they contain. The State's refusal to issue suction dredging permits is effectively a ban on the  
8 exploitation of these deposits.

9 5. By the time of all this conduct occurred, the courts of California had confirmed what  
10 the mining community regarded as common sense: the State of California cannot lawfully ban  
11 mining on federal mining claims on federal land.

12 6. During April, I was confronted by four Department of Fish & Wildlife (DFW)  
13 wardens who asked if I knew that I was breaking the law. I explained that the San Bernardino  
14 Court's ruling made it clear that California's dredge moratorium was unconstitutional and  
15 unenforceable, and that we believed we had every right to be operating our dredge. After a  
16 discussion, the wardens departed. No citations were issued.

17 7. The confrontation with the wardens prompted me to retain counsel to file a civil  
18 action in this Court requesting that a Temporary Restraining Order be issued to prevent the DFW  
19 wardens from harassing us any further. For reasons my attorney explains in his Declaration filed  
20 herewith, he was prevented from pursuing civil relief on our behalf in Siskiyou County.

21 8. On or about May 1, 2015, the warden did cite me, and asked me to sign the citation  
22 promising to appear in this Court on June 9, 2015. I was under the impression that if I did not sign,  
23 I would be entitled to a judicial hearing within 48 hours, where I could explain that my conduct was  
24 lawful because of the San Bernardino Court's ruling and other authority.

25 9. My livelihood depends upon the gold I recover in my mining program, so I opted for  
26 my right to appear before an impartial judge immediately.

1           10.     When I refused to sign the citation, the warden arrested me, handcuffed me, and  
2 transported us to the Siskiyou County jail in Yreka, which was about 100 miles away. At the jail,  
3 the jail personnel told me that because it was a Friday, there was no way to get in front of a judge  
4 until Monday, and that even if I got in front of a judge, the case would just be continued to a later  
5 date. The jail personnel presented me with release forms which included a promise to appear on  
6 June 9th. I signed them and was released.

7           11.     During the time I was being detained and taken to jail, CFW officials confiscated  
8 approximately \$25,000 worth of my mining equipment. This was highly-specialized production  
9 mining equipment which I use to make my living.

10          12.     Because by now the California courts had confirmed that the suction dredge  
11 moratorium in California was unconstitutional, I continued to believe I had (and have) a vested right  
12 under federal law to use a suction dredge to recover gold from the bottom of the Klamath River in  
13 Siskiyou County. Therefore, shortly after my first arrest, I placed my smaller four-inch sample  
14 dredge in the river and resumed mining.

15          13.     On or about May 7, 2015, I learned that wardens were seizing my sampling dredge  
16 from The New 49'er Doolittle Claim which is several miles downstream of Happy Camp. I  
17 returned to the site, and observed the wardens hauling the dredge out of the river. The Lieutenant at  
18 the top of the river bank told me to wait and speak with Warden Cervilli when he came back up.

19          14.     I asked Warden Cervilli if I was going to be arrested. Warden Cervilli asked me if I  
20 would sign a citation promising to appear in court at a later time. I declined because I wanted to  
21 facilitate a more immediate hearing in front of a judge. He read me my rights, handcuffed me, and  
22 transported me to the jail.

23          15.     I spent the night in jail. The jail personnel asked me to sign some sort of document.  
24 They promised to get me in front of a judge on Monday if I would sign a paper and leave the jail. I  
25 refused to sign because I was unsure of the legal ramifications, and had not yet spoken to my  
26 attorney.



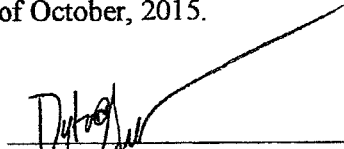
1 miner, and that DFW had seized \$30,000 worth of gear and have, more or less, put me out of  
2 business. I explained that I had no other due process available to me, and wanted a judicial  
3 resolution. The Judge advised me that he was sympathetic to my concerns, but that no case had  
4 been filed, and there was nothing he could do. He also advised me that the District Attorney had up  
5 to one year to file the case against me.

6 21. I want to make it clear that I have dredged for gold during the past 7 years to support  
7 my livelihood. My career began along the Klamath River where I discovered that I could recover  
8 enough gold to make a comfortable living. I find myself in a very uncomfortable position because  
9 of two very important factors: (1) since there is a pending criminal proceeding against me, I feel  
10 compelled to remain in California so that I can defend myself; and (2) since my production  
11 equipment has been taken away from me, I have lost my opportunity to go to Alaska where permits  
12 are available to dredge for gold.

13 22. At no time have I ever been shown a warrant for the search or seizure of my  
14 dredging equipment, and upon information and belief, no warrant exists to support the collection of  
15 any of the evidence against me.

16 I certify under penalty of perjury under the laws of California that the foregoing is true and  
17 correct.

18 Executed at Happy Camp, California this 20<sup>th</sup> day of October, 2015.

19  
20   
21 \_\_\_\_\_  
22 Dyton Gilliland

1 CERTIFICATE OF SERVICE

2  
3 I, Carole A. Caldwell, hereby declare under penalty of perjury under the laws of the State of  
4 California that the following facts are true and correct:

5 I am a citizen of the United States, over the age of 18 years, and not a party to or interested  
6 in the within entitled cause. I am an employee of Murphy & Buchal, LLP and my business address  
is 3425 SE Yamhill Street, Suite 100, Portland, Oregon 97214.

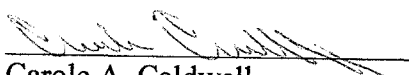
7 On October 21, 2015, I caused the following document to be served:

8 DECLARATION OF DYTON WILLIAM GILLILAND

9 on the party listed below in the following manner:

- 10 (X) (BY FEDERAL EXPRESS)  
11 ( ) (BY FIRST CLASS US MAIL)  
12 ( ) (BY FAX)  
13 ( ) (BY E-MAIL)

14  
15 J. Kirk Andrus, District Attorney  
16 County of Siskiyou  
17 P.O. Box 986  
18 Yreka, CA 96097  
Tel: (530) 842-8125  
Fax: (530) 842-8137

19  
20   
21 Carole A. Caldwell  
22 Declarant

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24  
25  
26  
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28 Case No. MCYKCRM 15-1124

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