

1 LAW OFFICES OF DAVID YOUNG
David Young, SBN 55341
2 11845 W. Olympic Boulevard, Suite 1110
Los Angeles, CA 90064
3 Telephone: (310) 575-0308
Facsimile: (310) 575-0311
4 Email: dyounglaw@verizon.net

5 *Attorney for Plaintiffs/Petitioners*
6 *Kimble et al. and PLP et al.*

7 JAMES L. BUCHAL (SBN 258128)
MURPHY & BUCHAL LLP
8 3425 SE Yamhill Street, Suite 100
Portland, OR 97214
Telephone: (503) 227-1011
9 Facsimile: (503) 573-1939

10 *Attorney for Plaintiffs The New 49'ers Inc. et al.*

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))

Judicial Council Proceeding No. JCPDS 4720

16 **SUCTION DREDGE MINING CASES**

17 **DECLARATION OF DAVID GUIDERO**
18 **IN SUPPORT OF MINERS' JOINT**
19 **MOTION FOR INJUNCTION AGAINST**
20 **DEFENDANTS**

21 Judge: Hon. Gilbert G. Ochoa
22 Dept.: S36
23 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

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 49'ers, et al. v. State of California;*
9 *California Department of Fish and Game, et*
10 *al.*

SCCV 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 Dave Guidero declares:

15 1. I am a resident of Siskiyou County, residing at 52525 Highway 96, Seiad Valley,
16 California, and make this Declaration in support of the Miners' motion for an injunction.

17 2. On June 4, 2015, at about 3:30 p.m., while I was at my residence, I heard a knock
18 at the door. When I opened it, I was confronted with four heavily-armed representatives of the
19 California Department of Fish and Wildlife, and was informed by them that they had a search
20 warrant to search the premises. They demanded entry into the house, and began searching.

21 3. They read me my Miranda rights, told me that I wasn't under arrest, and were not
22 issuing me any citation, but that a criminal case against me was with the District Attorney to
23 prosecute. I told them that they were acting in violation of the order of this Court, and they
24 responded that this Court's order was for San Bernardino County and didn't count here.

25 4. I told them I had an attorney, and I told them I wanted to use the phone to call my
26 attorney, but they refused to allow me to use the phone, and began removing items from the
27 house and taking pictures.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. The wardens continued to ask me questions, and demanded to know where my suction dredge was. I told them "out back" and showed them where it was. They began asking for specific items, such as a glove with red fingertips and boots with red tips.

6. They provided me with a copy of the search warrant and the evidence inventory report they made. A true copy of these documents is attached hereto as Exhibit 1. I later noticed that the address on the warrant was not my address.


7. I believe, in reliance upon this Court's ruling and other authority, that I have done nothing unlawful in attempting to supplement my income through suction dredging, and ask this Court to order the Department to stop harassing me and immediately return my belongings.

8. I also believe that the activity of suction dredging is therapeutic to my condition.

9. I served in the military and suffer from post-traumatic stress disorder (PTSD). Having my home raided by armed officers under the authority of a criminal search warrant, and particularly the implicit threat from seeing all those guns, and being subjected to their commands, has caused a significant regression in my PTSD. I was just minding my own business. Now I am having repeated nightmares, suffering increased depression, and constant anxiety about being prosecuted.

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


Executed on June 12, 2015.


David Guidero

STATE OF CALIFORNIA - COUNTY OF SISKIYOU
SEARCH WARRANT AND AFFIDAVIT

(AFFIDAVIT)

Monty L. Cervelli swears under oath that on the basis of the information contained within this Search Warrant and Affidavit and the attached and incorporated Statement of Probable Cause, he declares under penalty of perjury that he believes the information set forth in this document to be true and correct to the best of his knowledge, and therefore has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.


(SIGNATURE OF AFFIANT)

NIGHT SEARCH REQUESTED: YES () NO (x)

Reviewed and approved by District Attorney: _____

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF SISKIYOU: proof by affidavit having been made before me by Monty L. Cervelli, that there is probable cause to believe that the property described herein may be found at the location set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x" (s) in that it:

- _____ was stolen or embezzled
- _____ was used as the means of committing a felony
- xxx is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another, to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery,
- _____ tends to show that a felony has been committed or that a particular person has committed a felony,
- _____ tends to show that sexual exploitation of a child, in violation of P.C. Section 311.3, has occurred or is occurring:

YOU ARE THEREFORE COMMANDED TO SEARCH:

PREMISES: The premises at 52523 State Highway 96, APN 009-540-100, Siskiyou County, California, and all rooms, attics, containers, and other parts therein, and the surrounding grounds and any garages, storage rooms, containers, cargo containers, vehicles, travel trailers, and outbuildings thereon.

The residence is further described as single story wooden structure, painted red in color, with a silver colored metal roof and what appears to be a screened in front porch with red wooden lattice across the bottom half.

Access as follows: Travel westbound on State Highway 96 from its intersection with Highway 263 north of the City of Yreka. Continue approximately 50.6 miles westbound on State Highway 96 to the Thompson Creek Bridge; immediately after crossing the Thompson Creek Bridge there is a driveway on the right side of the highway. There is a large wooden mailbox in front of the location with three separate address number signs posted. The signs are green in color with white numbers. The signs are stacked on top of each other above the mailbox. The numbers posted from top to bottom are "52527", "52523", and "52525." Just west of the mailbox along Highway 96 are two metal gates separated by rock, fencing. Both gates have red and black colored "Beware of Dog" signs on them. The first gate, the closest gate to Thompson Creek Bridge, runs perpendicular to Highway 96 when closed. There is a driveway from that gate leading into the property and paralleling Thompson Creek. The first driveway leads to a light brown and blue colored wooden residence with a brown asphalt roof. The second gate, which is west of the first gate, is parallel to Highway 96 when closed. There is a driveway from the second gate that leads straight into the property. Go through the second gate to access a dirt/gravel driveway which goes through the property leading to the red colored residence described above.

