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11

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF SAN BERNARDINO
14

15 Coordination Proceeding
Special Title (Rule 1550(b))

16 **SUCTION DREDGE MINING CASES**

Judicial Council Proceeding No. JCPDS 4720

17 **DECLARATION OF MARK AND**
18 **ELIZABETH CUTLER IN SUPPORT OF**
19 **MINERS' JOINT MOTION FOR**
20 **INJUNCTION AGAINST DEFENDANTS**

Judge: Hon. Gilbert G. Ochoa
Dept.: S36
Date: June 23, 2015
Time: 8:30 a.m.

24 **Related Actions:**

25 *Karuk Tribe of California, et al. v. California*
26 *Department of Fish and Game*

RG 05211597 – Alameda County

27 *Hillman, et al. v. California Department of*
28 *Fish and Game*

RG 09434444 – Alameda County

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Karuk Tribe of California, et al. v. California Department of Fish and Game

RG 1263796 – Alameda County

Kimble, et al. v. Kamala Harris, Attorney General of California, et al.

CIVDS 1012922 – San Bernardino County

Public Lands for the People, et al. v. California Department of Fish & Game, et al.

CIVDS 1203849 – San Bernardino County

The New 49er's, et al. v. State of California; California Department of Fish and Game, et al.

SCCV 120048 – Siskiyou County

Foley, et al. v. State of California; California Department of Fish and Wildlife, et al.

SCSCCV 13-00804 – Siskiyou County

Walker v. Harris, et al.

34-2013-80001439 – Sacramento County

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We, Mark and Elizabeth Cutler declare:

1. We are plaintiffs in *The New 49er's et al. v. California Department of Fish and Wildlife, et al.* (SCCVCV1200482 Siskiyou County).

2. We are the owners of mining claims uniquely identified as CAMC287856 (Lucky Lady) and CAMC282628 (The Forks). These claims are located along the South Fork of the Salmon River.

3. Under the regulations that were in effect when the suction dredging moratorium commenced, these claims were open from July 1st to September 15th. The Forks claim is now partially closed on account of an alleged "thermal refugia" that covers part of the claim at the confluence of McNeal Creek. There is no thermal refugia at this location. The Lucky Lady claim is completely closed as a "Class A" water body (no dredging permitted at any time).


4. We have had ample opportunity to observe the fish and wildlife in and around our claims. Operating under the pre-moratorium regulations, we have never encountered fish eggs in the streambed when we were mining. Nor have we encountered any holding areas with large populations of juvenile fish of the sort imagined to constitute "thermal refugia".

5. We also have not encountered any historical or cultural artifacts, other than lead fishing weights. With respect to the question of noise, we have not observed another human being in the vicinity of our dredging activities.

6. It has at all times been obvious that our suction dredging operations on the claims do not involve any appreciable adverse effect on the environment, and the winter flows easily erase all traces of our summer activity.

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

Executed on May 15, 2015.

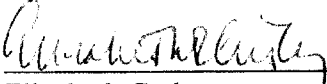


Mark Cutler

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

Executed on May 15, 2015.



Elizabeth Cutler

1 PROOF OF SERVICE

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

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

7 On May 18, 2015, I caused the following document to be served:

8 **DECLARATION OF MARK AND ELIZABETH CUTLER IN SUPPORT OF MINERS'
9 JOINT MOTION FOR INJUNCTION AGAINST DEFENDANTS**

10 by transmitting a true copy in the following manner on the parties listed below:

11 Honorable Gilbert Ochoa
12 Superior Court of California
13 County of San Bernardino
14 San Bernardino Justice Center
15 247 West 3rd Street
16 San Bernardino, CA 92415-0210
17 *Via U.S. Mail*

Chair, Judicial Council of California
Administrative Office of the Courts
Attn: Court Programs and Services Division
(Civil Case Coordination)
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Via U.S. Mail

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19 Deputy Attorney General
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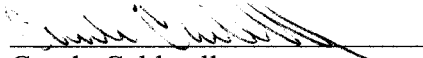
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Carole Caldwell
Declarant