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3 *Pro Se*
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6 IN THE SUPERIOR COURT OF CALIFORNIA
7
8 IN THE COUNTY SISKIYOU
9

10 THE PEOPLE OF THE STATE OF
11 CALIFORNIA,

12 Plaintiff,

13 XXXXXXXXXXXXXXXXXXXX

14 Defendant.
15
16

Case No. 25CM16023

**DEFENDANT’S RENEWED MOTION TO
DISMISS AND MEMORANDUM IN
SUPPORT THEREOF**

**NOTICE OF INTENT TO APPEAR
REMOTELY FOR JULY 6, 2026
PRETRIAL CONFERENCE**

17 **Preliminary Statement**

18 On March 20, 2026, I moved for dismissal of the criminal charges against me. The District
19 Attorney filed “Opposition to Defense Motion to Dismiss” on April 1, 2026. We appeared before
20 the Court on April 13, 2026 for a pretrial conference, and the Court urged me to get an attorney, and
21 reset the pretrial conference for July 6, 2026. As I explained in my initial motion, it has proved
22 almost impossible to find an attorney in Yreka, California who is versed in the issues in this case.

23 Having reviewed the District Attorney’s opposition, I see that he is saying my motion to
24 dismiss was dead on arrival because I did not cite a California statute that permits dismissal. For
25 this reason, I am refiling this motion with additional statutory citations, Penal Code §§ 995 & 1385,
26 though nonstatutory motions are clearly allowed. Again, I am not contesting what I did; I merely
27 wish the Court to issue a decision on whether the law of California in fact permits me to be

1 prosecuted when I am attempting to operate under the protections of § 5653.8 of the Fish and Game
2 Code and the regulations opening this stretch of the Klamath River—and if the statutes and rules do
3 not really mean what they seem to say, whether the law is so vague and confusing that it is
4 unconstitutional to prosecute me for a violation.

5 If the Court issues a ruling denying the motion, there should be no need for a trial, as I will
6 ask the Court simply to do justice based on the undisputed facts. For what it is worth, I am trying to
7 make things easier for the Court and the District Attorney—I don’t understand why anyone should
8 bother having a trial to prove what I did when whether I did it was not the issue.¹ The issue is
9 whether what I did is illegal under the relevant statutes.

10 **Motion**

11 I hereby move, pursuant to § 995 of the Penal Code and this Court’s inherent authority to
12 consider nonstatutory motions to dismiss the charge against me, and request, pursuant to § 1385 of
13 the Penal Code, that the Court exercise its authority to dismiss the case against me, in both cases
14 because: (1) I was cited for possession of a suction dredge within 100 yards of closed waters, but
15 the water I was near was “Class F,” “Open to dredging from September 1 through September 30”
16 under the California suction dredge use classifications; (2) I was present as a member of The New
17 49’ers, Inc., and § 5653.8 of the Fish and Game Code provides that the prohibitions of § 5653 “do
18 not include a partnership, corporation, or other type of association;” (3) in the alternative, if the law
19 does not mean what this regulation and statute seems to say, the law is so vague that it makes it
20 unfair and unconstitutional to prosecute me for a violation; and (4) federal law does not permit the
21 State of California to indefinitely restrict mining on federal land by forbidding mining with suction
22 dredges (but not other uses) and forbidding their possession.

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26 ¹ I am informed that in *People v. Clements*, No. 24CM14292 (Siskiyou County), the District
27 Attorney confirmed before this Court that a jury should not be allowed to decide any of the legal
issues he raised, and I am raising.

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Summary of Argument

First, it is quite clear that the § 5653(a) charge against me is barred because I was not a “person” covered by § 5653(a) by reason of § 5653.8. That section removes anyone who is “a partnership, corporation, or other type of association”. As explained below, I was operating in association with The New 49’ers, Inc. Presumably, the reason the DA now wants to change the information to charge § 5653(e) instead of § 5653(a) is that the DA recognizes that no § 5653(a) charge can be brought because of § 5653.8.

