Miner T.W. Arman
Two Miners & 8000 ACRES OF LAND
Owner/Operator, grantee & locator.
P.O. Box 992867
530-275-4550, fax 530-275-4559
john@ironmountainmine.com

INTERVENTION IN THE UNITED STATES OF AMERICA
COURT OF APPEALS FOR THE NINTH CIRCUIT

Ex rel. TWO MINERS & 360, 2744, 4400, 8000, 52,000, 103 million ACRES of LAND

T.W. ARMAN and IRON MOUNTAIN MINES, INC. et al, OWNER & OPERATOR, plaintiffs'

and on behalf of all others similarly situated

CITIZENS and STATESMEN *in loco parentis, parens patriae, supersedeas, qui tam, intervention.*

v.

UNITED STATES v. JOHN HUTCHENS v. WILLIAM LOGAN / LOGAN & GILES v. BAYER CROP SCIENCE FKA AVENTIS ABSOLUTE SUPERSEDEAS BY RIGHT WRIT DE EJECTIONE FIRMAE; WASTE PETITION FOR ADVERSE CLAIMS WRITS OF POSSESSION & EJECTMENT; FRAUD & DECLARED DETRIMENT & NEGLECT & FAILURE: NONUPLED DAMAGES JOINT AND SEVERAL TRESPASSERS SURRENDER & EJECTMENT: Defendants'

Civ. 2:91-cv-00768- USCA No.: 09−17411
FILED UNDER THE GREAT SEAL

PETITION FOR EMERGENCY REVIEW

ABSENCE OF *DELECTUS PERSONAE*

QUI TAM CON DOMINO REGE QUAM

INTERVENTION IN CAMERA STELLATA

APPLICATION OF THE MONROE DOCTRINE

DANGER TO OUR PEACE AND SAFETY.

REMISSION & REVERSION, VOID, VACATE AUTHORITY OF T.W. ARMAN, PROPRIETOR

GIVE US OUR LIBERTY! EVACUATE.

APEX LAW ACTION ON ADVERSE CLAIMS FELONIOUS UNLAWFUL DETAINER & QUIET TITLE, WRONGFUL TAKINGS, FALSE PRETENSES, NO RIGHT UNDER THE LAW.

INTRODUCTION

Mr. T.W. Arman, proprietor, Iron Mountain Mines, Inc., & curators of 'ARMAN'

(i.e. Archaeal Richmond Mine Acidophilic Nanoorganisms)

All the rights, privileges, and immunities of the Camden and Magee Military Scrip Warrants for the United States of America State of California Morrill Act University of California San Buena Ventura Agricultural College Patent. May 1, 1862 - President Abraham Lincoln

All the rights, privileges, and immunities of Arman Mines Iron Mountain Investment Co. United States of America Lode and Placer Mining Patents, Arman Mines Apex Relocations, Apex Discoveries, and Apex mining law application, Arman Mines Flat Creek mining district vested and accrued existing rights of the locators of the Lost Confidence Mine, &c; their successors and assigns, and to their and their heirs and assigns and successors use and behoof, forever.

TO HAVE AND TO HOLD said mining premises, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said grantee above named and to its successors and assigns forever; subject, nevertheless, to the above-mentioned and to the following conditions and stipulations:

FIRST. That the premises hereby granted shall be held subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local laws, customs, and decisions of the courts. And there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

SECOND. That in the absence of necessary legislation by Congress, the Legislature of California may provide rules for working the mining claim or premises hereby granted, involving easements, drainage, and other necessary means to its complete development

Since 1849 - Flat Creek Mining District
Since May 1, 1862 - Camden & Magee Agricultural College, Military Scrip Warrant Freehold Estate; 360 acres of land in lieu of Rancho Buena Ventura grant patent title,
President Abraham Lincoln - Morrill Land-Grant Colleges Act
1844 Mexican Land Grant and Bounty Warrants prior rights; Rancho San Buena Ventura;
Perdido Californio Bosque del Norte . Good Fortune Ranch; Lost California Forest of the North
Since January 4, 1875 - Shasta County Recorder; Morrill land grant Act of Congress - Camden & Magee University of California Agricultural College Patent by Governor Newton Booth.
Since April 8, 1880 - Lost Confidence Mine, Camden & Magee Apex lode Mining Claims.
Since 1895 - Mountain Copper Co. Ltd., (Jardine Matheson
Since 1967 - Stauffer Chemical Co., (Sanofi-Aventis, AstraZeneca, Bayer Crop Sciences et al).
Since 1976 - Iron Mountain Mines, Inc., 4400 ACRES OF LAND, Innocent landowner - operator Mr. T.W. Arman, 2744 ACRES OF LAND, sole stockholder.
Since 2001 - Essential Solutions, Inc. Agricultural & Horticultural Products Research.
Since 2008 - Hu/Mountain joint venture – AMD&CSI 88,000 ACRES OF LAND - Relocation, Rediscoveries, Remission, Reversion, Restitution, Remainder, Resource Recovery, Renovation, Residency, Recycling, Reclamation, Reuse, Reinsurance, Reworking, Repossession, Reparations and Repatriations, &c.
Since 2009 - Mr. T. W. Arman, mistaken for 'ARMAN' aka "TWO MINERS AND 8000 ACRES OF LAND" fka - Iron Mountain Mines; the Arman Mines Ministries of Natural & Mineral Resources Federation, the Arman Mines Institute, the Hummingbird Institute, the College of the Hummingbird, Arman Mines Iron Mountain Railway, Arman Mines Iron Mountain Tramway, Arman Mines Iron Mountain Road, Arman Mines Iron Mountain Airport, IMMI, The Capital City of Brandeis and the townships of the Armanshire, Iron Mountain Organic Minerals & Catalysts, &c.
The United States , like any other proprietor, can only exercise their rights to the mineral in private property, in subordination to such rules and regulations as the local sovereign may prescribe. Until such rules and regulations are established, the landed proprietor may successfully resist, in the courts of the state, all attempts at invasion of his property, whether by the direct action of the

United States or by virtue of any pretended license under their authority. (Biddle Boggs v Merced Min. Co,,) 14 Cal. 279.)

