

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

E064087

IN RE SUCTION DREDGE MINING CASES

THE NEW 49'ERS, INC., *et al.*; BEN KIMBLE, *et al.*; and
PUBLIC LANDS FOR THE PEOPLE, INC. *et al.*

Plaintiffs and Appellants,

v.

CALIFORNIA DEPARTMENT OF FISH & WILDLIFE, *et al.*

Defendants and Respondents.

Appeal from the Superior Court of San Bernardino County
Hon. Gilbert Ochoa, Department R-9
Coordinated Proceeding JCPDS4720
SCCVCV1200482 (Siskiyou County); CIVDS1012922 (San Bernardino County);
CIVDS1203849 (San Bernardino County)

DECLARATION OF CHARLES MONTGOMERY

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August 5, 2015

Charles Montgomery declares:

1. I am a member of The New 49ers, Inc., which is a plaintiff in Case No. Siskiyou County Case No. SCCVCV 1200482, one of the three coordinated cases prosecuting this appeal. I make this Declaration in support of appellants' motion for calendar preference, insofar as I am over 70 years of age and my health is such that a preference is necessary to avoid prejudicing my interest in this litigation.

2. I have been a member of The New 49'ers Inc. for 12 years (member #2171). I am 75 years old and for many years, my wife and I have looked forward to our annual trip to the Klamath river to do our gold mining. Our adult children and their families also spend vacation time with us to prospect. We stay in our RV in local campgrounds, shop in the local stores and eat at the local restaurants.

3. Prospecting is a very important part of our exercise regimen to keep our bodies moving and our minds alert. Of the various types of prospecting, dredging is the least harmful to our bodies. Our inability to dredge has been very detrimental to enjoyment of our golden years in pursuit of our chosen hobby. Although we haven't gotten rich from our efforts, we have been able to occasionally supplement our fixed income.

4. As I have aged, other out of the water prospecting activities involving digging and hauling material to process is taking a toll on my health. This unlawful ban on suction dredging is not only depriving seniors of the right to prospect in a manner fitting their abilities, it also affects the economy in the area we chose to prospect.

5. Unless this appeal is given calendar preference, I am likely to lose my ability to suction dredge by the time it is decided.

I certify under penalty of perjury that the foregoing is true and correct.

Executed at Happy Camp, California on August 3, 2015.

A handwritten signature in cursive script that reads "Charles Montgomery". The signature is written in black ink and is positioned above a horizontal line.

Charles Montgomery
Declarant