However, § 1009 of the Penal Code does not permit the DA to amend the complaint “so as to change the offense charged”. In arguing that the protections of § 5653.8 do apply to § 5653(a), but not § 5653(e), the DA is essentially taking the position that these are different offenses. He is changing the offense charged, and it would therefore be legal error to permit the District Attorney to amend the complaint against me.

Whether this Court allows amendment or not should not, however, matter for purposes of this motion. The most reasonable way to read the statute is that the § 5653.8 exception applies for all subsections of § 5653, not just § 5653(a). The term “person” is obviously inherent in the prohibition of a person possessing dredging equipment within 100 yards of closed waters, whether or not the word “person” is included. Obviously, all of § 5653 is referring to what *persons* may or may not do.

The District Attorney says I should understand that the waters were closed, but if one simply reads the regulations describing each area in Siskiyou County, this area is open for dredging. The District Attorney asks us (and the Court) to ignore the regulations, because according to the District Attorney, an entirely different section of the statute, § 5653.1, overrides the regulations and closes everything. But it expressly refers to the new regulations, and any ordinary person reading the new regulations would assume § 5653.1 no longer applies.

Second, if, despite the regulations opening this river reach and § 5653.1 not clearly closing it after the new regulations issued, it is still somehow deemed closed, these rules and statutes are too

1 vague to provide clear guidance for citizens. The U.S. (and California) constitutions do not permit
2 criminal charges to proceed where the law is so unclear.

3 Third, § 5653.1 is by its terms a temporary closure awaiting certification by the director of
4 the California Department of Fish and Game, and it discriminates against miners by allowing any
5 other sort of dredging to continue. The area where I was cited was federal property that by federal
6 law is open to mining, and the State of California cannot lawfully single out mining on federal land
7 as a land use to be prohibited. The Supreme Court of California did uphold a temporary restriction
8 back in 2016, but that was ten years ago, and the case should not be seen as allowing what has
9 become a permanent claim of continued closure.

10 **Argument**

11 **I. SECTIONS 995 AND 1385 OF THE PENAL CODE PERMIT DISMISSAL**

12 In the State’s opposition to March 30, 2026 motion, the State asserts that “dismissal must
13 proceed through a recognized statutory mechanism” and says the motion must be denied for failure
14 to identify the statute, but cites no authority to this effect. (Opp. at 2.) I have identified at least two
15 statutory mechanisms and one nonstatutory mechanism.

16 First, § 995 of the Penal Code allows this Court to set aside the District Attorney’s
17 information, whether or not an amendment is allowed, where “the defendant had been committed
18 without reasonable or probable cause”. As set forth herein, no probable cause existed to charge
19 defendant because the statute did not prohibit the conduct for which I was cited, inasmuch as the
20 relevant segment of the Klamath River was not “closed” within the meaning of § 5653(e) and I also
21 had the protection of § 5653.1.

22 Second, § 1385(a) of the Penal Code provides: “The judge or magistrate may, either on
23 motion of the court or upon the application of the prosecuting attorney, and in furtherance of justice,
24 order an action to be dismissed.” While a defendant does not have the right to make a motion under
25 this section, the California Supreme Court has declared that

26 “. . . he or she does have the right to ‘invite the court to exercise its power
27 by an application to strike a count or allegation of an accusatory pleading, and the
court must consider evidence offered by the defendant in support of his assertion

1 that the dismissal would be in furtherance of justice.’ (*Rockwell v. Superior Court*
2 (1976) 18 Cal.3d 420, 441 [134 Cal. Rptr. 650, 556 P.2d 1101].) And “[w]hen the
3 balance falls clearly in favor of the defendant, a trial court not only may *but should*
4 exercise the powers granted to him by the Legislature and grant a dismissal in the
5 interests of justice.” (*People v. Superior Court (Howard)* (1968) 69 Cal.2d 491, 505
6 [72 Cal. Rptr. 330, 446 P.2d 138], italics added.)”

7 *People v. Carmony* (2004), 33 Cal. 4th 367, 375, 92 P.3d 369, 374, 14 Cal. Rptr. 3d 880, 887. I
8 certainly invite the Court to dismiss the charge against me.