(per GAO) It has been difficult for EPA to craft jurisdictional determination guidance that is both legal and usable for field staff. For instance, many streams have no U.S. Geological Survey gauging data. In response, OWOW is partnering with ORD on a method that will turn daily field observations into something that can serve as the basis for a defensible decision about the stream's ephemerality. Ideally, one would need several years of biotic observations before he/she could really determine whether a "significant nexus" exists. Since the Army Corps of Engineers cannot conduct 130,000 jurisdictional determination field visits, some intermediate approach is preferable.

Currently, significant nexus calls are settled at the regional level. The region has 15 days to look at the draft jurisdictional determination and most nexus calls are resolved within this period. If EPA still has issues, it follows the procedure for "Special Cases" established in the 1989 Memorandum of Agreement between EPA and the Army Corps of Engineers. If the Regional Administrator classifies a jurisdictional determination as a "special case," the Army Corps of Engineers must stand down for 10 days and defer the jurisdictional determination to EPA. There have been nine special case requests, six of which have been granted.

The following comments were from an interview with two staff attorneys of the Office of General Counsel (OGC), Water Law Office.

The OGC is very involved with litigation associated with Army Corps of Engineers' actions, especially the coordination of briefs between the two agencies. OGC helps the Army Corps of Engineers assess the legal ramifications of asserting jurisdiction in certain contexts in the post-Rapanos environment. Often, OGC advises the Army Corps of Engineers on whether more information is needed to support a position in a particular case.

Traditional navigable waterways evade easy definition; even the Supreme Court has been vague on the precise scope of traditional navigable waterways. Traditional navigable waterways have arisen in multiple legal contexts over the years, not just in CWA discussions. Many stakeholders find the Appendix D definition to be still too broad to adequately serve the jurisdictional issues created by the Rapanos decision. The OGC attorneys noted that there had been considerable discussion about

the scope of traditional navigable waterways in Fall 2007. Traditional navigable waterways continue to be an issue in some "isolated (a)(3)" elevations.

Adjacency was not addressed by the Supreme Court. Although there are 1-2 sentences on it in the interim June 2007 guidance, it remains an imprecise term. However, OGC staff is working with various program offices to create a follow-up to the June 2007 Rapanos guidance where adjacency, among other things, will be addressed. The real debate involves the interpretation of one aspect of the "adjacency" definition: "neighboring." This "neighboring" term was a cornerstone of the debate in the Carabell case. There have been close to 50 post-Rapanos cases: a pretty significant increase over prior case loads. Many cases have histories stretching back before the Rapanos ruling. The Circuit courts have been deciding, with varying opinions, whether the Kennedy, Scalia or both tests hold in establishing CWA jurisdiction.

Although Rapanos has "trumped everything," OGC is engaged in some other Section 404-related work. The 11th Circuit Court of Appeals (Atlanta) recently held that only the Kennedy test applies, even though the plurality's test is easier to apply. The 7th and 9th Circuits, meanwhile, have used Kennedy's opinions. Both EPA and the Department of Justice hope that either the plurality or Kennedy tests can be applied in Section 404 jurisdictional decisions**.**

SHASTA COUNTY SHERIFF AND UNITED STATES MARSHALL; MILITIA &- POSSE FOR TRESPASS OF TREASON AND MISPRISON OF FELONY WRIT OF POSSESSION UPON ADVERSE CLAIMS TRESSPASSERS OF PATENT TITLE; EXTORTION; FRAUDS; DECEITS, FALSE CLAIMS AND FALSE PRETENSES, ULTERIOR MOTIVES; MALICIOUS AND ABUSIVE NEGLIGENT ENDANGERMENT; ESTABLISHMENT OF RELIGION AND SLAVERY; CONSPIRACY; EVIL UPON THE PUBLIC TRUST; APEX LAW AGGRAVATED LARCENY OF MINING COMPANY SECURITY & COLLATERAL, PIRACY, FRAUDS, MALICE, ABUSE, NEGLECT, HAZARD, HAZARDS, WAIVER OF TORTS ON EXPRESS AND IMPLIED CONTRACT LR10-20762 UNLAWFUL DETAINER AND QUIET TITLE DETINUE SUR BAILMENT INTERVENTION BY RIGHT, REINSTATEMENT AND CONSOLIDATION

We consider a question that has split the federal courts: May a non-settling PRP intervene in litigation to oppose a consent decree incorporating a settlement that, if approved, would bar contribution from the settling PRP? We join the Eighth and Tenth Circuits in holding that the answer is "yes."

References

CDM. 1987. Draft Final Report Iron Mountain Mine Endangerment Assessment. December 4, 1987. San Francisco : U.S. Environmental Protection Agency, Region 9.

EPA. 1986a. Quality Criteria for Water. Washington , D.C. : Office of Water Regulations and Standards, Criteria and Standards Division. EPA 440/5-86-001.

EPA. 1986b. Record of Decision - Iron Mountain Mine, Redding , CA. San Francisco : U.S. Environmental Protection Agency, Region 9.

NOAA Coastal Resource Coordinator & EPA Site Manager

TREASON AGAINST THE PEOPLES TRUST, PIRACY OF THE PUBLIC TRUST, WRONGFUL JUDICIAL TAKINGS, WRONGFUL USURPATION OF MINING COMPANY, EPIC LARCENY OF MINING COMPANY SECURITY AND COLLATERAL, MISPRISON OF TREASON AND FELONIOUS TRESPASS OF ABSOLUTE SOVEREIGN PATENT TITLE, COMPLETE ABSENCE OF CAPACITY FOR JURISDICTION, LEGISLATION, OR ADMINISTRATION, 100 YEARS OF REASONABLE DOUBT, NO REASONABLE BASIS, NO PROBABLE CAUSE, NO PLAUSIBLE EXIGENCY, NO DUE PROCESS, NO EQUAL PROTECTION, NO DEAD FISH, NOBODY SICK, NO RIGHT, DAMAGES WITHOUT INJURY, ATTAINDER AFTER THE FACT, POISONING WITH INFAMY, LIBEL & SLANDER, ARBITRARY AND CAPRICIOUS RECKLESS NEGLIGENCE AND FELONIOUS UNLAWFUL DETAINER WITH WRONGFUL TAKINGS UNDER FALSE PRETENSES OF OFFICIAL RIGHT AND UNDER COLOR OF LAW AND WITH RECKLESS AND EXTRAVAGANT DISREGARD AND ENDANGERMENT TO OUR PEACE AND SAFETY BY FRAUD AND FALSE CLAIMS TO PERPETUATE AN INSIDIOUS BUREAUCRACY . $25,000 PER DAY FINE FOR EACH INDIVIDUAL VIOLATION OF THE PROVISIONS OF SECTION 104(e) OSWER Directive No. 9829.2, Entry and Continued Access Under CERCLA (1987). Nothing in the OSWER language suggests that consent is mandatory

We conclude that failure to obtain written consent and in the absence of harm or injury and without QA or QAPP is arbitrary and capricious and is punishable by nonupled EPCRA 313/ RCRA 3007 GOVERNMENT FRAUD AND DERELICTION OF DUTIES damages and civil penalties under CERCLA, 42 U.S.C. § 9604(e)(5)(B). of $375,000 per day SINCE JANUARY 1, 1983.

