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7 IN THE SUPERIOR COURT OF CALIFORNIA
8 IN THE COUNTY SISKIYOU
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10 THE NEW 49'ERS, INC., a California
corporation, DEREK D. EIMER; STEPHEN
11 JONES; DAVID GUIDERO; MARVIN GARRY
LAMPSHIRE II; and DYTON W. GILLILAND,

12 Plaintiffs,

13 v.

14 CALIFORNIA DEPARTMENT OF FISH AND
15 WILDLIFE and CHARLTON H. BONHAM, in
his capacity as Director of the California
16 Department of Fish and Wildlife,

17 Defendants.
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Case No.

**NOTICE OF EX PARTE APPLICATION
AND EX PARTE APPLICATION FOR A
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE;
DECLARATION OF JAMES L. BUCHAL
IN SUPPORT THEREOF**

Judge: Hon. Gilbert G. Ochoa
Dept.: S36
Date: July 9, 2015
Time: 8:30 a.m.

20 PLEASE TAKE NOTICE that on July 9, 2015 at 8:30 a.m. or as soon thereafter as the
21 matter may be heard before the San Bernardino County Superior Court, plaintiffs intend to seek a
22 temporary restraining order and order to show cause why a preliminary injunction should not issue
23 restraining defendants from enforcing the unconstitutional scheme of both requiring permits for
24 suction dredge mining on federal mining claims, and refusing to issue them.
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NOTICE OF EX PARTE APPLICATION AND EX PARTE APPLICATION
FOR A TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW
CAUSE; DECLARATION OF JAMES L. BUCHAL IN SUPPORT THEREOF
Case No.

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1 Plaintiffs move for a temporary restraining order, order to show case, and preliminary
2 injunction based on their claim that defendants are enforcing an unconstitutional scheme of
3 requiring permits and refusing to issue them in violation of plaintiffs' rights.

4 These motions are supported Plaintiffs' Memorandum in Support of Motion for Temporary
5 Restraining Order and/or Preliminary and by the Complaint filed herewith, and the accompanying
6 supporting declarations of William Christensen, Roberta Collum, Christopher Darpino, Ray Derrik,
7 Derek Eimer, Dyton Gilliland, Dave Guidero, Stephen Jones, Garry Lampshire, Rip Ripple, and
8 David McCracken. A Proposed Order is also filed herewith.

9 Dated: July 3, 2015.

11 MURPHY & BUCHAL LLP

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14 James L. Buchal, SBN 258128

15 *Attorney for Plaintiffs*

16 **DECLARATION OF JAMES L. BUCHAL**

17 James L. Buchal declares:

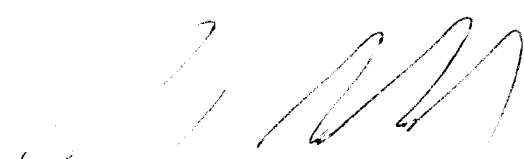
- 18 1. I am the attorney for plaintiffs.
- 19 2. By e-mail issued at approximately 12:23 p.m. on June 29, 2015, I gave notice to the
20 defendants and other parties in Judicial Council Proceeding No. JCPDS 4720 that I would be filing
21 a new complaint and application for ex parte relief this week, seeking a temporary restraining order
22 concerning suction dredging, and that I would be seeking narrower relief under an alternative cause
23 of action that does not depend on the Rinehart ruling.
- 24 3. On July 3, 2015, I transmitted copies of the pleadings in support of this motion by
25 Federal Express for Monday delivery to defendants' counsel Ms. Barbara Spiegel at the Office of
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1 the Attorney General, 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102 (at her
2 request, since Messrs. Solomon and Melnick were expected to be out of the office).

3 4. By Monday, July 6th, by 9:00 a.m., I will have transmitted e-mail copies of all
4 pleadings to the defendants and all other parties in Judicial Council Proceeding No. JCCP4720.

5 I declare under penalty of perjury under the laws of California that the foregoing is true and
6 correct.

7 Executed on July 3, 2015, in Portland, Oregon.

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10 James L. Buchal

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