No. S222620

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff and Respondent,

v.

BRANDON LANCE RINEHART,

Defendant and Appellant.

Third Appellate District, Case No. C074662
Plumas County Superior Court, Case No. M1200659
Honorable Ira Kaufman, Judge

DEFENDANT AND APPELLANT BRANDON RINEHART'S ANSWER TO THE BRIEF *AMICUS CURIAE* FILED BY THE LAW PROFESSORS LESHY *ET AL.*

James L. Buchal, SBN 258128
Murphy & Buchal LLP
3425 SE Yamhill Street, Suite 100
Portland, OR 97214
Tel: 503-227-1011
Fax: 503-573-1939
Attorney for Defendant and Appellant

September 25, 2015

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Federal Statutes

Federal Rules

California Fish and Game Code

California Public Resources Code

Summary of Argument

A group of professors from the academic community (the "Professors") has filed a brief of straw men, misrepresenting Defendants' positions in the service of an academic vision of untethered regulation and no actual mining. The Professors begin by falsely accuse Defendant seeking to "forbid California from protecting the environment in the context of mining". (Brief of Law Professors John D. Leshy *et al.* ("Prof. Br."), at 5.) The State of California was never required to ban suction dredge mining on federal land throughout the State for years on end to protect any significant environmental interest. The existing permitting scheme had operated for decades, with permit conditions crafted after full Environmental Impact Review under the California Environmental Quality Act (Public Resources Code § 21000 *et seq.*). No fish or bird had ever died. No historical or cultural artifact had ever been damaged.

According to the Professors, "California state environmental protections, including those at issue in this case, can comfortably coexist with federal authority over mining activity on federal lands" (Prof. Br. 5), but the question is not whether state and federal regulators can get along together. The question is whether mineral development, including the development of Defendant's federal mining claim, can "comfortably coexist" with a State law forbidding him from utilizing the only available

method to recover more than trace amounts of gold from his underwater deposits. Abstract visions of state-federal cooperation should not distract this Court from the simple truth that banning suction dredge mining "stands as an obstacle to the accomplishment of the full purposes and objectives of Congress," *Granite Rock*, 480 U.S. at 581 (citing *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941)).

The Professors offer a vision of American history existing only as an academic fantasy, in which "states and local governments have always had an important role managing mining activities under the Mining Law". (Prof. Br. 5.) They construct this vision based on a single example, in which the courts of California entertained injunction actions for damage to downstream property from upstream mining operations. As the early courts recognized, this early role was conceived by Congress itself, which expressly authorized state law claims for damage to downstream lands. (*See* 30 U.S.C. § 51.)

This precedent has nothing to do with reaching deep into federal lands to ban mining on the claims themselves, on the basis of impact so vanishingly small *that no measurement can even detect it anywhere downstream* outside of those federal lands. Section 5653.1 of the Fish and Game Code is not a generally-applicable environmental law, or an exercise of discretionary authority to craft permit conditions for environmental

purposes. It is the prohibition of a given use of federal land opposed by other users of that land.

A lawful role for California in regulating mining on federal lands requires a functional permit system that imposes reasonable permit-based restrictions to avoid only "unnecessary and undue" environmental impacts (43 U.S.C. § 1732(b)), while meeting the important national goals of fostering national development, and, particularly with respect to operations on mining claims such as Defendants, avoiding any "material interfer[ence] prospecting, mining or processing operations or uses reasonably incident thereto" (30 U.S.C. § 612(b)). Reasonable people can differ as to whether particular, permit-based restrictions meet this test, but a flat mining ban obviously "stands as an obstacle to the accomplishment of the full purposes and objectives of Congress," *Granite Rock*, 480 U.S. at 581.

Argument

I. THE PROFESSORS MISINTERPRET THE ENTIRE HISTORY OF ENVIRONMENTAL CONSIDERATIONS IN THE MINING AND PUBLIC LAND LAWS.

The Professors falsely accuse Defendant of claiming that "federal mining law does not include environmental protection". (Prof. Br. 12.) Defendant has never made any such claim. Defendant has presented the statutes showing a specific Congressional intent to set a specific balance between mineral development and environmental protection. A proper

analysis of Congressional intent involves review of what Justice Powell, in his dissenting opinion in *Granite Rock*, called "an almost impenetrable maze of arguably relevant legislation in no less than a half-dozen statutes, augmented by regulations of two Departments of the Executive". *Granite Rock*, 480 U.S. at 605 (Powell, J., dissenting).