Earlier this week, the Environmental Protection Agency released an interim guidance document showing EPA staff how to incorporate environmental justice into the agency's process of developing rules and regulations, news release said.

The guide is part of the EPA's efforts to protect the health and safety of groups that have been historically underrepresented in the decision-making process and are often most at risk from environmental hazards.

"Historically, the low-income and minority communities that carry the greatest environmental burdens haven't had a voice in our policy development or rulemaking. We want to expand the conversation to the places where EPA's work can make a real difference for health and the economy," said EPA Administrator Lisa P. Jackson. "This plan is part of my ongoing commitment to give all communities a seat at the decision-making table. Making environmental justice a consideration in our rulemaking changes both the perception and practice of how we work with overburdened communities, and opens this conversation up to new voices."

The guide allows the EPA to meet responsibilities under Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which orders all federal agencies to make environmental justice part of its mission.

July 30, 2010 FOR IMMEDIATE RELEASE

EPA To Hold Listening Sessions on Potential Revisions to Water Quality Standards Regulation

Natural Resource Damage Claims not Federal Jurisdiction

On August 21, 2009, the U.S. District Court for the District of the Virgin Islands held that a territory’s common law claims for natural resourse damages against manufacturers of dry cleaning chemicals for a site on the National Priorities List are not subject to federal jurisdiction. Mathes v. Vulcan Materials Co., 2009 U.S. Dist. LEXIS 74736 (D.V.I. Aug. 21, 2009).

WASHINGTON – The U.S. Environmental Protection Agency (EPA) will hold two public listening sessions on potential changes to the water quality standards regulation before proposing a national rule. The current regulation, which has been in place since 1983, governs how states and authorized tribes adopt standards needed under the Clean Water Act to protect the quality of their rivers, streams, lakes, and estuaries. Potential revisions include strengthening protection for water bodies with water quality that already exceeds or meet the interim goals of the Clean Water Act; ensuring that standards reflect a continued commitment to these goals wherever attainable; improving transparency of regulatory decisions; and strengthening federal oversight.

Water quality standards are the foundation of the water quality-based approach to pollution control, including Total Maximum Daily Loads and National Pollutant Discharge Elimination System permits. Standards are also a fundamental component of watershed management.

The public listening sessions will be held via audio teleconferences on August 24 and 26, 2010, from 1 p.m. to 2:30 p.m. EDT. At the sessions, EPA will provide a review of the current regulation and a summary of the revisions the agency is considering. Clarifying questions and brief oral comments (three minutes or less) from the public will be accepted at the sessions, as time permits. EPA will consider the comments received as it develops the proposed rulemaking.

EPA will also hold separate listening sessions for state, tribal and local governments.

EPA expects to publish the proposed revisions to the water quality standards regulation in summer 2011.

More information: http://www.epa.gov/waterscience/standards/rules/wqs/

RCRA default judgment sanctions discovery violation

On June 5, 2009, the U.S. District Court for the Southern District of Indiana, in response to what it determined were extraordinary discovery abuses by the defendant in a RCRA citizen suit case, entered a default judgment against the defendant. 1100 West, L.L.C. v. Red Spot Paint & Varnish Co., 2009 U.S. Dist LEXIS 47439 (S.D. Ind. Jun. 5, 2009).

July 26, 2010 EPA Releases Rulemaking Guidance on Environmental Justice

WASHINGTON -- The U.S. Environmental Protection Agency (EPA) is releasing an interim guidance document to help agency staff incorporate environmental justice into the agency's rulemaking

process. The rulemaking guidance is an important and positive step toward meeting EPA Administrator Lisa P. Jackson's priority to work for environmental justice and protect the health and safety of communities who have been disproportionally impacted by pollution.

"Historically, the low-income and minority communities that carry the greatest environmental burdens haven't had a voice in our policy development or rulemaking. We want to expand the conversation to the places where EPA's work can make a real difference for health and the economy," said EPA Administrator Lisa P. Jackson. "This plan is part of my ongoing commitment to give all communities a seat at the decision-making table. Making environmental justice a consideration in our rulemaking changes both the perception and practice of how we work with overburdened communities, and opens this conversation up to new voices."

The document, Interim Guidance on Considering Environmental Justice During the Development of an Action, seeks to advance environmental justice for low-income, minority and indigenous communities and tribal governments who have been historically underrepresented in the regulatory decision-making process. The guidance also outlines the multiple steps that every EPA program office can take to incorporate the needs of overburdened neighborhoods into the agency's decision-making, scientific analysis, and rule development. EPA staff is encouraged to become familiar with environmental justice concepts and the many ways they should inform agency decision-making.

EPA is seeking public feedback on how to best implement and improve the guide for agency staff to further advance efforts toward environmental justice.

To view the interim guidance and submit feedback:

http://www.epa.gov/environmentaljustice/resources/policy/ej-rulemaking.html

More information on environmental justice: http://www.epa.gov/environmentaljustice/

Our government... teaches the whole people by its example. If the government becomes the lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.

The greatest dangers to liberty lurk in the insidious encroachment by men of zeal, well meaning but without understanding.

Those who won our independence... valued liberty as an end and as a means. They believed liberty to be the secret of happiness and courage to be the secret of liberty.

Experience teaches us to be most on our guard to protect liberty when the government's purposes are beneficent.

If we desire respect for the law, we must first make the law respectable.

In the frank expression of conflicting opinions lies the greatest promise of wisdom in governmental action.

Fear of serious injury alone cannot justify oppression of free speech and assembly. Men feared witches and burnt women. It is the function of speech to free men from the bondage of irrational fears.

