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4 Attorneys for Proposed Intervenors  
5 THE NEW 49'ERS, INC., a California corporation, and  
RAYMOND W. KOONS, an individual

6  
7  
8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF ALAMEDA  
10 UNLIMITED CIVIL JURISDICTION  
11

12 KARUK TRIBE OF CALIFORNIA and  
13 LEAF HILLMAN,

14 Plaintiffs,

15 v.

16 CALIFORNIA DEPARTMENT OF FISH  
AND GAME and RYAN BRODDRICK,  
17 Director, California Department of Fish and  
18 Game,

19 Defendants.  
20  
21

Case No. RG05 211597

**DECLARATION OF MARCIA  
ARMSTRONG, CHAIR,  
SISKIYOU COUNTY BOARD OF  
SUPERVISORS**

Date:  
Time:  
Judge: Honorable Bonnie Sabraw  
Place: Department 512

Filing Date: January 10, 2005  
Trial Date:

22 Marcia Armstrong, being duly sworn, deposes and says:

23 1. I am a member of the Board of Supervisors of Siskiyou County, California. The  
24 Board consists of five members. I am authorized by Resolution No. 06-02, adopted by the Board  
25 of Supervisors on January 3, 2005 (copy attached hereto as Exhibit A), to provide testimony in  
26 this action as set forth herein, and the position herein represents the position of Siskiyou County.

27 2. Siskiyou County has jurisdiction by law over natural resources affected by this  
28 litigation that are held in trust for the people of California, specifically mineral resources.

1 Siskiyou County has exercised such jurisdiction through, among other means, its planning  
2 ordinances, including Chapter 5 of Title 10 of its Planning and Zoning Ordinance, regulating  
3 surface mining and reclamation.

4 3. Siskiyou County is entitled to notice under the California Environmental Quality  
5 Act when lead agencies of the State of California make various determinations pursuant to that  
6 Act, and an opportunity to participate in related proceedings under the Act.

7 4. Siskiyou County has historically had problems with Sacramento agencies  
8 providing the requisite notice and thus specifically amended Planning and Zoning ordinance to  
9 add Chapter 12. In adopting the ordinance, the Board of Supervisors found that:

10  
11 “(a) Actions of state and federal agencies to plan, adopt rules or regulations, acquire land  
12 or interest in land, in fee or through easements, promulgation of programs, land  
13 adjustments, and other activities of these agencies can have significant effects on the  
14 customs, culture, economy, resources, and environment of the County of Siskiyou and its  
15 citizens.

16 “(b) In order to protect the customs, culture, economy, resources, and environment of the  
17 County of Siskiyou, it is critical that federal and state agencies recognize and address the  
18 effects of any actions proposed within the County which may affect matters, including,  
19 but not limited to, economic growth, public health, safety and welfare, land use, the  
20 environment, conservation of natural resources, such as timber, water, fish, wildlife,  
21 mineral resources, agriculture, grazing, and recreational opportunities.

22 “(c) The coordination and consideration of the County's interest is required by law, such  
23 as in those requirements set forth in the National Environmental Protection Act, the  
24 National Forest Management Act, the Intergovernmental Cooperation Act, the Federal  
25 Land Policy and Management Act, the Federal Administrative Procedures Act, the State  
26 of California Public Resources Code, the California Environmental Quality Act, and  
27 numerous other federal and state statutes and administrative procedures.

28 “(d) These various state and federal laws provide for participation by Siskiyou County  
and the public through opportunities for comment on proposed projects and actions.

“(e) There is general County concern that, in the past, the legally required process of  
notification, referral, and coordination of activities described above may not have been  
consistently followed by state and federal agencies, which has led to concerns by the  
County and its residents that uncoordinated actions may have been adopted contrary to  
the requirements of law and potentially detrimental to the customs, culture, economy,  
resources, and environment of the County of Siskiyou.

1 “(f) There is a clear need to establish an effective and consistent joint procedure for  
2 advance notification, referral, coordination, and participation to be followed by all state  
3 and federal agencies when undertaking activities or actions affecting the public health,  
4 safety, land use, customs, culture, economy, conservation of natural resources and  
5 environment of the County of Siskiyou, which procedure provides for a timely advance  
6 notice of opportunities for participation which are essential to the integrity of the  
7 decisionmaking processes of these state and federal agencies.

8 “(g) In order for this coordination and consultation to be meaningful, the said notice and  
9 opportunity for input shall be given at the earliest possible stage of the federal and/or state  
10 governments' contemplation or consideration of a particular course of action with regard  
11 to land use plans, actions, or decisions affecting land use in Siskiyou County and such  
12 notice shall be given with sufficient specificity and prior to any psychological momentum  
13 having been developed with regard to the particular plan, action, or decision.”

14 5. Accordingly, the Board of Supervisors adopted procedures to provide full rights of  
15 participation:

16 “(a) All federal and state agencies shall inform the County of Siskiyou, or its designee, of  
17 all pending, contemplated or proposed actions affecting local communities, citizens, or  
18 affecting County policy, and shall, if requested by the County, coordinate the planning  
19 and implementation of those actions with the County or its designee(s). Such notification  
20 shall include a detailed description of the proposed plan, procedure, rule, guideline, or  
21 amendment sufficient to fully inform lay persons of its intent and effects, including the  
22 effects on the resources, environment, customs, culture, and economic stability of the  
23 County of Siskiyou.