9 Finally, “a pretrial nonstatutory motion to dismiss is now accepted as an appropriate vehicle
10 to raise a variety of defects”. *Stanton v. Superior Court* (1987), 193 Cal. App. 3d 265, 271, 239
11 Cal. Rptr. 328, 332 (“where, as here, the deprivation of a substantial right is not shown in the
12 transcript of the preliminary hearing, the nonstatutory motion to dismiss is the proper device to raise
13 the issue”). The District Attorney’s unsupported claim that defendant must identify a particular
14 statute is simply wrong. This Court has inherent authority to consider the issues raised herein
15 without any particular statutory procedure, and should do so because I have moved for an answer to
16 the important legal questions presented.

17 **II. THE RELEVANT SECTION OF THE KLAMATH RIVER WAS NOT CLOSED.**

18 I was issued a ticket on or about January 13, 2026 for an alleged violation on September 3,
19 2025. Under the “citation details” said: FG 5653(e)-POSSESS MOTORIZED MINING
20 EQUIPMENT W/IN 100 YARDS OF CLOSED WATER”. My equipment was found to be within
21 100 yards of the Klamath River, at Wingate Bar, which is about nine miles downriver from Happy
22 Camp in Siskiyou County. This Court can and should take judicial notice that this area is within the
23 Siskiyou County National Forest; it is federal property under the jurisdiction of the U.S. Forest
24 Service.

25 It is my understanding that § 228.5 of the California Code of Regulations, Title 14, entitled
26 “Suction Dredge Use Classifications and Special Regulations” classifies the waterbodies in
27 Siskiyou County in subsection (b)(47). That subsection reports that “all rivers and streams in the
28 County below 4,000 feet, unless otherwise noted below” are classified as “Class F”. The Klamath
River is mentioned below, but only upstream of Iron Gate Dam; there are also “special closures” in

1 the Klamath River Watershed, but I was not near any of them. Under subsection (a)(1), “Class F” is
2 defined as “open to dredging from July 1 through September 30”.

3 For this reason, I do not think that § 5653(e) applies to me. That section provides: “It is
4 unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, that
5 are closed to the use of vacuum or suction dredges.” I assume the whole purpose of the § 228.5
6 regulations is to identify which are the “waters that are closed to the use of suction dredges”.

7 In its Opposition, the State does not dispute that the regulations classify the relevant stretch
8 of the Klamath River as open, but argues that the entire classification system should be ignored (and
9 citizens should know it should be ignored) by reason of § 5653.1(b) of the Fish and Game Code.
10 What the statute says is that “the *use* of any vacuum or suction dredge equipment in any river,
11 stream, or lake of this state is prohibited until the director certifies to the Secretary of State that all
12 of the following have occurred . . .”. According to the District Attorney, “these conditions have not
13 been met” (Opposition at 2), but the District Attorney provides no evidence of this.²

14 More importantly, this temporary prohibition on “use” is not the same thing as “closing the
15 waters” within the meaning of § 5653(e)—the violation for which I was cited and which the District
16 Attorney now wants to charge me. This is clear from the structure of § 5653, which in subsection
17 (c) says “

18 “Under the regulations adopted pursuant to § 5653.9,^[3] *the department shall*
19 *designate* waters or areas wherein vacuum or suction dredge equipment may be used
20 pursuant to a permit, *waters or areas closed to the use of that equipment*, the
maximum size of the vacuum or suction dredge equipment that may be used, and the
time of year when the equipment may be used.” (Emphasis added.)

21 When subsection (e) then follows by saying it is unlawful to possess a vacuum or suction dredge “in
22 areas, or in or within 100 yards years of waters, that are closed to the use of vacuum or suction
23 dredges,” any reader would interpret this to refer to the regulations adopted under the authority of
24 subsection (c). A broader interpretation would essentially outlaw the possession of suction dredges

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26 ² That being said, the Opposition declares that “the People are prepared to provide the Court with
documentation . . .” (Opposition at 3), and I assume the Department would so testify.

27 ³ Section 5653.9 provides: “The department shall adopt regulations to carry out Section 5653 and
may adopt regulations to carry out Sections 5653.3, 5653.5, and 5653.7”.