Those who won our independence... valued liberty as an end and as a means. They believed liberty to be the secret of happiness and courage to be the secret of liberty.

To declare that in the administration of criminal law the end justifies the means is to declare that the Government may commit crimes in order to secure a conviction of a private citizen, and would bring terrible retribution.

We can have democracy in this country, or we can have great wealth concentrated in the hands of a few, but we can't have both.

The most important political office is that of private citizen.

That the existing unemployment is, in large part, of the gross inequality in the distribution of wealth and income which giant corporations have fostered; that by the control which few have exerted through giant corporations, individual initiative and effort are being paralyzed, creative power impaired and human happiness lessened; that the true prosperity of our past came not from big business, but through the courage, the energy and the resourcefulness of small men; that only by releasing from corporate control the faculties of the unknown many, only by reopening to them the opportunities for leadership, can confidence in our future be restored and the existing misery overcome; and that only through participation by the many in the responsibilities and determinations of business, can America secure the moral and intellectual development which is essential to the maintenance of liberty.- Justice Louis D. Brandeis

The Constitution addresses piracy in Article 1, Section 8. It gives Congress "the Power … To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations."

In 1790 Congress enacted the first substantive antipiracy law, a broad ban on murder and ROBBERY at sea that carried the death penalty. In 1818, however, the U.S. Supreme Court ruled that the law was limited to crimes involving U.S. citizens: U.S. jurisdiction did not cover foreigners whose piracy targeted other foreigners (United States v. Palmer , 16 U.S. [3 Wheat.] 610). A year later, in 1819, Congress responded by passing an antipiracy law to extend U.S. jurisdiction over pirates of all nationalities.

By the mid-nineteenth century, two other important changes occurred. Penalties for certain piracy crimes—revolt and mutiny—were reduced and were no longer punishable by death. Then the Mexican War of 1846–48 brought a radical extension of the definition of a pirate. The traditional definition of an independent criminal was broadened to include sailors acting on commissions from foreign nations, if and when their commissions violated U.S. treaties with their government. The Piracy Act of 1847, which established this broader definition, marked the last major change in U.S. piracy law.

Piracy can also be committed against a ship, aircraft, persons, or property in a place outside the jurisdiction of any state, in fact piracy has been the first example of universal jurisdiction. Nevertheless today the international community is facing many problems in bringing pirates to justice .

Definition of War Crime

The term “war crime” broadly refers to prohibited acts committed in time of war against a person or property protected under the 1949 Geneva Conventions. Under international law, war crimes are grave breaches of the 1949 Geneva Conventions known today as “International Humanitarian Law.”

The 1949 Geneva Conventions consist of Protocol I and Protocol II . The minimum rules of conduct adopted under Protocol I apply to international armed conflict between states; whereas the minimum rules of conduct adopted under Protocol II apply to internal armed conflict or civil war between local citizen groups. In olden- day armed conflicts, states were accountable for war crimes, not individuals. In today's armed conflicts, military and civilians are individually accountable for war crimes, not states.

Texas officials denounce EPA on two fronts

Letter rejects greenhouse gas rules, recent air permit issues.

Consolidating the fronts on which they're doing battle with Washington, Texas officials sent a defiantly worded letter to environmental officials Monday that merged attacks against greenhouse gas regulation and federal disapproval of the state's air permitting program.

"In order to deter challenges to your plan for centralized control of industrial development through the issuance of permits for greenhouse gases, you have called upon each state to declare its allegiance to the Environmental Protection Agency's recently enacted greenhouse gas regulations — regulations that are plainly contrary to United States law," reads the Aug. 2 letter from state Attorney General Greg Abbott and Texas Commission on Environmental Quality Chairman Bryan Shaw to EPA head Lisa Jackson and EPA regional administrator Al Armendariz .

"To encourage acquiescence with your unsupported findings you threaten to usurp state enforcement authority and to federalize the permitting program of any state that fails to pledge their fealty to" the EPA, the letter says.

That which is so clearly stated or distinctively set forth that there is no doubt as to its express meaning of clear and explicit reservation of common law rights. John F. Hutchens

Appeal certified under Rule 54(b) when “there is some danger of hardship or injustice which an immediate appeal would alleviate.” Taco John’s, 569 F.3d at 402 (citing McAdams, 533 F.3d at 928).

TO THE CLERK OF THE COURT MR. HARRY VINE AND JUDGE JOHN MENDEZ

ERROR AND MISTAKE OF IDENTITY, FATALLY DEFECTIVE, FRAUD UPON THE COURT

Dear Mr. Harry Vine,

I received an envelope at P.O. box 182 , Canyon, Ca. 94516, but apparently addressed to Mr. T.W. Arman. As you know, Mr. Arman has been the subject of litigation in your court since 1991, so you should be able to address correspondence to him without my assistance.

As this is not the first time I have informed you of this matter, I assume no responsibility for your failure to effect service upon Mr. T.W. Arman..

That said, I would like to take this opportunity to inform you of some other corrections that need to be made to your court that you should be aware of.

First, there appears to be some confusion in your court concerning ARMAN. Your court continues to oppress Mr. T.W. Arman regarding certain mine drainage at Iron Mountain Mine, which is actually the result of the actions of ARMAN, “archaeal Richmond Mine acidophilic nanoorganisms”, so named by Dr. Jillian Banfield of the University of California at Berkeley, and if you would have addressed your summary judgment to ARMAN at this address, would probably have been correct.

As the curator for the College of the Hummingbird and the Hummingbird Institute, and at the behest of Mr. T.W. Arman, the Arman Mines Institute, the Arman Mines Ministry of Natural Resources, the Arman Mines Hazard and Remediation Directorate and Disaster Assistance Directorate, it is my duty as resident expert to convey to you the facts concerning allegations of ‘hazardous' substances.

I read with interest the partial summary judgment of Mr. Mendez and can only conclude that your court lacks even one scintilla of common sense, has been entirely brainwashed by established beliefs of environmental religion, or are under a witches spell. Come to IMMI and walk it off.

Since there are no hazardous materials at Iron Mountain Mines we wish you would stop demonizing, libeling and slandering the good name of Iron Mountain Mine and Mr. T.W. Arman, as these damages continue to mount against the United States of America State of California.