The 1866 and 1872 mining laws are the starting point for this analysis. The Supreme Court remarked in *Granite Rock* that "Granite Rock concedes that the Mining Act of 1872, as originally passed, expressed no legislative intent on the as yet rarely contemplated subject of environmental protection," a remark the Professors seize upon. (Prof. Br. 14.) In that era, however, protecting the environment meant protecting against adverse effects to nearby properties under tort law, and especially nuisance law.

And Congress expressly considered the adverse mining-related effects of significance, arising from the ditches and canals moving water for mining, and specifically declared in 1866 (14 Stat. 253) that if a miner "injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage". 30 U.S.C. § 51. It was against this common understanding that all the law of hydraulic mining developed. As we have demonstrated in our Answering Brief (at 39-42), it did not involve any direct regulation of operations on mining claims, but the application of

common law (albeit embodied in the Civil Code) to injuries to downstream properties.

Later, the Organic Act permitted the Forest Service to make rules and regulations to "for the protection against destruction by fire and depredations upon the public forests and national forests". 16 U.S.C. § 551. But mining itself was not such a "depredation," for Congress also specified in 16 U.S.C. § 478 that:

> "Nothing in sections . . . 551 of this title shall . . . prohibit any person from entering upon such national forests for all proper and lawful purposes, including that of prospecting, locating, *and developing* the mineral resources thereof. Such persons must comply with the rules and regulations covering such national forests". (Emphasis added).

The Professors refer to early, "preexisting authority of federal agencies to regulate the environmental harms of mining claims" (Prof. Br. 13), but cite not a single example of the exercise of such authority.

The early history in fact concerns the right of the United States to protect Forest Service land against conduct amounting to trespass or waste under the common law. *E.g., Teller v. United States*, 113 F. 273 (8th Cir. 1901) (excessive timber cutting beyond mining needs). Ongoing concerns over "the fraudulent locator in national forest[s, who] in addition to obstructing orderly management and the competitive sale of timber, obtains for himself high-value, publicly owned surface resources bearing no relationship to legitimate mining activity" ultimately led to the passage of

the Multiple Use Act of 1955. *United States v. Curtis-Nevada Mines, Inc.*, 611 F.2d 1277, 1281 (9th Cir. 1980) (quoting H. Rep. No. 730, 84th Cong. 1st Sess.). That being said, the 1955 Act reflected Congress'

> "insistence that this legislation not have the effect of modifying long-standing essential rights springing from location of a mining claim. Dominant and primary use of the locations hereafter made, as in the past, would be vested first in the locator [*i.e.*, those situated in the position of Defendant]."

Id. (quoting H. Rep. No. 730, 84th Cong., 1st Sess., at 10 (1955)).)

Thus Congress insisted that the role of the United States be limited to actions which would not "endanger or materially interfere with prospecting, mining or processing operations or uses reasonably incident thereto". 30 U.S.C. § 612(b). Congress knew that mineral development required express protection from competing interests because, unlike other human activities, it cannot be moved or avoided while still extracting the minerals.

Subsequent statutes maintained the special protection for mineral uses against the regulatory powers of the U.S. Forest Service. Congress' first significant foray into forest planning came in the Multiple-Use Sustained-Yield Act of 1960, 16 U.S.C. §§ 528-532 (MUSYA). In that Act, Congress expressly provided that "[n]othing herein shall be construed so as to affect the use or administration of the mineral resources of national forest lands". 16 U.S.C. § 528 (emphasis added). The statutory focus of Forest planning remained on "the various renewable surface resources of

the national forests". 16 U.S.C. § 531 (definition of "multiple use"). Mineral deposits, of course, are neither renewable resources, nor surface resources.

Next came the Forest and Rangeland Renewable Resources Planning Act of 1974, 16 U.S.C. § 1600-14, which was substantially amended in 1976, Pub. L. 94-588, 90 Stat. 2949, and is now commonly identified as the National Forest Management Act (NFMA). The portion of the NFMA governing forest planning is set forth in 16 U.S.C. § 1604, which begins by declaring that the Secretary shall promulgate "land and resource management plans" "[a]s part of the Program provided for by section 1602 of this title". 16 U.S.C. § 1604(a). That section, in turn, declares that "[t]he Program shall be developed in accordance with the principles set forth in the Multiple-Use Sustained-Yield Act of June 12, 1960 . . .". 16 U.S.C. § 1602. Such principles necessarily include the statutory limitation that none of the resulting plans may "affect the use or administration of the mineral resources of national forest lands". 16 U.S.C. § 528.