1 throughout the State, a large portion of which is within 100 yards of waters, even though the use of
2 vacuum or suction dredges generally is not prohibited. Indeed, § 5356.1(c) makes it clear that
3 dredge use can continue “for regular maintenance of energy or water supply management
4 infrastructure, flood control, or navigational purposes governed by other state or federal law”. That
5 section becomes a nullity if all waters of the State are closed.

6 In short, no charge under § 5653(e) can be pursued because the relevant section of the
7 Klamath River was not a “closed area,” notwithstanding any temporary restriction on the use of
8 such equipment.

9 **III. SECTION 5653.8 PREVENTS ENFORCEMENT OF § 5653.**

10 The next reason that I think the charges should be dismissed is that I am a member of The
11 New 49’ers, Inc. I am again, attaching a copy of my membership card as Exhibit 1 to this motion
12 for dismissal. The New 49’ers, Inc. is a for-profit, private gold prospecting membership
13 organization⁴ allowing members to prospect on federal mining claims it controls under provisions
14 that require a sharing of gold when members discover and remove large quantities of gold (called a
15 10% royalty⁵).

16 Section 5653.8 of the Fish and Game Code says: “For purposes of Sections 5653 and
17 5653.3, ‘person’ does not include a partnership, corporation, or other type of association.” As a
18 member of The New 49’ers who traveled to California from Pennsylvania to prospect for gold for
19 my benefit and the corporation’s benefit, I assume that the “other type of association” exemption in
20 § 5653.8 from § 5653 prohibitions applies to me.

21 I read § 5653(e) as saying: “It shall be unlawful [for any ‘person’] to possess a vacuum or
22 suction dredge in areas, or in or within 100 years of waters that are closed to the use of vacuum or
23 suction dredges”. While the word “person” does not appear in § 5653(e) itself, most people would
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26 ⁴ This can be seen on The New 49’ers website at <https://goldgold.com/new-49er-structure.html>.

27 ⁵ This can be seen on The New 49’ers website at <https://goldgold.com/membership-agreement-3.html>.

1 say that when § 5653.8 says it applies “for purposes of § 5653,” that means that the prohibitions of
2 § 5653 do not apply to association members.

3 I am aware that another suction dredge miner named Tucker Clements successfully invoked
4 § 5653.8 before *this Court* to secure dismissal of the case against him, because he was a member of
5 a partnership (Case No. 24CM14292, citation and dismissal attached as Exhibit 2), and that even
6 after the State renewed charges against him, they were dismissed again (Case No. 25CM05214). I
7 and others came to Siskiyou County assuming that Mr. Clement’s case had set the precedent for
8 interpreting the statute. I personally traveled approximately 6,000 miles (back and forth), only to
9 arrive, get cited for a criminal offense, and have my property (dredge) taken away. I know that
10 others were treated in a similar manner, undermining the *Clements* precedents set by this Court.

11 The District Attorney now claims that the case was dismissed pursuant to § 1387 of the
12 Penal Code and that the Court did not reach any argument under § 5653.8. The District Attorney is
13 wrong. First, § 1387 addresses the effect of dismissals, and there is nothing in the document
14 (Exhibit 2) referring to § 1387. More importantly, it is quite plain from the face of the second page
15 that the District Attorney sought dismissal on the basis of § 5653.8 providing a defense to a charge
16 of violating § 5653(a)—the same provision I am presently charged with violating. In that case, the
17 miner claimed to be partners with another miner rather than a member of The New 49’ers, but as
18 explained below, there is even more reason to apply the protections for me.

19 The District Attorney has responded that the protections of § 5653.8 apply only to “those
20 provisions within section 5653 that are predicated on the term ‘person’” (Opposition at 3). To my
21 knowledge, no case has yet so held, and the District Attorney does not cite one. By its terms,
22 § 5653.1 applies for all “purposes of Section[] 5653 . . .”—it does not single out any subsections.
23 Subsection 5653(e) is as predicated on the term “person” as any other subsection: the prohibition
24 “it is unlawful to possess” (§ 5653(e)) is reasonably construed to refer to a person in the same way
25 as “the use . . . by a person . . . is prohibited” (§ 5653(a)), whether or not the term “person” is
26 actually used.