Furthermore, since Mr. T.W. Arman has been trying for years to supply his minerals to farmers, gardeners, landscapers, horticulturalists, and others who work in agricultural enterprises that provide our food and sustain our environment, and it is well documented that minerals are necessary, for instance:

“Minerals in the soil control the metabolism of plants, animals and man. All of life will be either healthy or unhealthy according to the fertility of the soil.”

This was a statement made by Dr Alexus Carrel, Nobel Prize Winner, in 1912. Almost a hundred years later, agriculturist and writer, Graham Harvey, wrote in The Daily Telegraph , 18 February 2006: “ Britain 's once fertile soil has been systematically stripped of its crucial minerals by industrial farming, leaving our fruit and vegetables tasteless and a nation in chronic ill health.”

William Albrecht (1896-1974 Illinois), referred to as the Father of Soil Research for his pioneering studies of the effects of infertile soil on plants and animals, warned in 1930s that if the land was not remineralised, there would be a massive increase in human degenerative diseases.

Therefore, we are of the opinion that your actions are an act of aggression and war crime of attrition on us. Please void and vacate, grant us intervention, remission, reversion, & detinue sur bailment.

In fact our minerals were naturally distributed by the cycles of the seasons and the annual flooding that for half a million years fertilized the great valleys of California . In 1943 the United States of America State of California constructed the Shasta dam forever destroying this process, at the same time killing all the native anadramous fish such as the various Chinook Salmon of the McCloud river that were famously propagated around the world by the United States Baird Hatchery.

Now this court has blamed Mr. T.W. Arman for the fisheries demise.

We object to the government perpetuating such a heinous deception

The Constitution addresses piracy in Article 1, Section 8. It gives Congress "the Power … To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations."

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These injuries are a continuing negligent imminent hazard with felonious unlawful detainer and breach of warrantee for patent title from President Abraham Lincoln, May 1st, 1862; and breach of patent title from Governor Newton Booth, recorded January 4th, 1875 .

The California Department of Fish and Game has made no claim against Iron Mountain Mines, Inc. for Damages to Fish Species.

THE WATER BOARD KNOWS - THE GEOLOGICAL SURVEY KNOWS

matters for which the court may wish to take judicial notice

Rancho Buena Ventura (also called "San Buena Ventura") was a 26,632-acre (107.78 km 2) Mexican land grant in present day Shasta County, California , given in 1844 by Governor Manuel Micheltorena to Major Pierson B. Reading (1816–1868). [1] The land grant is named for the former name of the adjacent Sacramento River , Buena Ventura, which meant good fortune in Spanish. The grant extended some nineteen miles on the west side of the Sacramento River, from Cottonwood Creek on the south to Salt Creek on the north, and extended approximately three miles west of the Sacramento River the length of the grant. [2] The grant encompassed present day towns of Anderson , Cottonwood and Redding . [3] This was the northernmost land grant in California. [2] Redding, however, was not named for Major Reading; it was named for B. B. Redding, a land agent for the Central Pacific Railroad . [2]

History

Governor Micheltorena and John Sutter , his alcalde granted Rancho Buena Ventura to Pierson B. Reading (listed as Pearson B. Reading in the land case documents) in 1844. Reading, who was at that time working for John Sutter at Sutter's Fort in Sacramento as a clerk and trapper, visited the land grant but did not move onto it. He stocked the land with cattle and built a house for his overseer but it was burned down by natives in 1846. [2] Reading was active in promoting the Bear Flag Revolt of 1846. After serving as an artillery lieutenant then as paymaster at the rank of major in a battalion led by John C. Frémont , he built a permanent adobe dwelling and settled on his grant in 1847. [2] He became the second (after Lansford Hastings) permanent settler of what was to become Shasta County. [2]

With the cession of California to the United States following the Mexican-American War , the 1848 Treaty of Guadalupe Hidalgo provided that the land grants would be honored. As required by the Land Act of 1851, a claim for Rancho Buena Ventura was filed with the Public Land Commission in 1852. [4] The US appealed the claim on the grounds that Reading was not a Mexican citizen. [5] In 1854 Reading went to Washington, D.C. for the hearing before the US Supreme Court on his land grant claims. There he met and married Fanny Wallace Washington. The claim was upheld by the Supreme Court [5] and the grant was patented to Pearson B. Reading in 1857. [6]

The first land sale was made in 1853. By 1866, over 5,000 acres (20.2 km 2) of the land grant was sold. In 1866, Reading borrowed from the estate of his longtime friend Samuel J. Hensley, using the remaining rancho lands as collateral. After Reading's unexpected death in 1868, the remaining rancho lands were sold to James Ben Ali Haggin at public auction in 1871 to satisfy the unpaid debt. [7] After the auction, the only remaining land from the original land grant was the one square mile (640 acres (2.6 km 2)) Washington section purchased by Fanny Washington's mother.

William Magee was the U.S. deputy surveyor for Shasta County . Charles Camden was the most successful miner in Shasta County, he bought and sold much of the land at the Rancho, 800 acres for Military Scrip Warrants (U.S. Patent Title), They were partners. Under their rights of Pre-emption The U.S. Land Office at Marysville granted 360 acres of land on Iron Mountain in lieu of land in the Rancho Buena Ventura. Mining was insignificant until James Sallee discovered a seam of sliver in the ore and the Lost Confidence Mine was recorded April 8, 1880.

Watchdog: Treasury, Fed Failed in AIG Oversight - CLAW BACK TARP - LIQUIDATE AIG

Neil Barofsky, the special inspector general for TARP says that Treasury Secretary Timothy Geithner is “ultimately responsible”

July 29 (Bloomberg) -- Treasury Secretary Timothy F. Geithner is acting director of the Consumer Financial Protection Bureau, the Treasury said in a statement today.

Geithner met with heads of agencies with consumer protection duties that will be consolidated into the new agency, which was set up under the financial regulatory overhaul signed into law by President Barack Obama on July 21.

Federal Reserve Chairman Ben S. Bernanke and Federal Deposit Insurance Corp. Chairman Sheila Bair were among the officials who met to discuss the transition period, the Treasury said.

