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10 *Attorney for Plaintiffs The New 49'ers Inc. et al.*

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF SAN BERNARDINO
13

<p>14 Coordination Proceeding Special Title (Rule 1550(b)) 15 16 SUCTION DREDGE MINING CASES 17 18 19 20 21 22</p>	<p>Judicial Council Proceeding No. JCPDS 4720 DECLARATION OF STEVE KLESZYK IN SUPPORT OF MINERS' JOINT MOTION FOR INJUNCTION AGAINST DEFENDANTS Judge: Hon. Gilbert G. Ochoa Dept.: S36 Date: June 23, 2015 Time: 8:30 a.m.</p>
<p>23 24 Related Actions: 25 <i>Karuk Tribe of California, et al. v. California</i> <i>Department of Fish and Game</i> 26 27 <i>Hillman, et al. v. California Department of</i> <i>Fish and Game</i> 28</p>	<p>RG 05211597 – Alameda County RG 09434444 – Alameda County</p>

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Karuk Tribe of California, et al. v. California Department of Fish and Game
Kimble, et al. v. Kamala Harris, Attorney General of California, et al.
Public Lands for the People, et al. v. California Department of Fish & Game, et al.
The New 49er's, et al. v. State of California; California Department of Fish and Game, et al.
Foley, et al. v. State of California; California Department of Fish and Wildlife, et al.
Walker v. Harris, et al.

RG 1263796 – Alameda County
CIVDS 1012922 – San Bernardino County
CIVDS 1203849 – San Bernardino County
SCCVCV 120048 – Siskiyou County
SCSCCV 13-00804 – Siskiyou County
34-2013-80001439 – Sacramento County

1 I, Steve Kleszyk declare:

2 1. I am a plaintiff in *The New 49er's et al. v. California Department of Fish and*
3 *Wildlife, et al.* (SCCVCV1200482 Siskiyou County).

4 2. I am the owner of mining claim uniquely identified as CAMC283048 (Klamath
5 Gold #2). This claim is located along the Klamath river. In addition, I am the owner of Eagles
6 Rein and Whitmore Bar federal mining claims, also on the Klamath River in Humboldt County.

7 3. Under the regulations that were in effect when the suction dredging moratorium
8 commenced, Klamath Gold #2 was Class H, open year round. Eagles Rein and Whitmore Bar
9 were Class G, open the fourth Saturday in May to September 30th.

10 4. Under the dubious 2012 regulations, Klamath Gold #2 is significantly closed on
11 account of alleged "thermal refugias" that impacts the claim in that it is now a Class F that has
12 eliminated 3/4ths of my mining season to just July 1st to September 30th.

13 5. Eagles Rein and Whitmore Bar are now Class F with significant full time closures
14 due to these aqua refugias. Many of these refugias are in name only as they run dry during either
15 of the dredging seasons. On these claims, there are no significant water sources into the Klamath
16 where water depths are typically 20 feet deep and the river is typically over 40 feet wide.

17 6. I have had ample opportunity to observe the fish and wildlife in and around my
18 claim. Operating under the pre-moratorium regulations, I never encountered fish eggs in the
19 streambed when I was mining or any signs of any redds. Nor have I encountered any holding
20 areas with populations of juvenile fish of the sort imagined to constitute "thermal refugia".

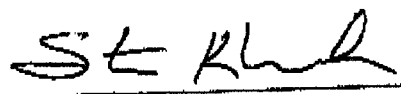
21 7. I have never encountered any historical or cultural artifacts. The only items other
22 than that of natural streambed materials that I have encountered have been lead fishing weights
23 and other fishing debris, lead bullets and trash. With respect to the question of noise, I have
24 seldom observed another human being in the vicinity of my dredging activities, other than people
25 accompanying me. On the rare occasion of an encounter, they are typically less than 2 minutes
26 in duration.

27 8. At all times it has been obvious that my suction dredging operations on the claims
28 do not involve any appreciable adverse effect on the environment, and the winter flows typically

1 erased all traces of my summer activity. Winter flows spike as high as 50 times more than
2 summer flows. When the river exceeds flood stage the flows are significantly higher than that.

3 I certify under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct.

5 Executed on May 15, 2015.

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7 _____
8 Steve Kleszyk

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1 PROOF OF SERVICE

2 I, Carole Caldwell, hereby declare under penalty of perjury under the laws of the State of
3 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
5 interested in the within entitled cause. I am an employee of Murphy & Buchal, LLP and my
6 business address is 3425 SE Yamhill Street, Suite 100, Portland, Oregon 97214.

7 On May 18, 2015, I caused the following document to be served:

8 DECLARATION OF STEVE KLESZYK IN SUPPORT OF MINERS' JOINT MOTION FOR
9 INJUNCTION AGAINST DEFENDANTS

10 by transmitting a true copy in the following manner on the parties listed below:

11 Honorable Gilbert Ochoa
12 Superior Court of California
13 County of San Bernardino
14 San Bernardino Justice Center
15 247 West 3rd Street
16 San Bernardino, CA 92415-0210
17 *Via U.S. Mail*

Chair, Judicial Council of California
Administrative Office of the Courts
Attn: Court Programs and Services Division
(Civil Case Coordination)
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San Francisco, CA 94102
Via U.S. Mail

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19 Deputy Attorney General
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Carole Caldwell
Declarant