In the ongoing evolution of mining statutes, Congress made it even clearer that the goal of environmental protection must be tempered by the simple fact that minerals can only be extracted where they are found, and that adverse impacts on the environment are inevitable in that process. In subsection 2 of 30 U.S.C. § 21a, the Mineral Policy Act in 1970, Congress

sought:

> "the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security and environmental needs . . ."

This careful tripartite structure of this policy command was no accident. Development of *resources* was to assure *industrial* needs; development of *reserves* was to meet *security* needs, and development of *reclamation* was to meet *environmental* needs.

Congress expanded on this idea in subsection (4), seeking:

> "(4) the study and development of methods for the disposal, control, and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment that may result from mining or mineral activities.

Again it is clear that the means of "lessening any adverse [environmental] impact" is "reclamation," not direct regulations forbidding mineral extraction in the first place.

There is no "reclamation" issue in this case, for California's reclamation law specifically exempts "[p]rospecting for, or the extraction of, minerals for commercial purposes where the removal of overburden or mineral product totals less than 1,000 cubic yards in any one location, and the total surface area disturbed is less than one acre". Public Resources Code § 2714(b)(4). Suction dredging operations never approach this threshold of significance.

The subsequent general command in the Federal Lands Policy and Management Act, 43 U.S.C. § 1701 *et seq.* ("FLPMA"), for the Secretary of the Interior to regulate to "prevent unnecessary or undue degradation of public lands" under the Secretary's jurisdiction (43 U.S.C. § 1732(b)) is thus consistent with the statutory history. *See also id.* § 1701(a)(12) (Secretary must manage federal land "in a manner that recognizes the Nation's need for domestic sources of minerals . . .").

The long and complex history of Congressional pronouncements with respect to mining on federal land leaves no doubt as to the force of the Congressional determination that mineral development is necessary and must proceed, with only unnecessary or undue damage to be avoided through reasonable environmental restrictions that do not materially impede the mineral development. What is missing entirely from the presentation of the Professors is an acknowledgment of any Congressional imperative for the mineral development to proceed, making their presentation of the statutory and regulatory history entirely one-sided and misleading.

The single overriding theme of limiting regulation to control only *unnecessary* damage caused by mining has given rise to a large body of federal case law exemplifying the balance to be struck. For example, in *United States v. Richardson*, 599 F.2d 290 (9th Cir. 1979), the Service was permitted, based on expert testimony that the miners' blasting and

excavations were utterly unnecessary, to limit such activities.[1] Defendant's use of a suction dredge is, by contrast, necessary to recover the underwater deposits, not associated with appreciable environmental damage, and hand-panning is not a viable alternative.

II. THE PROFESSORS MISINTERPRET EARLY REFERENCES TO STATE LAW.

The claim that "from the very beginning the Mining Law provided a central role for states and local governments to manage mining activities" (Prof. Br. 9) is utterly false, for as we have demonstrated in our response to the Brief of the United States, Congress carved out an explicit role for the States only with respect to questions of possessory title and certain other issues, but never general operational or environmental regulation. (*See also* Dfts. 2d Conditional RJN, Ex. 2, at 26-27 (Solicitor General's detailed analysis of the early roles afforded for state law).)

III. PROHIBITING SUCTION DREDGE MINING STANDS AS AN OBSTACLE TO THE ACCOMPLISHMENTS OF THE FULL PURPOSES AND OBJECTIVES OF FEDERAL LAW.

The Professors argue that *Granite Rock* should be interpreted to

---

[1] The Professors highlight *Clouser v. Espy*, 42 F.3d 1522 (9th Cir. 1994), to assert broader regulatory powers on the part of the Forest Service, but that case carefully distinguished 30 U.S.C. § 612(b)'s restriction of regulatory authority for activities occurring *on the mining claim*—what is at issue here—from broader regulatory authority "outside the boundary of the mining claim". *Clouser*, 42 F.3d at 1538-39.

allow "prohibition of certain mining activities". (Prof. Br. 13.) The question before this Court, however, is not so abstract and academic. The question before this Court is whether a state-wide ban on suction dredging (broadly-defined, and soon to be even more broadly defined), which destroys the only practicable method of mining Defendants' claim, and generally destroys the ability to extract underwater deposits on federal lands throughout the State, "stands as an obstacle to the accomplishment of the full purposes and objectives of Congress," *Granite Rock*, 580 U.S. at 581.