"The agency heads each agreed to appoint liaisons from their respective staffs" to help the Treasury coordinate the transition, the department said in the statement. --Editors: Brendan Murray, Christine Spolar Ian Katz in Washington at ikatz2@bloomberg.net / Christopher Wellisz at cwellisz@bloomberg.net

Of those men who have overturned the liberties of republics, the greatest number have begun their career by paying an obsequious court to the people; commencing demagogues, and ending tyrants." - Alexander Hamilton, in Federalist No. 1

Since 1983, the people of Idaho's Silver Valley have reluctantly accepted the EPA as neighbors. Now, many are angry that the agency wants to stay another 50–90 years and spend more than a billion dollars to continue its work.

In this present crisis, government is not the solution to our problem; government is the problem . From time to time we've been tempted to believe that society has become too complex to be managed by self-rule, that government by an elite group is superior to government for, by, and of the people. Well, if no one among us is capable of governing himself, then who among us has the capacity to govern someone else?

... Ronald Reagan, January 20, 1981.

JULY, 2010: MR. T.W. ARMAN & IRON MOUNTAIN MINE COMMUNITY NOTICE OF LODGING CRIMINAL TRESPASS ON PRESIDENT OBAMA - GOVERNOR SCHWARZENEGGER - ATTORNEY GENERALS BROWN AND HOLDER - CONGRESS - CALIFORNIA - EPA - DOJ - CVRWQCB - CAL FED - CAL DTSC - UNITED STATES EASTERN DISTRICT COURT SACRAMENTO - NATURAL RESOURCE TRUSTEES - HOMELAND SECURITY - DEPT. OF INTERIOR - BUREAU OF LAND MANAGEMENT - CH2MHILL - AISLIC - IRON MOUNTAIN OPERATIONS, LLC - AIG CONSULTANTS - AIG - BAYER CROP SCIENCES - FEMA - ASTRAZENECA - SANOFI/AVENTIS - JARDINE MATHESON; FRAUDS, THIEVES, KILLERS, JOINT AND SEVERAL TRESSPASSERS, PIRATES, ENSLAVERS, STARVATION! EJECTMENT:

SHASTA COUNTY SHERIFF - POSSE FOR TRESPASS OF TREASON AND MISPRISON OF FELONY WRIT OF POSSESSION UPON ADVERSE CLAIMS TRESSPASSERS OF PATENT TITLE; EXTORTION; FRAUD; DECEIT; MALICIOUS AND ABUSIVE NEGLIGENT ENDANGERMENT; ESTABLISHMENT OF RELIGION AND SLAVERY; CONSPIRACY; EVIL UPON THE PUBLIC TRUST; APEX LAW AGGRAVATED LARCENY OF MINING COMPANY SECURITY & COLLATERAL LR10-20762

INNOCENT PRISONERS OF THE EPA - DOJ SINCE 1983

FREE MR. T.W. ARMAN & IRON MOUNTAIN MINES, INC.

18 U.S.C. § 1951(b)(2).

Administrative - EPA Order 3120.1b Scientific misconduct, fabrication or knowing falsification of data, research procedures, or data analysis is an offense which can result in immediate removal/ Suspension and Debarment / Civil Sanctions / Fines / Local AUSA Must Decide If Fraud Meets Criminal Prosecution Threshold / Culpability / Harm

Laboratory Fraud, Title 18 United States Criminal Code; Is It Criminal or Civil?

Fraud - 18 USC 1341 - 1343 , PROCEDURAL FRAUD, MEASUREMENT FRAUD

False Statements - 18 USC 1001

Conspiracy - 18 USC 371

Concealment of a felony - 18 USC 4 (misprision)

False Claims - 18 USC 287

Obstruction of Justice - 18 USC 1505 Consequences Ferro incumbere.

Penalties up to 20 years imprisonment for destroying, concealing or falsifying records with intent to obstruct or impede a legal investigation

"Government is not reason; it is not eloquence; it is force. Like fire; it is a dangerous servant and a fearful master." - George Washington

MILITIA & POSSE - LOCKE & LODE!

INTERVENTION OF RIGHT! NINTH CIRCUIT RULES!

Mr. President Barack Obama, PILLAGE AND SLAVERY!

ARMAN MINERALS RESOURCE DEFENSE COUNCIL & THE ARMAN LOST HUMAN USE REMEDIATION & RESTORATION TRUST Hazard & Remediation Directorate offers $75 Billion Senior Notes, Tender Offers, & Renewable Energy Bonds

As Iron Mountain Mines, Inc. is a private for-profit organization, and Iron Mountain Mines, Inc. has ownership and other legally recognized interests in land and other natural resources, I believe I am entitled to the benefit of these provisions, and deserve to have Homeland Security, FEMA, EPA, the Department of Energy and the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration ,take and show "appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land and other natural resources."

At its peak, American International Group (AIG) was one of the largest and most successful companies in the world, boasting a AAA credit rating, over $1 trillion in assets, and 76 million customers in more than 130 countries. Yet the sophistication of AIG ' s operations was not matched by an equally sophisticated risk-management structure. This poor management structure , combined with a lack of regulatory oversight, led AIG to accumulate staggering amounts of risk , especially in its Financial Products subsidiary, AIG Financial Products (AIGFP). Among its other operations, AIGFP sold credit default swaps (CDSs), instruments that would pay off if certain financial securities, particularly those made up of subprime mortgages, defaulted. So long as the mortgage market remained sound and AIG ' s credit rating remained stellar, these instruments did not threaten the company ? s financial stability. The financial crisis, however, fundamentally changed the equation on Wall Street . As subprime mortgages began to default, the complex securities based on those loans threatened to topple both AIG and other long-established institutions. During the summer of 2008, AIG faced increasing demands from their CDS customers for cash security – known as collateral calls – totaling tens of billions of dollars. These costs put AIG ' s credit rating under pressure, which in turn led to even greater collateral calls, creating even greater pressure on AIG ' s credit. By early September, the problems at AIG had reached a crisis point. A sinkhole had opened up beneath the firm, and it lacked the liquidity to meet collateral demands from its customers. In only a matter of months AIG '

s worldwide empire had collapsed, brought down by the company ‘ s insatiable appetite for risk and blindness to its own liabilities.

AIG sought more capital in a desperate attempt to avoid bankruptcy. When the company could not arrange its own funding, Federal Reserve Bank of New York President Timothy Geithner, who is now Secretary of the Treasury, told AIG that the government would attempt to orchestrate a privately funded solution in coordination with JPMorgan Chase and Goldman Sachs. A day later, on September 16, 2008, FRBNY abandoned its effort at a private solution and rescued AIG with an $85 billion, taxpayer-backed Revolving Credit Facility (RCF). These funds would later be supplemented by $49.1 billion from Treasury under the Troubled Asset Relief Program (TARP), as well as additional funds from the Federal Reserve, with $133.3 billion outstanding in total.