24 “(b) The Siskiyou County Board of Supervisors shall be consulted in accordance with the  
25 laws and regulations of the State of California and the United States regarding any  
26 pending, contemplated, or proposed actions affecting local communities and citizens.

27 “(c) All federal and state agencies shall, to the fullest extent permissible by law, comply  
28 with all applicable procedures, policies, and practices issued by the County of Siskiyou.

“(d) When required by law or when requested by the County of Siskiyou, all federal and  
state agencies proposing actions that may impact citizens of the County of Siskiyou shall  
prepare and submit in writing, and in a timely manner as soon as is practicable, report(s)  
on the purposes, objectives and estimated impacts of such actions, including  
environmental, health, social, customs, cultural and economic impacts, to the County of  
Siskiyou. Those reports shall be provided to the County of Siskiyou for review and  
coordination with sufficient time to prepare a meaningful response for consideration by  
the federal or state agency.

“(e) Before federal and state agencies can alter land use(s), environmental review of the  
proposed action shall be conducted by the lead agency and mitigation measures adopted

1 in accordance with policies, practices, and procedures applicable to the proposed action  
2 and in accordance with all applicable federal, state, and local laws. Impact studies shall,  
3 as needed, address the effects on community and economic resources, the environment,  
4 local customs and public health, safety, and welfare, culture, grazing rights, flood prone  
5 areas and access and any other relevant impacts.

6 “(f) For the purposes of this ordinance, each federal and state agency shall, unless  
7 specifically authorized otherwise, give the required notice(s) to the County of Siskiyou  
8 and the Board of Supervisors, via certified mail, as follows:

9 “Siskiyou County Board of Supervisors  
10 P. O. Box 338  
11 Yreka, CA 96097

12 “Siskiyou County Planning Director  
13 P.O. Box 1085  
14 Yreka, CA 96097

15 “Siskiyou County Assessor  
16 County Courthouse, Rm. 108  
17 Yreka, CA 96097

18 “(g) Not less than five (5) complete copies of the written documents supporting the  
19 proposed action shall be provided to the Clerk of the Board of Supervisors at the above  
20 referenced address in such a timely manner so that there can be meaningful review and  
21 input sufficiently in advance of the action.

22 “(h) Notification of the availability of related documents shall be available for the  
23 minimum time set forth by the federal and state statute for such review or, if none is  
24 established by law, for a period of not less than forty-five (45) days prior to the proposed  
25 date of action, adoption or approval. This time is necessary to ensure adequate local  
26 opportunity for consideration and response.”

27 6. Siskiyou County recently became aware of the above-captioned case, and has  
28 reviewed a copy of the complaint, which alleges CEQA violations, and a Joint Stipulation  
pursuant to which the California Department of Fish and Game has agreed to issue new  
regulations governing suction dredge mining, including significant closures of areas within  
Siskiyou County.

7. At no time prior to execution of that Joint Stipulation did anyone from the  
Department or the Attorney General’s office advise the County that any determination had been  
reached concerning the need for additional environmental review under CEQA to assess impacts

1 of suction dredge mining, nor was the County advised of the changes in suction dredge mining  
2 regulations reflected in the Joint Stipulation.

3 8. The County believes that the Department was required to notify it and afford it  
4 and other interested parties an opportunity to participate in decisionmaking under CEQA, and  
5 any decisionmaking concerning revisions to regulations concerning suction dredge mining.

6 9. Suction dredge mining is a significant resource activity within the County and  
7 contributes to County economic development. It appears that the regulations the Department  
8 proposes will significantly and adversely affect that activity, as well as the valuable property  
9 rights of those individuals holding mining claims within the County.

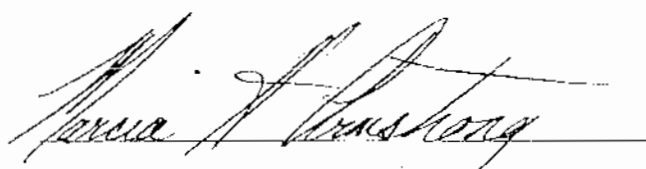
10 10. The County is also concerned about the precedent established by these  
11 regulations, which appear to restrict an important activity in the absence of any evidence of any  
12 significant and adverse effect upon fish and wildlife, though in the absence of a public process it  
13 is not possible for the County to know what evidence the Department may possess.

14 11. The County also urges that the California Department of Fish and Game be  
15 required to follow normal procedures before adopting any new regulations.

16 12. The County urges this Court not to enter the requested injunction, and instead  
17 require the Department to follow normal procedures in promulgating any revisions to the suction  
18 dredge mining regulations.

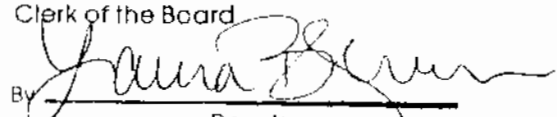
19 I certify under penalty of perjury under the laws of California that the foregoing is true  
20 and correct.

21 Dated: January 3, 2006

22 

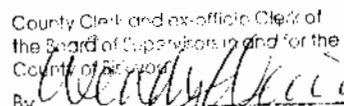
23 Marcia Armstrong, Chair,  
24 Siskiyou County Board of Supervisors

25 ATTEST:  
26 COLLEEN BAKER  
27 County Clerk & Ex-Officio  
28 Clerk of the Board

By   
Deputy

This instrument is a correct copy of the original on file in this office.

ATTEST:  
COLLEEN BAKER

County Clerk and ex-officio Clerk of  
the Board of Supervisors and for the  
County of Siskiyou  
By   
Deputy