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11

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

<p>15 Coordination Proceeding Special Title (Rule 1550(b))</p> <p>16 <b>SUCTION DREDGE MINING CASES</b></p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	<p>Judicial Council Proceeding No. JCPDS 4720</p> <p><b>DECLARATION OF DYTON GILLILAND IN SUPPORT OF MINERS' JOINT MOTION FOR INJUNCTION AGAINST DEFENDANTS</b></p> <p>Judge: Hon. Gilbert G. Ochoa Dept.: S36 Date: June 23, 2015 Time: 8:30 a.m.</p>
<p>24 <b>Related Actions:</b></p> <p>25 <i>Karuk Tribe of California, et al. v. California</i> 26 <i>Department of Fish and Game</i></p> <p>27 <i>Hillman, et al. v. California Department of</i> 28 <i>Fish and Game</i></p>	<p>RG 05211597 – Alameda County</p> <p>RG 09434444 – Alameda County</p>

1  
2 *Karuk Tribe of California, et al. v. California*  
3 *Department of Fish and Game*

RG 1263796 – Alameda County

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

CIVDS 1012922 – San Bernardino County

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

CIVDS 1203849 – San Bernardino County

8 *The New 49e'rs, et al. v. State of California;*  
9 *California Department of Fish and Game, et*  
10 *al.*

SCCVCV 120048 – Siskiyou County

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

SCSCCV 13-00804 – Siskiyou County

13 *Walker v. Harris, et al.*

34-2013-80001439 – Sacramento County

14 Dyton Gilliland declares:

15 1. I am presently residing in Happy Camp, Siskiyou County California.

16 2. During mid-April, while suction dredging for gold on the Klamath River  
17 approximately 20 miles downstream from Happy Camp, Steve Jones and I were confronted by  
18 four Department of Fish & Wildlife (DFW) wardens who asked if we knew that we were  
19 breaking the law. We explained that this court's ruling made it clear that California's dredge  
20 moratorium was unconstitutional and unenforceable, and that we believed we had every right to  
21 be operating our dredge. After a discussion, the wardens departed. No citations were issued.

22 3. The Confrontation with the wardens prompted Steve Jones and I to retain  
23 Attorney at Law, James Buchal, to file a civil action in Siskiyou County Superior Court  
24 requesting that a Temporary Restraining Order be issued to prevent the DFW wardens from  
25 harassing us any further.

26 4. For some reason that I do not understand, James Buchal was prevented from  
27 pursuing civil relief on our behalf in Siskiyou County.

28 5. On or about May 1, 2015, myself and Steve Jones were arrested by DFW wardens  
for suction dredging on the Klamath River. I was personally cited for three violations related to

1 suction dredging: (1) a violation of § 5653.1(b); (2) use of an oversize nozzle in violation of  
2 § 228(k)(1) of the regulations; and (3) an insufficient containment system in violation of  
3 § 228(k)(4) of the regulations. It is my understanding that these regulatory provisions were in  
4 the 2012 regulations, but not the earlier regulations.

5 6. When I was cited, the warden asked me to sign the citation promising to appear in  
6 Siskiyou County Superior Court on June 9. I was under the impression that if I did not sign, I  
7 would be entitled to a judicial hearing within 48 hours, where I could explain that my conduct  
8 was lawful because of this Court's ruling and other authority.

9 7. My livelihood depends upon the gold I recover in my mining program. So I opted  
10 for my right to appear before an impartial judge immediately. Steve Jones also opted for an  
11 immediate hearing.

12 8. When we refused to sign the citation, the warden arrested us, handcuffed us, and  
13 transported us to the Siskiyou County jail in Yreka, which was about 100 miles away. At the  
14 jail, the jail personnel told Steve and I that because it was a Friday, there was no way to get in  
15 front of a judge until Monday, and that even if I got in front of a judge, the case would just be  
16 continued to a later date. The jail personnel presented us with release forms which included a  
17 promise to appear on 9 June. We signed them and were released. A true copy of my citation and  
18 jail form are attached hereto as Exhibit 1.

19 9. During the time I was being detained and taken to jail, California Fish & Wildlife  
20 (CFW) officials confiscated approximately \$25,000 worth of my mining equipment. This was  
21 highly specialized production mining equipment which I use to make my living.

