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7 IN THE SUPERIOR COURT OF CALIFORNIA
8 FOR THE COUNTY OF SAN BERNARDINO
9

10 THE NEW 49'ERS, INC., a California
11 corporation, DEREK D. EIMER; STEPHEN
12 JONES; DAVID GUIDERO; MARVIN GARRY
LAMPSHIRE II; and DYTON W. GILLILAND,

13 Plaintiffs and Petitioners,

14 v.

15 CALIFORNIA DEPARTMENT OF FISH AND
16 WILDLIFE and CHARLTON H. BONHAM, in
his capacity as Director of the California
Department of Fish and Wildlife,

17 Defendants and Respondents.
18

Case No.

**DECLARATION OF DAVE GUIDERO IN
SUPPORT OF MOTION FOR A
TEMPORARY RESTRAINING ORDER
AND/OR PRELIMINARY INJUNCTION**

19
20 Dave Guidero declares:

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

23 2. On June 4, 2015, at about 3:30 p.m., while I was at my residence, I heard a knock at
24 the door. When I opened it, I was confronted with four heavily-armed representatives of the
25 California Department of Fish and Wildlife (DFW), and was informed by them that they had a
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TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY
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1 criminal search warrant to search the premises. They demanded entry into the house, and began
2 searching.

3 3. They read me my Miranda rights, told me that I wasn't under arrest, and that they
4 were not issuing me a citation, but that a criminal case against me was with the District Attorney to
5 prosecute at a later date. I told them that they were acting in violation of the order of this Court, and
6 they responded that this Court's order was for San Bernardino County and didn't apply to Siskiyou
7 County.

8 4. I told them I had an attorney, and wanted to use the phone. The wardens refused to
9 allow me to use the phone, and began taking pictures and removing items from the house.

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

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

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

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

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

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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.

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

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

EXHIBIT 1

PAGE 1 OF 6

OR THE FOLLOWING PROPERTY:

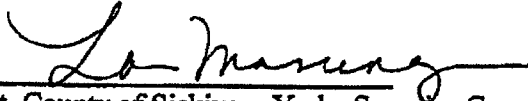
PROPERTY: Suction dredge system including gray plastic floats, frame, hoses, suction nozzle, intake screen, motor, pump, hookah system, yellow air tank, orange air hoses, dive regulator, a light blue colored dive mask, a black wetsuit with red knee pads and red emblem on left chest, black dive hood, 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 3 OF 6

PHOTO 1 OF 3



EXHIBIT 1

PAGE 4 OF 6

PHOTO 2 OF 3



EXHIBIT

PAGE 5 OF 6 PLANT 2 OF 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.
<u>1</u>	<u>1</u>	<u>BLUE COLORED GOGGLES</u>				
<u>2</u>	<u>1</u>	<u>YELLOW 11 GAL AIR TANK YELLOW HOSE REGULATOR</u>				
<u>3</u>	<u>1</u>	<u>MOTOR w/ PERATE FLNG HONDA GX100 SR# GCBTT-1297444 w/ WATER PUMP & COMPRESSOR</u>				
<u>4</u>	<u>1</u>	<u>KEENE SLUICE BOX</u>				
<u>5</u>	<u>1</u>	<u>GREY COLORED PONTONALS</u>				
<u>6</u>	<u>1</u>	<u>GREEN HOSE w/ 3" NOZZLE</u>				
<u>7</u>	<u>1</u>	<u>VENTURIE</u>				
<u>8</u>	<u>2</u>	<u>1" WHI. " (LARGE) INTAKE HOSE 1" WHI. COLORED, (SMALL) INTAKE HOSE</u>				
<u>9</u>	<u>2</u>	<u>ORANGE COLORED HOSEA AIR HOSE</u>				
<u>10</u>	<u>1</u>	<u>ACTION PLUS WAIVING DIVE BOOTIES</u>				
<u>11</u>	<u>1</u>	<u>ACTION PLUS DIVE BLADES w/ ORANGE PAINT</u>				
<u>12</u>	<u>1</u>	<u>PAISLEY COLORED DIVE HOOD</u>				

Address or Location

52525 STATE HWY 96, HAPPY CAMP, CA 96086

RED JEEP

Vehicle License: 7GQA834 State: CA

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.S. 1535, 1536, 1537, 1538)

Signature: [Signature]

Date: 6/4/15