The total government assistance reached $182 billion.

What was wrong with the way Geithner structured the bailout? The panel's members observe these faults:

1 . “ The government failed to exhaust all options before committing $85 billion in taxpayer funds. “ There were many untried options that could have saved a lot of money.

2 . “ The rescue of AIG distorted the marketplace by transforming highly risky derivative bets into fully guaranteed payment obligations. “ Talk about “moral hazard” — AIG shareholders keep the profits, if there are any, and the U.S. taxpayer bears the loss, if the bet doesn't pay off. A lot of companies and individuals would love to have THAT deal.

3. “ Throughout its rescue of AIG, the government failed to address perceived conflicts of interest. “ People from the same small group of law firms, investment banks, and regulators appeared in the AIG saga in many roles, sometimes representing conflicting interests.

4. “ Even at this late stage, it remains unclear whether taxpayers will ever be repaid in full. AIG and Treasury have provided optimistic assessments of AIG ‘ s value. As current AIG CEO Robert Benmosche told the Panel, “I ‘ m confident you ? ll get your money, plus a profit.” The Congressional Budget Office (CBO), however, currently estimates that taxpayers will lose $36 billion . “

5. “ The government's actions in rescuing AIG continue to have a poisonous effect on the marketplace .”

AIG's Six Year Saga Of Alleged Fraud

The recent outcry over $165 million in post-bailout bonus payments has put AIG on the hot seat. But, in fact, the bonus disbursement is perhaps the least serious in a string of actions by the insurance giant that span six years and involve several cases of alleged fraud.

"AIG has a culture of complicity. "You don't get into these kinds of problems by having a good corporate culture," said Peter Morici, a professor at the University of Maryland School of Business and the former chief economist at the US International Trade Commission. "Clearly this company has had endemic problems and it'd be best if we broke it up and sold it off so others can run its parts."

February 2006:

-AIG agreed to pay more than $1.6 billion -- the biggest regulatory settlement by a single company in U.S. history, according to Reuters -- to settle claims related to the 2000 case involving General Re and AIG. The settlement was for improper accounting, bid rigging and practices involving workers' compensation funds. Then-New York Attorney General Eliot Spitzer said at the time that AIG "finds itself in this position solely because some senior managers thought it was acceptable to deceive the investing public and regulators."

DECLARATION: ENVIRONMENTAL WARFARE, TREATY VIOLATION; BREACH OF THE PUBLIC TRUST DOCTRINE, PLUNDER. LIQUIDATE AIG

When AIG can repay federal bailout is unknown: GAO

Posted On: Aug. 04, 2010 2:01 PM CENTRAL | 1 comment | Reprints Judy Greenwald

WASHINGTON—When American International Group Inc. will be able to repay the government is unknown, although several scenarios are being considered, the Government Accountability Office said in a report.

The investigative arm of Congress said Tuesday that the government, which bailed out AIG in September 2008, has provided $134 billion in equity, debt and indirect assistance to AIG as of March 31.

“When AIG will be able to pay the government completely back for its assistance is currently unknown because the federal government's exposure to AIG is increasingly tied to the future health of AIG, its restructuring efforts and its ongoing performance as more debt is exchanged for equity,” the

GAO said in the report that discussed AIG and other firms that have received government assistance. "While AIG is making progress in reducing the amount of debt that it owes, this is primarily due to the restructuring of the composition of government assistance from debt to equity."

As noted in its April report on AIG, the latest GAO report said "the government's ability to fully recoup the federal assistance will be determined by the long-term health of AIG, the company's success in selling businesses as it restructures, and other market factors such as the performance of the insurance sectors and the credit derivatives markets that are beyond the control of AIG or the government." (BI , May 3).

The Treasury Department is considering various options to divest the Series C preferred stock, which is convertible into 79.9% of AIG's common stock, but the Treasury team that manages the AIG investment "has not decided which strategy to employ," the GAO report said.

The options include having AIG redeem shares owned by the Treasury Department, converting the shares to common stock and selling them later in a public offering, or selling the shares to an institutional buyer or buyers in a private sale. Treasury "is devoting significant resources to planning the eventual exit strategy from its AIG investments," the GAO said in the report.

In March, the Congressional Budget Office estimated AIG's financial assistance may cost up to $36 billion compared with the $30 billion that Treasury estimated in September 2009, according to the report.

The GAO is required to report at least every 60 days on findings resulting from the Troubled Asset Relief Program's oversight. The report, "Financial Assistance, Ongoing Challenges and Guiding Principles Related to Government Assistance for Private Sector Companies," is available online at www.gao.gov/new.items/d10719.pdf .

According to the U.S. Ninth Circuit Court of Appeals, ownership for purposes of cleanup liability under the federal Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA," also known as the "Superfund" law) is determined at the time that cleanup costs are incurred and not when a later cost recovery lawsuit is filed. Although CERCLA is 30 years old and has been amended several times, this is the first time that any court has directly addressed the ques-

tion of when an owner is liable for cleanup costs, clarifying what had been one of many murky areas in CERCLA.

In California v. Hearthside Residential Corp ., the defendant bought undeveloped wetlands in Huntington Beach, Calif. The wetlands were contaminated with polychlorinated biphenyls ("PCBs") and were believed to be the source of PCB contamination that had migrated to adjacent residential properties, which Hearthside did not own. While Hearthside agreed to clean up the wetlands, it denied any responsibility for remediating the residential properties. Hearthside completed the wetlands cleanup and sold the property to the California Lands Commission. Meanwhile, the state paid for the cleanup of the residential parcels and then sued Hearthside under CERCLA to recover the costs.

The statute provides that an "owner or operator of a vessel or facility" is one class of persons who can be held strictly liable for the costs of investigation and cleanup of hazardous substances, as well as natural resources damages. The statute, however, does not specify the date from which ownership is measured and no case before Hearthside directly considered that question.

Hearthside claimed that it was not liable under CERCLA because it had sold the property before the lawsuit was filed and, therefore, was not an "owner." The trial court ruled that "owner" status for purposes of CERCLA is determined when the cleanup takes place and not when the lawsuit is filed. The Ninth Circuit agreed.