1 The District Attorney also claims that § 5653.1 does not bring individual miners “within an
2 entity-level exemption” (Opposition at 4), even though each and every entity listed can only act
3 through individual partners, corporate agents, or those associated with some other type of
4 association. There is nothing “absurd” (*id.*) about the idea that membership in The New 49’ers, Inc.
5 should provide an exemption from § 5653. The legislature could and did reasonably conclude that
6 miners not associated with any particular entity were more likely to cause harm; The New 49’ers,
7 Inc. maintains an extensive and protective regulatory system, in cooperation with the U.S. Forest
8 Service, that simply puts its members on a different plane of responsibility than isolated and
9 unaffiliated miners.⁶

10 **IV. IF MY INTERPRETATION OF THE LAW AND RULES IS WRONG, THEY**
11 **ARE TOO CONFUSING TO BE THE BASIS OF A CRIMINAL**
PROSECUTION.

12 I know it is up to the Court to interpret the rule provisions and statutes cited above. But
13 under the Constitution of the United States and the State of California, citizens of the State and
14 visitors to it should be protected from confusing laws, particularly if they are going to be charged
15 with a crime on the basis of these laws.

16 "It is a basic principle of due process that an enactment is void for vagueness if its
17 prohibitions are not clearly defined. Vague laws offend several important values. First,
18 because we assume that man is free to steer between lawful and unlawful conduct, we insist
19 that laws give the person of ordinary intelligence a reasonable opportunity to know what is
20 prohibited, so that he may act accordingly. Vague laws may trap the innocent by not
21 providing fair warning."

22 *In re Timothy R.*, 202 Cal. App. 3d 593, 597, 248 Cal. Rptr. 721, 723 (1988).

23 ⁶ As The New 49’ers, Inc. website explains,

24 "Unregulated suction dredge activity is unacceptable on New 49’er properties. Therefore we are
25 hereby adopting the following Emergency Rules . . . we consider this matter very serious, and
26 will therefore immediately suspend the mining privileges of any member who does not conform
27 to these Rules on New 49’er properties. No exceptions!"

28 Available at <https://goldgold.com/emergency-rules-2015.html>.) Just as the State is prepared to
provide additional documentation on the Department’s decisionmaking under § 5653.1, I am
prepared to provide additional information on The New 49’ers, Inc. regulatory process, but the case
can and should be dismissed in the interests of justice based on this and other materials easily
reviewable on the website. *E.g.*, <https://goldgold.com/operational-guidelines-for.html>.

1 I believe that I am a person of ordinary intelligence, and the law said that the Klamath River
2 at Wingate Bar was “Class F,” open for dredging, and that association members like me got a §
3 5653.8 exemption. I do not believe I had a reasonable opportunity to know that possession of a
4 suction dredge near this part of the river was illegal in these circumstances, and it appears that even
5 the State is uncertain about the operation of these laws.

6 The District Attorney admits that the statutes must “define the offense with sufficient clarity
7 that ordinary people can understand what conduct is prohibited and in a manner that does not
8 encourage arbitrary enforcement”. (Opposition at 4.) I am an ordinary person, and I couldn’t and
9 can’t understand how or why I can be cited for possessing equipment near a closed river when the
10 river is open if you look it up, or cited for illegal use of the equipment when I was acting in my role
11 as a New 49’ers, Inc. member prospecting for the benefit of the entity and myself.

12 This case is not, as the District Attorney claims, about my “ignorance of the law”
13 (Opposition at 5); it is about what the law actually means, and whether that meaning is clear. Here,
14 the meaning of the law is so unclear that the District Attorney’s initial charge was the same charge
15 initially filed against Tucker Clements and dismissed by this Court, and now the District Attorney
16 wants to amend the charge to change it to the charge that this Court dismissed the second time Mr.
17 Clements came before the Court. Ordinary miners paying attention to what is going on, and who
18 like me, came to Siskiyou County expecting to rely upon the *Clements* decisions cannot understand
19 what is going on. This is not due process of law.