The Professors baldly assert that *Granite Rock* "held that the mining law and the federal framework surrounding it have no preemptive effect on state environmental regulation". (Prof. Br. 13.) The Supreme Court did no such thing. Its starting point for analysis was the State of California's representation that

> ". . . the question presented is merely whether the state can regulate uses rather than prohibit them. Put another way, the state is not seeking to determine basic uses of federal land: rather it is seeking to regulate a given mining use so that it is carried out in a more environmentally sensitive and resource-protective fashion." (*Granite Rock*, 480 U.S. at 587 (quoting State).)

Here, the State did not come to Defendant and advise him that his "given mining use" had to be "carried out in a more environmentally sensitive and resource protective manner;" the State came to Defendant and said you are a criminal for employing your "given mining use" and we will not issue a permit for it under any circumstances whatsoever.

The *Granite Rock* Court in fact "assume[d] that the combination of the NFMA and the FLPMA pre-empts the extension of state land use plans onto unpatented mining claims in national forest lands" (*Granite Rock,* 480 U.S. at 585), meaning that the Court understood and expected that actions such as prohibiting the "given mining use" of suction dredge mining were obviously preempted. The *holding* of the case was merely that "field preemption" did not wipe out any and all state efforts to regulate the environmental impact of mining on federal land.

As the Court explained,

> "In the present posture of this litigation, the Coastal Commission's identification of a possible set of permit conditions not pre-empted by federal law is sufficient to rebuff Granite Rock's facial challenge to the permit requirement. This analysis is not altered by the fact that the Coastal Commission chooses to impose its environmental regulation by means of a permit requirement. If the Federal Government occupied the field of environmental regulation of unpatented mining claims in national forests — concededly not the case — then state environmental regulation of Granite Rock's mining activity would be pre-empted, whether or not the regulation was implemented through a permit requirement. Conversely, if reasonable state environmental regulation is not pre-empted, then the use of a permit requirement to impose the state regulation does not create a conflict with federal law where none previously existed." *Id.* at 589.

In short, "reasonable state environmental regulation" is not preempted (*id.*); this appeal concerns regulation that is an unreasonable obstacle to the full accomplishment of Congressional purposes.

In *dicta*, the Supreme Court discussed when state regulation would

be regarded as unreasonable, noting that "one may hypothesize a state environmental regulation so severe that a particular land use would become commercially impracticable"—or amounting to a preempted prohibition of the mining use. *See id.* at 587. The question of commercial impracticability focuses quite properly upon the degree of "material interference" with the mining operations, and is to be evaluated along with the degree to which the environmental effects arising from the operation are necessary to recover the minerals where they are deposited.

Understanding whether state environmental regulation is "reasonable" and allowable under *Granite Rock* properly involves consideration of both material interference with a given mining use and necessity to pursue that mining use to determine whether the challenged state restriction "stands as an obstacle to the accomplishment of the full purposes and objectives of Congress". *Granite Rock*, 480 U.S. at 581. While the full purposes of federal law include both mineral development *and* the avoidance of unnecessary adverse environmental impacts, § 5653.1 falls because motorized suction dredging is the only way to develop underwater placer claims and the effects it produces are both necessary and inherent to the extraction process. Defendant was simply not, like the miners in the *Richardson* case, using an unnecessary method of extracting the minerals in a context where there was an obvious and effective

alternative with less environmental impact. (*See also* Dfts. 2d Conditional RJN, Ex. 3 (Forest Service evaluation of necessity and impacts of suction dredge operation).)

The Professors attempt to distinguish the several published preemption cases upon which Defendant relies in a fashion adequately addressed in Defendant and Appellant's Answering Brief on the Merits. The gist of the Professors' attack is that most of the cases preceded *Granite Rock*, but none depended upon any broad ruling concerning "field preemption;" rather, they carefully analyzed the state law restriction to find that prohibiting mining outright interferes with the Congressionally-designed statutory scheme for fostering it.