22 10. Because of this court's ruling that the suction dredge moratorium in California is  
23 unconstitutional, I continued to believe I have a vested right under federal law to use a suction  
24 dredge to recover gold from the bottom of the Klamath River in Siskiyou County. Therefore,  
25 shortly after my first arrest, I placed my smaller four-inch sample dredge in the river and  
26 resumed mining.

27 11. On or about May 7, 2015, I learned that CFW wardens were seizing my sampling  
28 dredge from The New 49'er Doolittle claim which is several miles downstream of Happy Camp.

1 I returned to the site, and observed the wardens hauling the dredge out of the river. The  
2 Lieutenant at the top of the river bank told me to wait and speak with Warden Cervilli when he  
3 came back up.

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

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

12 14. Up until then, I had been in a holding cell; but at this point, they processed me  
13 and I was placed in the general population. After dinner, the cell block I was in was released to  
14 the yard. The jail personnel called me back in and told me that I had to leave the jail. By this  
15 time, it was well after business hours. The jail had confiscated my cash and would not return it.  
16 Rather, they provided a bank check which I was unable to negotiate that evening. In short, I was  
17 left with no money and no transportation 80 miles away from Happy Camp. Fortunately,  
18 Internal Affairs staff from The New 49'ers Association had been in contact with the jail and  
19 arranged to have me returned to Happy Camp.

20 15. At the time of my second arrest, CFW officials were already confiscating  
21 approximately \$5,000 worth of my mining equipment. But the value is much higher to me,  
22 because this is the portable dredging equipment which I use to locate commercial-value gold  
23 deposits on the river.

24 16. The entire reason I suffered through a second arrest event was to expedite a  
25 hearing in front of an impartial judge and get the legal matter settled so that I could resume  
26 making a living. But I was robbed of my due process when the Siskiyou County jail kicked me  
27 out without any legal explanation or remedy. I still don't know what my legal status is regarding  
28 my second arrest.



DEPARTMENT OF FISH AND GAME  
NOTICE TO APPEAR FG-900

MISDEMEANOR  
 Traffic  Non-traffic

AD2079329

Date of Violation 5/11/15 Time 2:45  AM  PM Day of Week FRI Case No. —

Name (First, Middle, Last) DYTON WILLIAM GILLILAND Owner's Responsibility (Veh. Code § 40001)

Address PO BOX 47

City HAPPY CAMP State CA ZIP Code 96039 Phone Number (530) 262-8639

Driver Lic. No. ALBA 587743 State CA Class — Commercial  Yes  No Age 34 Birth Date 10/31/1960

Sex M Hair GRN Eyes BLU Height 6 01 Weight 185 Race W Other Description

Veh. Lic. No. or VIN State  COMMERCIAL VEHICLE (Veh. Code § 15210(b))

Yr. of Veh. Make Model Body Style Color  HAZARDOUS MATERIAL (Veh. Code § 353)

Evidence of Financial Responsibility Registered Owner or Lessee  Same as Driver

Address  Same as Driver

City State ZIP Code

Correctable Violation (Veh. Code § 40610)  Booking Required  Misdemeanor or Infraction (Circle)

- 5653.1(b) (A) FISH AND GAME CODE VIOLATE (M) 1
- SUCTION DREDGE WITHOUT PERMIT M 1
- 228(V)(1) USE OF 5 INCH SUCTION NOZZLE (M) 1
- 229(V)(1) INADEQUATE CONTAINMENT 345 FM

Speed Apprx. P.F. Altax Veh. Lmt. GPS Lot Long

Location of Violation (s) at KANAWA RIVER SISKIYOU City/County of Occurrence Ca TIP Yes / No

Evidence Seized SUCTION DREDGE SYSTEM IN BLUE TUBES 3 POUNDS 1 POUND

Violations not committed in my presence, declared on information and belief

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct

Arresting or Citing Officer [Signature] Badge No. 827

Date Name of Arresting Officer, if different from Citing Officer Badge No.