20 **V. FEDERAL SUPREMACY DOES NOT PERMIT CONTINUED DISCRIMINATION**
21 **AGAINST MINERS IN SISKIYOU COUNTY.**

22 A final reason for dismissal of this case is that the area involved is all federal land. Under
23 the 1872 Mining Act, federal policy has required that

24 “. . . all valuable mineral deposits in lands belonging to the United States, both
25 surveyed and unsurveyed, shall be free and open to exploration and purchase, and
26 the lands in which they are found to occupation and purchase, by citizens of the
27 United States and those who have declared their intention to become such, under
regulations prescribed by law, and according to the local customs or rules of miners
in the several mining districts, so far as the same are applicable and not inconsistent
with the laws of the United States.”

1 30 U.S.C. § 22. As a matter of federal law, the rivers of Siskiyou County in National Forest land
2 are to be “open to exploration,” and the only practical way explore the underwater deposits of gold
3 is with a suction dredge.

4 I understand that the California Supreme Court upheld “a temporary moratorium on the
5 issuance of dredging permits pending further environmental review”. *People v. Rinehart* (2016), 1
6 Cal. 5th 652, 658, 377 P.3d 818, 821, 206 Cal. Rptr. 3d 571, 575. As I understand it, reasonable
7 state regulation of mining on federal land is allowed under federal law so long as it does not “stand
8 as an obstacle to the accomplishment of the full purposes and objectives of Congress”. *California*
9 *Coastal Comm’n v. Granite Rock Co.*, 480 U.S. 572, 581 (1987).

10 But no case has upheld a permanent shutdown of mining on federal lands. If a temporary
11 2009 moratorium to allow the development of river-by-river-reach regulations was ever reasonable,
12 it is no longer reasonable at all to prohibit the mining some fourteen years after those regulations
13 were issued in 2012—opening the Klamath River at Wingate Bar. The unreasonable impact on
14 federal mineral objectives is underscored by the fact that the State has no problem with the use of
15 suction dredges in its rivers generally. Section 5653.1(c) provides that the alleged Statewide
16 closure of rivers applies solely to mining, and does not “close or regulate suction dredging
17 conducted for regular maintenance of energy or water supply management infrastructure, flood
18 control or navigational purposes . . .”. In other words, the State of California is specifically
19 discriminating against the federal rights of miners, while allowing anyone else to use the same
20 equipment.

21 The District Attorney’s response is that “the California Department of Fish and Wildlife has
22 full authority to enforce state law on federal land” (Opposition at 6) ignores federal supremacy
23 principles as set forth in *Granite Rock*. Here, the State has reasonable latitude for regulation
24 utilizing environmental restrictions set forth in the reach-by-reach river classifications, but a de
25 facto permanent ban on suction dredge mining that was not approved by the *Rinehart* decision goes
26 too far in interfering with Congressional objectives to develop mineral resources on federal land.
27

1 Closing Siskiyou County’s valuable gold deposits forever obviously frustrates the purposes and
2 objectives of Congress under federal mining law. These purposes are established not merely by
3 Congress but are also the subject of repeated Executive Orders establishing gold as a strategic metal
4 and removing procedural barriers from mining. *See, e.g.*, Executive Order No. 114241, “Immediate
5 Measures to Increase American Mineral Production,” (March 20, 2025).⁷

6 This case is not just about me. It is about hundreds or even thousands of other small-scale
7 miners in Siskiyou County. It is about the legacy of gold mining being one of the more important
8 sources of income to the thousands of people who have come to mine gold in Siskiyou County since
9 1850. It is about the Siskiyou County Supervisor's unanimous invitation to all who might visit
10 Siskiyou in search of gold. And it is about the future of this legacy in future years. There is a lot at
11 stake in this case. The Klamath River and its tributaries are arguably the most productive gold
12 streams in California.

13 Conclusion

14 For these reasons, I am asking the Court to dismiss my case and clarify the law here for the
15 benefit of me and other local miners who should be exempted from § 5653 by operation of
16 § 5653.8. It should not be necessary to impose the burden of a jury trial on Siskiyou County and
17 me. I know the Court is very busy because of the hours I have had to wait on Zoom for my case to
18 be called in the appearances so far.

