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BY FIRST CLASS MAIL

President Donald J. Trump
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Trump:

For the last dozen years, I have represented numerous miners, mining associations and other natural resource interests as an attorney in Portland, Oregon in state and federal courts up and down the West Coast. My clients and I are very hopeful that your Administration's priority goals of rebuilding America's military, infrastructure and economy will focus on the very serious regulatory restrictions on mining the materials necessary to achieve these goals. With much of Western land in federal ownership, removing restrictions on the economic utilization of this land is vital.

The federal land management agencies within the Department of Interior (the U.S. Bureau of Land Management) and the Department of Agriculture (the U.S. Forest Service) have issued regulations with severe and disproportionate impacts on the small businesses run by small-scale prospectors and miners that are the source of America's mineral discoveries. Worse still, these agencies and the Department of Justice have given the green light to state regulatory agencies to simply prohibit mining on federal land for any reason or no reason.

So-called mining "moratoriums" are thus now in place in California and Oregon, and are threatened in Washington. Notwithstanding the fact that not so much as a single fish has ever been killed, prospectors in California now face arrest for even possessing motorized mining equipment within a hundred yards of California rivers—even if it is battery-operated. Those of us who stand behind you have been horrified over the past week at the blind and virulent hostility toward your reasonable policy changes. We have been experiencing the very same treatment at the hands of federal and state regulators, extreme environmentalists, government attorneys and government judges who are virulently opposed to any and all mining.

I have practiced law for thirty years since graduating from Yale Law School, and have fought a rearguard action for the miners through cases such as *Siskiyou Regional Education Project v. U.S. Forest Service*, 565 F.3d 545 (9th Cir. 2009), *NEDC v. DEQ*, 232 Or. App. 619 (Or. Ct. App. 2009); *United States v. Backlund*, 689 F.3d 986 (9th Cir. 2012), *Karuk Tribe v. U.S. Forest Service*, 681 F.3d 1006 (9th Cir. 2012), *Beatty v. Fish & Wildlife Comm'n*, 185 Wn. App. 426 (Wash. Ct. App. 2015), and *People v. Rinehart*, 1 Cal. 5th 652 (Cal. 2016). In general, these cases have been the most disappointing

experiences of my career, because the courts, aided and abetted by the U.S. Justice Department and state attorney generals, have departed from any reasonable conception of the rule of law to shut down mining or entangle it in senseless, duplicative, and prohibitively expensive regulation.

These cases do not involve disagreements about reasonable levels of environmental protection. They involve the arbitrary prohibition of mining, supported by things like BLM's idiotic declaration that "there is no conflict if the State law or regulation requires a higher standard of protection for public lands" than federal regulation.¹ For decades, BLM and the Forest Service have subverted their statutory missions to foster mineral development. Ironically, agency officials have long recognized that their officials are entangled in a "costly procedural quagmire" of their own making, which is so extreme that it impairs environmental goals, not just economic ones.² Federal land management is a swamp that is long overdue for draining.

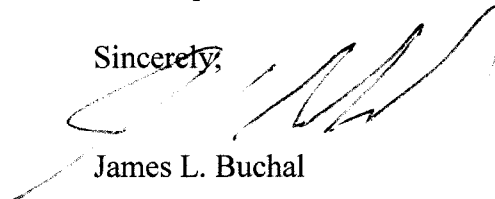
America cannot be great again unless the federal government allows miners to provide the basic building blocks necessary to support a strong economy in America again. Even without federal legislation, you can, with the stroke of a pen, end the oppression and mistreatment of America's small-scale miners and set them free to develop the mineral deposits on federal lands that by law are to be "free and open to occupation and purchase".³

Your appointees can rewrite federal regulations to encourage mineral development on federal lands and eliminate inconsistent and prohibitory state regulation. And your appointees can get control of the Natural Resources Division of the Justice Department and start advocating reasonable constructions of federal statutes in court. Revoking the amicus briefs filed by the Obama Administration to defend state mining prohibitions would be a good start.

If you require any assistance in this effort, I stand ready to assist you. I am unaware of any other attorney who is as familiar with these issues as I am.

Thank you for your consideration of these requests.

Sincerely,



James L. Buchal

¹ 43 C.F.R. § 3809.3.

² U.S Forest Service, *The Process Predicament: How Statutory, Regulatory and Administrative Factors Affect National Forest Management* (2012) (available at <https://www.fs.fed.us/projects/documents/Process-Predicament.pdf>)

³ 30 U.S.C. § 22.