The Professors also cite an unpublished Oregon district court case, and a case from the Washington Court of Appeals, neither of which is persuasive. *Pringle v. Oregon*, No. 2:13-cv-00309-SU (D. Or. Feb. 25, 2014), is unpublished for good reason. It represents a federal district court's adoptions of the findings and recommendations of a magistrate judge, who was presented with a *pro se* litigant engaging in the unauthorized practice of law by obtaining a 1/8 interest in the mining claim and then litigating the case. *See Pringle v. Oregon*, No. 2:13-cv-00309-SU, Findings and Recommendation, at 3 (D. Or. Dec. 23. 2013) (noting Pringle's misrepresentation as to when he acquired his interest). Pringle

failed entirely to get the facts and law concerning his federal preemption claim before the court, resulting in an opinion that is clearly wrong.

Among other things, Mr. Pringle failed even to argue that the Oregon Scenic Waterways Act, ORS 390.805 *et seq.*, in declaring that the "highest and best uses of the waters within scenic waterways are recreation, fish and wildlife uses" was manifestly a forbidden land use regulation wholly preempted by the Federal Land Policy and Management Act and National Forest Management Act, as the Supreme Court assumed in *Granite Rock.* Pringle also failed to bring to the Court's attention much of the relevant statutory and regulatory framework showing the powerful federal commitment to avoiding obstacles to mining, including the substantive prohibition on "material interference" in mining operations (30 U.S.C. § 612(b)),

Pringle also made no factual showing to demonstrate that that the Oregon Scenic Waterways Act constituted a *de facto* ban on mining, and foreclosed development of the mineral deposits on "his" claim. The Magistrate's conclusion that a limitation to "recreational" mining, on the order of "less than one cubic yard of material from a site per year" vindicated the purposes of federal law (*see* Findings and Recommendations at 13) can only be explained by Pringle's failure properly to present the statutory framework—or plain error.

Beatty v. Washington Fish & Wildlife Commission, 341 P.3d 291 (Wash. Ct. App.), *rev. denied* (Wash. 2015), did concern a state administrative rule limiting suction dredging to two weeks during the summer on a particular high-altitude stream—not a flat ban on a given mining use. It is additionally distinguished by a single controlling circumstance: the agency "informed Mr. Beatty that his request to operate a suction dredge outside the work window could still be granted if he provided site-specific information that allowed the [agency] to assess the impact to fish life. Mr. Beatty refused. . .". *Id.* at 297.

In other words, Mr. Beatty took, in substance, the same position as Granite Rock in making a facial challenge to the restriction, which failed for the same reason: because he had yet to make the case for a relaxation of the two-week limit at his mining site, no federal preemption could be inferred. *See id.* at 307 ("the mining regulations and the modifiable condition on the permit do not stand as an obstacle to Mr. Beatty's right to mine").

In short, however much the academic community may criticize the case law (*e.g.*, Prof. Br. 24), it remains the case that no published authority has ever upheld a flat refusal to mining permits to mine federal mining claims on federal land. *Every reported case is to the contrary.* The Professors ultimately identify no reason whatsoever that it would be

unreasonable to require the State of California to exercise regulatory jurisdiction by proposing, or even demanding, particular permit conditions, rather than simply refusing to issue any permits at all. This Court's ruling authorizing environmental regulation, but disallowing refusals to regulate, will not interfere with the legitimate interests of California in any way, shape or form, and is required to avoid unreasonable obstruction of the carefully-crafted federal program for mineral development on federal lands.

IV. THE PROFESSORS ATTACH TOO MUCH WEIGHT TO GENERAL AGENCY STATEMENTS CONCERNING STATE REGULATION.

The Professors cite a variety of agency pronouncements that make general statements concerning a miner's duty to comply with all applicable federal state and local laws. Some come from the Forest Service Manual, which "do[es] not have the independent force and effect of law". *Western Radio Services Co. v. Espy,* 79 F.3d 896, 901-02 (9th Cir. 1996) (declining to review claim that Forest Service did not follow Manual). Others come from blank forms of the Forest Service, or letters.

None of them meet the standard set forth in *Wyeth v. Levine,* 555 U.S. 555 (2009). As that case explained, "[t]he weight [to be] accord[ed to] the agency's explanation of state law's impact on the federal scheme depends on its thoroughness, consistency, and persuasiveness." *Id.* at 577. None of the materials advanced by the Professors explain the impact of

§ 5653.1 of the Fish and Game Code upon the federal statutory framework *at all*, much less in a thorough, consistent, or convincing matter.