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW

X Signature PAT LURE TR SIGN

WHEN WHAT TO DO ON OR BEFORE THIS DATE 06/09/2015 Time 9:00 AM  PM FOLLOW THE INSTRUCTIONS ON THE REVERSE Name of Court 9. SUPERIOR COURT

WHERE Section or Division, Room No. 1100 Street Address 311 FORTY SEVENTH STREET, YUBA CA 95997

Phone Number (530) 912-3192 Ext. Court 42690  Juvenile  To be notified  You may arrange with the clerk to appear at a night session of the court

AD2074329

RESPONDENT COPY  
SEE REVERSE TR-130



Siskiyou County Jail  
Release of Arrested Person



Name: GILLILAND, DYTON WILLIAN	IID/BK No.: 22044/15-49265
Address: P.O. BOX 47 HAPPY CAMP	Arrest Date: 05-01-15
Arresting Agency: California Fish and Game	Agency Case # AD2079329
Charges: 5653.1(b)FG, 228(k)(1)CCR, 228(k)(4)CCR	Warrant #

I PROMISE TO APPEAR, IN:

Court: Siskiyou County Superior Court	Division: Div 4
Court Address: 311 4 <sup>th</sup> Street Yreka, CA. 96097	Date/Time: 06-09-15 @ 0900
Court Docket #(s):	

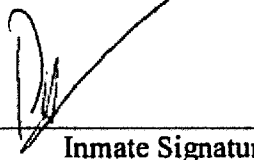
And at all other times and places as ordered by the court.

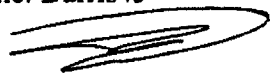
In signing this agreement and release on "Own Recognizance" I freely, voluntarily and knowingly make the following promises:

1. I will appear at all times and places as ordered by the Court, Judge, or magistrate, and as ordered by any Court in which, or any Judge or Magistrate before whom the above charge(s) is/are subsequently pending.
2. I will not leave or depart the State of California without first getting permission from the court
3. I hereby waive all extradition rights and if apprehended outside the State of California, agree to be extradited to Siskiyou County, California to answer to the above-referenced charges.
4. I will comply with the following conditions of my release that are marked with an "X".
  - I will not own, possess or consume any alcoholic beverage
  - I will not enter or remain in any business that has an on-sale liquor license.
  - I will not possess, consume or be under the influence of any controlled substance, narcotic or other drug, except upon a prescription issued to me by a licensed physician, providing a copy of the prescription to the court within 24 hours.
  - I will not own, possess, or have under my custody or control any firearm or ammunition.
  - I will not own, possess, or have under my custody or control any deadly or dangerous weapon.
  - I will submit my person, places, and things under my custody or control, or in which I have an interest, to search and seizure by any peace officer at any time of the day or night with or without probable cause, and with or without a warrant.
  - I will submit to the testing of my blood, breath or urine upon the request of any peace officer, and I will pay for all costs related to the collection and testing of the sample.
  - I will comply with the Criminal Emergency Protective Order.
  - I will not drive a motor vehicle unless properly licensed and insured.
  - I will not drive a motor vehicle after consuming any drug or alcoholic beverage.
  - Other:
  - Other:

I acknowledge that my failure to comply with any of these release conditions will constitute a violation of this agreement and I may be arrested by any peace officer. If I am arrested, the Court may deny me further release on my "own recognizance" and may require me to post bail in order to be released from custody.

Any failure to appear as ordered by the Court, or any Judge or Magistrate, is a crime. If I am released on a felony charge, or a combination of a felony charge and one or more misdemeanor or infraction charges, I can be charged with felony failure to appear that can be punished by up to three years in state prison. If I am released on a misdemeanor charge, or a combination of misdemeanor or infraction charges, I can be charged with misdemeanor failure to appear that can be punished by up to six months in the county jail.

  
\_\_\_\_\_  
Inmate Signature

Deputy Name: Burris45  
  
\_\_\_\_\_  
Deputy Signature

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 June 17, 2015, I caused the following document to be served:

8 **DECLARATION OF DYTON GILLILAND IN SUPPORT OF MINERS' JOINT  
9 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 3<sup>rd</sup> 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)  
455 Golden Gate Avenue  
San Francisco, CA 94102  
*Via U.S. Mail*

15 Bradley Solomon  
16 Deputy Attorney General  
17 455 Golden Gate Avenue, Suite 11000  
18 San Francisco, CA 94102-7004  
19 E-mail: Bradley.Solomon@doj.ca.gov  
20 *Via E-mail*

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19 John Mattox  
20 Department of Fish & Game  
21 1416 Ninth Street, 12<sup>th</sup> Floor  
22 Sacramento, CA 95814  
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*Via E-mail & U.S. Mail*




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Keith Robert Walker  
9646 Mormon Creek Road  
Sonora, CA 95370  
*Via U.S. Mail*



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Carole Caldwell  
Declarant