19 Dated: June __, 2026.

20 _____
21 NAME: XXXXXXXXXXXXXXXXXXXX
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27 ⁷ Available at <https://www.whitehouse.gov/presidential-actions/2025/03/immediate-measures-to-increase-american-mineral-production/>

Lifetime Membership Certificate

THE NEW 49'ers

This is to certify that Gerard Buggay, under the By-laws of THE NEW 49'ers, Inc. gold prospecting, mining and treasure hunting club, a California Corporation, is entitled, as a member of said Corporation to partake in all meetings and activities of the association as long as membership is retained.

This Certificate shall be good for life of the above named member or until transferred by that member.

In witness where, the Corporation has caused this Certificate to be executed by its duly authorized officers this 3rd day of January, 2011 and its Corporate Seal to be hereinto affixed.

Matthew D. Davis

Secretary

Dave Mac

President



NOTICE TO:

☒ APPEAR IN COURT AT 0900 ☒ AM ☐ PM

OR

☒ RESPOND TO CITATION BEFORE:

DATE: 12/17/24

See back for detailed instructions

☐ To be notified

CITY NAME: SESKIYON
DEPARTMENT: SHERIFF
ADDRESS: 411 4th ST
YREKA CA 96097
PHONE#: 530-842-0411
COURT CODE:

ACT BY THIS DATE TO AVOID A
WARRANT OR ADDED FEES

Date of Violation (mm/dd/yy)	Time ☐ AM ☒ PM	Driver's License Number (all states)	Class	State
<u>8-20-24</u>	<u>1959</u>	XXXXXXXXXX	<u>DL</u>	<u>WA</u>
Name (first, middle, last)				
<u>TUCKER JAMES HENRY CLEMENS</u>				
Current Address (no., street, city, state, zip)				
<u>GENERAL DELIVERY MT. SHASTA. CA 96087</u>				
Date of Birth (mm/dd/yy)	Commercial ☐ Y ☒ N	Insurance ☐ Y ☒ N		
XXXXXXXXXX				
Race / Ethnicity	Sex	Hair	Eyes	Height
<u>CAUCASIAN</u>	<u>M</u>	<u>BRN</u>	<u>BRN</u>	<u>6'3"</u>
Weight				
<u>175</u>				
Vehicle License/VIN	State	Reg (mm/yy)	Year of Veh.	Model
Registered Owner/Lessee ☐ Same as driver ☐ Owner's responsibility (VC, § 40001)			Model	Body Style
Address (no., street, city, state, zip) ☐ Same as driver			Color	
Reason for Stop		Evidence Seized: ☒ Y ☐ N Returned: ☐ Y ☒ N		

CITATION DETAILS

☐ Booking Required (see reverse)

Correctable (Fix-It)	Code/Section	Description	M = Misdemeanor I = Infraction (circle)
☒ Y ☐ N	<u>FG-5653(a)</u>	<u>POSSESS MOTORIZED</u>	<u>(M)</u> I
☐ Y ☐ N	<u>MINING EQUIPMENT W/EN</u>		M I
☐ Y ☐ N	<u>100 YARDS OF WATER</u>		M I
☐ Y ☐ N			M I

Approx. Speed	PF/Max Speed	Veh. Limit	Safe Speed	☐ Commercial Veh. VC, § 40210(a)
				☐ Hazardous Mat. VC, § 352
Location of Violation				Event No.
<u>RD</u>				
City/County of Occurrence				
<u>SESKIYON</u>				

Comments (weather, road, traffic conditions)

CLEAR DRY

☐ Violations not committed in my presence, declared on information and belief (VC, § 40600)
I declare under penalty of perjury under the laws of the State of CA that the foregoing is true and correct.

DECL DATE: 8/20/24 ARRESTING OR CITING OFFICER: C EDWARDS BADGE NO.: 760

DECL DATE: ARRESTING OFFICER, (if different from above) BADGE NO.

I promise to act by the date at the top of this citation. Signing DOES NOT admit guilt.