The Professors highlight portions of 36 C.F.R. § 228, which refer to state water quality standards, air quality standards, and state standards for the disposal of solid wastes (Prof. Br. 29), but there are no "standards" involved in this case at all. There is only a statute that focuses on banning the mining use itself, singling out tiny suction dredge mining operations while expressly exempting larger "suction dredging [operations] conducted for regular maintenance of energy or water supply management infrastructure, flood control, or navigational purposes". Fish and Game Code § 5653.1(d). Rather than a pollution control standard, this is a special-interest-driven attack on mining, imposing unique "fully mitigate" requirements that are utterly inconsistent with federal law regulating only "unnecessary and undue" environmental impacts, and which substantially frustrate the accomplishment of federal objectives by making the mining impossible.

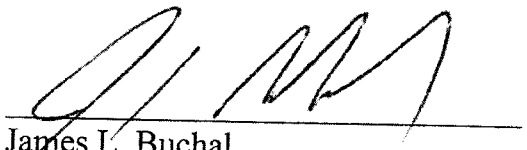
Nor do the views of the U.S. Bureau of Land Management permit states to subvert the careful balance between mineral development and environmental protection set forth in the federal statutory scheme. BLM's views are formally irrelevant to land under the jurisdiction of the Forest Service. That BLM made general statements about not intending to

preempt state law (Prof. Br. 32), or even evolved the view that states might shut down mining entirely as being more "protective" (*see id.* at 33) cannot controvert the unequivocal Congressional commands set forth in generations of statutes exercising authority over the federal lands. As with the Forest Service materials, there was no analysis whatsoever of the degree to which § 5653.1, or any other law, interfered with federal objectives.

Conclusion

For the foregoing reasons, Defendant's conviction should be reversed, or the case remanded for development of a further factual record.

Dated: September 25, 2015



James L. Buchal
Counsel for Defendant and Appellant

CERTIFICATE OF COMPLIANCE

Pursuant to rule 8.204(c) of the California Rules of Court, I hereby certify that this brief contains 4,234 words, including footnotes. In making this certification, I have relied on the word count of the computer program used to prepare the brief.

Dated: September 25, 2015

James L. Buchal
Counsel for Defendant and Appellant

CERTIFICATE OF SERVICE

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:

I am a citizen of the United States, over the age of 18 years, and not a party to or interested 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.

On September 25, 2015, I served the following documents:

DEFENDANT AND APPELLANT BRANDON RINEHART'S ANSWER TO THE BRIEF AMICUS CURIAE FILED BY THE LAW PROFESSORS LESHY ET AL.

on the parties in said action as follows:

(X) (First Class US Mail) by placing a true copy thereof enclosed in a sealed envelope, addressed as shown below:

Matthew K. Carr
Deputy District Attorney
Plumas County District Attorney's Office
c/o California District Attorneys Association
921 11th Street, Suite 300
Sacramento, CA 95814

Marc N. Melnick
Deputy District Attorney
Office of the Attorney General
1515 Clay Street, Suite 2000
Oakland, CA 94612

Clerk of the Court
Plumas County Superior Court
520 Main Street, Room 104
Quincy, CA 95971

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

Clerk of the Court
Court of Appeal of the State of California
Third Appellate District
914 Capitol Mall, 4th Floor
Sacramento, CA 95814

Damien Schiff
Jonathan Wood
Pacific Legal Foundation
930 G Street
Sacramento, CA 95814

Lynne Saxton
Saxton & Associates
912 Cole Street, Suite 140
San Francisco, CA 94117

Michael Lauffer
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Nathaniel H. Kane
Environmental Law Foundation
1736 Franklin St., 9th Fl.
Oakland, CA 94612

Aaron Avila
Lane McFadden
United States Department of Justice
P.O. Box 7415, Ben Franklin Station
Washington, DC 20044

Steven J. Lechner
Jeffrey W. McCoy
Mountain States Legal Foundation
2596 South Lewis Way
Lakewood, CO 80227

John Leshy
U.C. Hastings College of Law
200 McAllister Street
San Francisco, CA 94102

Sean B. Hecht
UCLA School of Law
405 Hilgard Avenue
Los Angeles, CA 90095

Mark Nechodom
Department of Conservation 801
K. St., MS 24-01
Sacramento, CA 95814

John Mattox
Department of Fish & Wildlife
1416 Ninth St., 12th Fl.
Sacramento, CA 95814

Brook B. Bond
L. Michael Bogert
Parsons Behle & Latimer
800 W. Main Street, Suite 1300
Boise, ID 83702

Eric Biber
U.C. Berkeley School of Law
689 Simon Hall
Berkeley, CA 94720

Carole A. Caldwell
Declarant