



COUNTY OF SISKIYOU

Board of Supervisors

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October 7, 2014

The Honorable Ronald B. Robie
Third Appellate District
914 Capitol Mall, 4th Floor
Sacramento, CA 95814

Re: The People v. Rinehart, Case No. C074662
Request for Publication

Dear Justice Robie:

In accordance with Rule 8.1120(a) of the California Rules of Court, the County of Siskiyou requests that the Third District Court of Appeal consider publication of its opinion in *The People v. Rinehart*, case number C074662, filed on September 23, 2014.

This case relates to a criminal prosecution for suction dredge mining, which is an activity that was historically practiced in Siskiyou County prior to the moratorium on permits established by the Department of Fish and Wildlife. Under threat of criminal prosecution, our constituents with registered mining claims on federal lands have suspended their mining activities. As a result of this suspension, individuals are left holding thousands of dollars worth of useless equipment and their incomes and livelihoods are negatively impacted. The cumulative effect of these losses and the multiplier effect of lost economic activity are yet another burden on the Siskiyou County economy, which already suffers from above-average unemployment and poverty rates and below-average incomes.

We believe the *Rinehart* opinion meets the following standards for certification:

Establishes a new rule of law.

As reflected in the reversal of the trial court decision, the *Rinehart* opinion provides important direction that a determination as to whether the Mining Law of 1872 preempts Fish and Game Code Sections 5653 and 5653.1 requires a factual inquiry into the feasibility of other mining methods and that the Fish and Game Code provisions do not stand as a matter of law.

Brandon Criss
District 1

Ed Valenzuela
District 2

Michael Kobseff
District 3

Grace Bennett
District 4

Marcia H. Armstrong
District 5

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Applies an existing rule of law to a set of facts significantly different from those stated in published opinions.

The opinion applies the general rules of federal preemption to the moratorium on suction dredge mining.

Advances a new interpretation, clarification, criticism, or construction of a provision of a constitution, statute, ordinance, or court rule.

The opinion clarifies that federal law may preempt Fish and Game Code Sections 5653 and 5653.1 with respect to the application of those statutes on federal lands with registered mining claims.

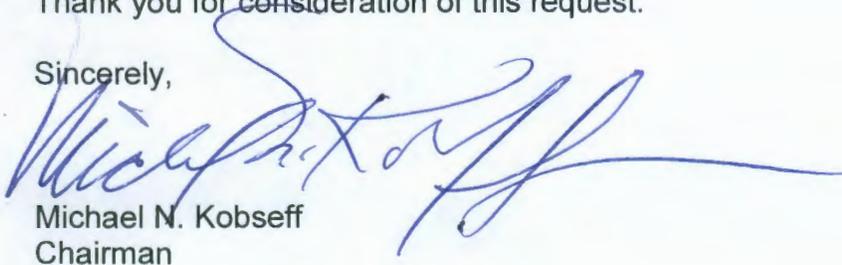
Involves a legal issue of continuing public interest.

The moratorium on suction dredge mining is an issue of continuing public interest. A Google search for "California bans suction dredge mining" returns nearly 37,000 results.

There are numerous lawsuits in California concerning the scope of the State's regulatory powers over mining on federal land, and the absence of California precedent has caused increased costs and delay for litigants and the State. For all of the reasons outlined above, we respectfully request that the *Rinehart* opinion be published.

Thank you for consideration of this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael N. Kobseff", with a long horizontal flourish extending to the right.

Michael N. Kobseff
Chairman

PROOF OF SERVICE BY MAIL (CCP §1013a)

The People v. Rinehart, Third District Court of Appeal Case No. C074662

I am a citizen of the United States and a resident of the County of Siskiyou; I am over the age of 18 years and not a party to the within action; my business address is 205 Lane Street, Yreka, CA. On October 7, 2014, I served a copy of a letter from the Siskiyou County Board of Supervisors to the Third District Court of Appeal requesting publication of the opinion in the above-captioned case on the parties listed below by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Yreka, California, addressed as follows:

Marc N. Melnick
Office of the State Attorney General
1515 Clay Street, 20th Floor
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Oakland, CA 94612-0550

James L. Buchal
Murphy & Buchal LLP
3425 S.E. Yamhill Street, Suite 100
Portland, OR 97214

Jonathan Wood
Pacific Legal Foundation
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Sacramento, CA 95814

Jonathan Carter Evans
Center for Biological Diversity
351 California Street, Suite 600
San Francisco, CA 94104

Lynne R. Saxton
Saxton & Associates
912 Cole Street, #140
San Francisco, CA 94117

I declare under penalty of perjury that the foregoing is true and correct.
Executed at Yreka, California, this 7th day of October, 2014.

Stacey Clough