CELLPHONE - OPTIONAL (may be used for reminders) EMAIL - OPTIONAL (may be used for reminders)

X

SIGNATURE

☐ Juvenile Parent/Guardian Phone No. ()

DEFENDANT COPY | FORM INFO

Continuation form ☐

305855

ORIGINAL

1 J. KIRK ANDRUS, District Attorney
2 Siskiyou County District Attorney's
3 Office 311 Fourth Street, Room 204
4 P.O. Box 986
5 Yreka, CA 96097
6 Telephone: (530) 8428125
7 Facsimile: (530) 842-8137

FILED
DISTRICT CLERK OF CALIFORNIA
COUNTY OF SISKIYOU
YREKA BRANCH
APR 17 2025
BY: [Signature]
DEPUTY CLERK

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SISKIYOU

10 THE PEOPLE OF THE STATE OF CALIFORNIA

NO. 24CM14292

11
12 Plaintiff,

REQUEST FOR
DISMISSAL
AND
DISMISSAL

13 vs.

14 TUCKER JAMES HENRY CLEMENTS

15 DOB: 10/30/1993

16
17 Defendant.

18
19 The People of the State of California hereby move this Court to dismiss the complaint.
20 as to the above-named defendant only and to recall any warrant issued thereon. This request is
21 made for the following reason(s):

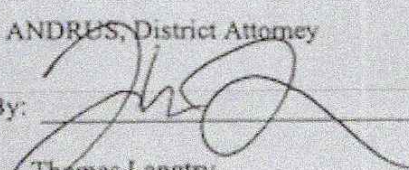
- 22 ☐ Defendant incarcerated at [Click or tap here to enter text.](#); dismissal pursuant to *Penal*
23 *Code* §1381 and Interest of Justice pursuant to §1385.
24 ☐ Victim declines to prosecute (insufficient evidence).
25 ☒ Change in evidence since filing; case substantially weakened (insufficient evidence).
26
27 ☐ Defendant pled to other charges; dismissal of this case per disposition
28 (interest of justice pursuant to *Penal Code* §1385).

REQUEST FOR DISMISSAL AND DISMISSAL

1 ☒ Other: The defendant has produced evidence that shows that he substantially
2 complied with the scope of conduct allowed by Fish and Game Code section
3 5653(a) . Pursuant to section 5653.8, " For purposes of Section[] 5653 . . . 'person'
4 does not include a partnership, corporation, or other type of association." The
5 defendant substantially complied with the requirements of section 5653(a) because
6 he was acting as an agent of a partnership.

7 DATED: April 16, 2025

J. KIRK ANDRUS, District Attorney

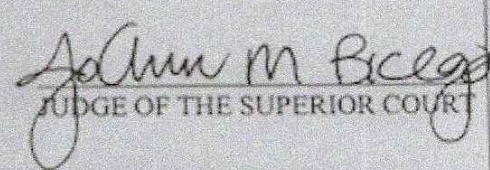
8 By: 

9 Thomas Langtry
10 Deputy District Attorney

11 TL:tl

12
13
14 IT IS SO ORDERED:

15
16 Dated: 4-17-25

17
18
19 
20 JUDGE OF THE SUPERIOR COURT
21
22
23
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25
26
27
28

REQUEST FOR DISMISSAL AND DISMISSAL

CERTIFICATE OF SERVICE

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

On or before June ___, 2026, I caused the following document to be delivered:

DEFENDANT’S RENEWED MOTION TO DISMISS AND MEMORANDUM IN SUPPORT THEREOF

on the recipient listed below in the following manner:

() (BY FEDERAL EXPRESS)

(X) (BY EXPRESS MAIL)

() (BY FAX)

(X) (BY E-MAIL)

Kirk Andrus, District Attorney
District Attorney’s Office
311 Fourth Street, Room 204
Yreka, CA 96097
E-mail:

() (BY FEDERAL EXPRESS)

(X) (BY EXPRESS MAIL)

() (BY FAX)

() (BY E-MAIL)

Superior Court of California, County of Siskiyou
411 Fourth Street
Yreka, CA 96097

xxxxxxxxxxxxxxxxxxxxxx