1	JAMES L. BUCHAL (SBN 258128) MURPHY & BUCHAL LLP	
2	3425 S.E Yamhill, Suite 100 Portland, OR 97214	
3	Telephone: (503) 227-1011 Facsimile: (503) 573-1939	
4	Attorney for Plaintiff	
5 6		
7	IN THE SUPERIOR CO	OURT OF CALIFORNIA
8		TY SISKIYOU
9		
10	THE PEOPLE OF THE STATE OF	Case No. MCYKCRM 15-1123
11	CALIFORNIA,	
12	Plaintiff,	DECLARATION OF DEREK EIMER
13	v.	
14	DEREK DOUGLAS EIMER DOB: 10/26/1964,	
15	Defendant.	
16		
17	Derek Eimer states:	
18	1. I am a member of The New 49'ers	and engaged in the business of mining utilizing
19	claims owned or controlled by The New 49'ers. I	make this declaration in support of my motion to
20	dismiss the complaint and suppress evidence in th	is action.
21	2. The conduct alleged in Counts 1 ar	ad 2 of the Misdemeanor Complaint occurred
22	within the boundaries of federally-registered mini	ng claims on federal land, on which I was
23	operating in furtherance of the Congressionally-au	thorized and directed purpose to develop the
24	mineral resources contained on those claims.	
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26		
27	DECLARATION OF DEREK EIMER	James L. Buchal (SBN 258128)
28	Case No. MCYKCRM 15-1123	MURPHY & BUCHAL LLP 3425 S.E. Yamhill, Suite 100 Portland, OR 97214 Tel: 503-227-1011 Fax: 503-573-1939

1 3. Specifically, on or about August 31, 2014, I was operating on the Ukonom Claim 2 (No. K-25AA), under license from The New 49'ers, Inc. This is the conduct the State seeks to 3 deem criminal in Count 2 of the Misdemeanor Complaint. And on or about April 3, 2015, I was 4 operating on the A & D #3 Gold Claim (No. K-23AA), under license from The New 49'ers, Inc. 5 This is the conduct the State seeks to deem criminal in Count 1 of the Complaint.

4. With respect to both of these claims, motorized devices classified by the State of California as "suction dredges" are the only feasible means of exploiting the valuable gold deposits contained on these claims. The State's refusal to issue suction dredging permits is effectively a ban on the exploitation of these deposits.

5. 10 By the time of the conduct alleged in Count 2, the courts of California had confirmed 11 what the mining community regarded as common sense: the State of California cannot lawfully ban 12 mining on federal mining claims on federal land.

13 6. On or about April 3, 2015, the wardens appeared on the bank of the river and 14 demanded that I cease operations and interact with them. I attempted to explain to the officers that 15 the Department's refusal to issue permits had been held unconstitutional, for reasons described in 16 my legal memorandum filed herewith. They were already aware of the judicial decisions upon 17 which I relied, but insisted that suction dredging remained illegal.

7. I told them that I would prefer that they arrest me immediately so that this matter could be brought before a judge and settled, but they refused, and instead announced that they were going to seize my equipment.

8. I saw the conduct of the wardens as unconstitutional harassment, and attempted to 22 bring a civil action to resolve the matter, but was not allowed to do so, as described in the Declaration of my attorney. 23

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At no time have I ever been shown a warrant for the search or seizure of my

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DECLARATION OF DEREK EIMER Case No. MCYKCRM 15-1123

9.

James L. Buchal (SBN 258128) MURPHY & BUCHAL LLP 3425 S.E. Yamhill, Suite 100 Portland, OR 97214 Tel: 503-227-1011 Fax: 503-573-1939

1	dredging equipment, and upon information and belief, no warrant exists to support the collection of
2	any of the evidence against me.
3	I certify under penalty of perjury under the laws of California that the foregoing is true and
4	correct.
5	Executed at Happy Camp, California this day of October, 2015.
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7	Derek Eimer
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27	DECLARATION OF DEREK EIMER Case No. MCYKCRM 15-1123 James L. Buchal (SBN 258128) MURPHY & BUCHAL LLP 3425 S.E. Yamhill, Suite 100 Portland, OR 97214 Tel: 503-227-1011 Fax: 503-573-1939

1	CERTIFICATE OF SERVICE
2	
3	I, Carole A. Caldwell, hereby declare under penalty of perjury under the laws of the State of California that the following facts are true and correct:
4	I am a citizen of the United States, over the age of 18 years, and not a party to or interested
5 6	in the within entitled cause. I am an employee of Murphy & Buchal, LLP and my business address is 3425 SE Yamhill Street, Suite 100, Portland, Oregon 97214.
7	On October, 2015, I caused the following document to be served:
8	DECLARATION OF DEREK EIMER
9	on the party listed below in the following manner:
10	() (BY FEDERAL EXPRESS)
11	(X) (BY FIRST CLASS US MAIL)
12	
13	(X) (BY FAX)
14	() (BY E-MAIL)
15	J. Kirk Andrus, District Attorney County of Siskiyou
16	P.O. Box 986
17	Yreka, CA 96097 Tel: (530) 842-8125
18	Fax: (530) 842-8137
19	
20	Carole A. Caldwell
21	Declarant
22	
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20	4
27	DECLARATION OF DEREK EIMER Case No. MCYKCRM 15-1123 James L. Buchal (SBN 258128) MURPHY & BUCHAL LLP
20	3425 S.E. Yamhill, Suite 100 Portland, OR 97214 Tel: 503-227-1011 Fax: 503-573-1939

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