Refer to Exhibit "A"-3 photographs of the location.

VEHICLES: A red colored, 2003 Jeep, with CA license plate 7GQA834.

FOR THE FOLLOWING PROPERTY:

PROPERTY: Suction dredge system including gray plastic floats, frame, hoses, suction nozzle, intake screen, motor, pump, hookah system, yellow air tank, orange air hoses, dive regulator, a light blue colored dive mask, a black wetsuit with red knee pads and red emblem on left chest, black dive hood, black dive boots with orange colored toes, black and white pirate flag with "Dead Men Tell No Tells" along with the skull and crossbones emblem.

INDICIA: articles of personal property tending to establish the identity of persons in control of the premises and vehicles being searched including rent receipts, utility company receipts, addressed mail and keys.

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or to any other court in which the offense in respect to which the property or things is triable, or retain such property in your custody, subject to the order of this Court, pursuant to Section 1536 of the Penal Code, and to lawfully dispose of such property or things when no longer of evidentiary value. This Search Warrant and incorporated Affidavit was sworn to and subscribed before me this 28th day of May, 2015, at 2:10 A.M./P.M. WHEREFORE, I FIND PROBABLE CAUSE FOR THE ISSUANCE OF THIS SEARCH WARRANT AND DO ISSUE IT.

NIGHT SERVICE APPROVED: YES () NO

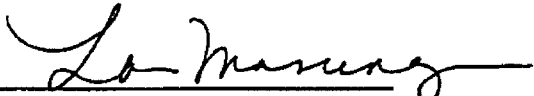
Judge's Signature: 
Judge of the Superior Court, County of Siskiyou, Yreka Superior Court Judicial District.

EXHIBIT "A"





EXHIBIT 1

PAGE 4 OF 6

PHOTO 2 OF 3



EXHIBIT

PAGE 5 OF 60 PUNTA RIF 2

CALIFORNIA
DEPARTMENT OF FISH AND GAME
EVIDENCE INVENTORY REPORT

WARDEN: M. CERVELLI
BADGE NO.: 827

SEARCH WARRANT NUMBER: 2015-59
COURT OF ORIGIN: SISKIYOU SUPERIOR COURT
PAGE: 1 OF 1

Item No.	Qty.	Evidence Description/Location Found	Type of Examination	Rec. By	Date	Loc.
1	1	BLUE COLORED GOGGLES				
2	1	YELLOW 11 GAL AIR TANK YELLOW HOSE REGULATOR				
3	1	MOTOR w/ PERATE FLNG HONDA GX100 SR# GCLBTT-1297444 w/ WATER PUMP & COMPRESSOR				
4	1	KEENE SLUICE BOX				
5	1	GREY COLORED PONTOOKLS				
6	1	GREEN HOSE w/ 3" NOZZLE				
7	1	VENTURIE				
8	2	1. WHI. " (LARGE) INTAKE HOSE 1 WHI. COLORED, (SMALL) INTAKE HOSE				
9	2	ORANGE COLORED HOOKA AIR HOSE				
10	1	ACTION PLUS WAIVER/DIVE BOOTIES				
11	1	ACTION PLUS DIVE GLASSES w/ ORANGE FRAME				
12	1	PATISLEY COLORED DIVE HORN				

Address or Location

57525 STATE HWY 96, HAPPY CAMP, CA 96086

RED JEEP
Vehicle License: 7GDA834 State: CA

I, MONTY CERVELLI, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all property taken by me on the warrant. (P.C. § 1535, 1536, 1537, 1538)

Signature: [Signature] Date: 6/4/15

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 DAVID GUIDERO IN SUPPORT OF MINERS' JOINT MOTION
9 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)
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*

Marc Melnick
Office of the Attorney General
1515 Clay Street, Suite 2000
Oakland, CA 94612
E-mail: Marc.Melnick@doj.ca.gov
Via E-mail

19 John Mattox
20 Department of Fish & Game
21 1416 Ninth Street, 12th Floor
22 Sacramento, CA 95814
23 E-mail: jmattox@dfg.ca.gov
24 *Via E-mail*

James R. Wheaton
Environmental Law Foundation
1736 Franklin Street, 9th Floor
Oakland, CA 94612
E-mail: wheaton@envirolaw.org
E-mail: elfservice@envirolaw.org
Via E-mail

23 Glen Spain
24 Pacific Coast Federation of Fisherman's
25 Association
26 Southwest Regional Office
27 P.O Box 11170
28 Eugene, OR 97440
E-mail: fishlifr@aol.com
Via E-mail

Jonathan Evans
1212 Broadway, Suite 800
Oakland, CA 94612
E-mail: jevans@biologicaldiversity.org
Via E-mail & U.S. Mail

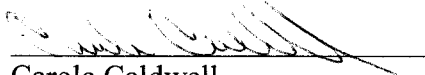
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

E. Robert Wright
Friends of the River
1418 20th St., Suite 100
Sacramento, CA 95811
E-mail: bwright@friendsoftheriver.org
Via E-mail

David Young, Esq.
11845 W. Olympic Blvd., Suite 1110
Los Angeles, CA 90064
E-mail: dyounglaw@verizon.net
Via E-mail & U.S. Mail

Lynne R. Saxton
Saxton & Associates
912 Cole Street, #140
San Francisco, CA 94117
E-mail: lynne@saxtonlegal.com
Via E-mail

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


Carole Caldwell
Declarant