The Ninth Circuit held that ownership should be measured from the time the cleanup begins because that best aligns with the purpose of CERCLA, which is to encourage responsible parties to remediate hazardous facilities without delay. Most cost recovery lawsuits are not filed until cleanup is complete and the total costs are known. The court said if the date of filing a lawsuit was the determining factor for ownership, then a landowner seeking to avoid liability would have every incentive for delay of cleanup until it could find a buyer.

The court recognized that pinpointing ownership based on cleanup activities might introduce some factual uncertainty because of questions about when cleanup began, when it was completed, and when enough response costs were incurred to give rise to a cost recovery claim. The court, however, ruled that such factual determinations are routine and familiar components of CERCLA actions and can be resolved without difficulty.

An important lesson of Hearthside is that property owners cannot avoid cleanup liability by transferring ownership of a property. The decision also points to the importance of making sure other responsible parties are part of the cleanup early in the process.

Hearthside also is likely to be a guide for interpreting owner and operator liability under the Washington Model Toxics Control Act and the Oregon hazardous substances statute. Those two statutes, as well as many other states' similar laws, use identical wording to CERCLA's owner and operator language.

EPA To Hold Listening Sessions on Potential Revisions to Water Quality Standards Regulation

Release date: 07/30/2010

Contact Information: Dave Ryan Ryan.dave@epa.gov 202-564-7827 202-564-4355

WASHINGTON – The U.S. Environmental Protection Agency (EPA) will hold two public listening sessions on potential changes to the water quality standards regulation before proposing a national rule. The current regulation, which has been in place since 1983, governs how states and authorized tribes adopt standards needed under the Clean Water Act to protect the quality of their rivers, streams, lakes, and estuaries. Potential revisions include strengthening protection for water bodies with water quality that already exceeds or meet the interim goals of the Clean Water Act; ensuring that standards reflect a continued commitment to these goals wherever attainable; improving transparency of regulatory decisions; and strengthening federal oversight.

Water quality standards are the foundation of the water quality-based approach to pollution control, including Total Maximum Daily Loads and National Pollutant Discharge Elimination System permits. Standards are also a fundamental component of watershed management.

The public listening sessions will be held via audio teleconferences on August 24 and 26, 2010, from 1 p.m. to 2:30 p.m. EDT. At the sessions, EPA will provide a review of the current regulation and a summary of the revisions the agency is considering. Clarifying questions and brief oral comments (three minutes or less) from the public will be accepted at the sessions, as time permits. EPA will consider the comments received as it develops the proposed rulemaking.

EPA will also hold separate listening sessions for state, tribal and local governments.

EPA expects to publish the proposed revisions to the water quality standards regulation in 2011.

By Peter Maier, PhD, PE, August 2008

Prior to 1972, states had their own water pollution regulations, but since they were different, industries in ‘clean' states moved to ‘dirty' states. This led to employment loses in the ‘clean' states and Congress was asked to set national water pollution standards.

When reading the historical discussions prior to the actual CWA, it becomes clear that the Act was not yet able to set sewage treatment standards, but instead established a principle in order to achieve a goal that when somebody uses water, it should be returned at least in the same or better conditions, hence the ultimate goal of the Act to eliminate all water pollution, by 1985.

It was also realized that such a goal was not yet achievable, since the only technical term used in the legislation was demanding ‘secondary treatment', without any further definition, but which was supposed to be 85% treatment.

The legislation also selected a ‘technology-based' program, in stead of a ‘water quality-based' program, as it was felt that this would allow local politicians to manipulate local treatment requirements, thus avoiding the purpose and goal of the Act itself.

A technological-based program meant that everybody treating wastewater has to do so with the best treatment available, while a water-quality based program means that treatment standards could be determined by the water quality of the receiving water bodies.

The Act also acknowledged that ‘secondary treatment' would not any longer be acceptable if better treatment would become available and incorporated special legislation to allow EPA to set stricter treatment standards to achieve the ultimate goal of 100% treatment. The Act also provided funding for R&D to achieve better treatment than the initial required ‘secondary treatment'.

When EPA implemented the CWA, it established the NPDES (National Pollution Discharge Elimination System) permit system and established 85% treatment of two commonly used pollution tests, the TSS (Total Suspended Solids) and the BOD5 (Biochemical Oxygen Demand test after 5 days) test.

The BOD5 test was widely used worldwide, but what was forgotten was the fact that the 5-day test was mainly used as a timesaver and only measured the pollution caused by fecal waste. When EPA assumed that the BOD5 of raw sewage is 200 mg/l to establish the ‘secondary treatment' standards, it only addressed 40% of the ultimate BOD, which is 500 mg/l.

By setting 85% BOD5 treatment standards, EPA ignored all the water pollution caused by nitrogenous (urine and protein) waste. For those interested in how the BOD test should be applied, visit www.petermaier,net and look in the Technical PDF file.

Using the BOD5 test without any nitrogen data does not allow the real performance evaluation of sewage treatment plants nordetermine the real waste loadings on receiving water bodies.

Although EPA acknowledged the problems with the test in 1984, in stead of correcting the test, it allowed an alternative test and officially ignored the water pollution caused by nitrogenous waste, while this waste, like fecal waste, not only exerts an oxygen demand, but also in all its forms is a nutrient for algae and other aquatic plant life. Utah States' Science Council in 1984, recommended correcting this essential test, but their recommendation was rejected.

Nitrogenous waste, called a nutrient, according to EPA's 1992 “National Water Quality Inventory Report to Congress” is now causing mayor problems in the nation's rivers, lakes and estuaries.

The sad conclusion is that; solely due a lack of understanding of an essential pollution test, the Clean Water Act, the second largest federally funded public works program, was a failure and nobody seems to either care or can be held accountable.

Peter Maier, PhD, PE

According to the state supreme court, “[i]t is misconduct… to elicit or attempt to elicit inadmissible evidence… Because we consider the effect of the prosecutor's action on the defendant, a determination of bad faith or wrongful intent by the prosecutor it is not required for a finding of prosecutorial misconduct.” (People v. Crew (2003) 31 Ca) The role of the prosecutor differs significantly from that of others who practice law, including criminal defense lawyers.

“ A Prosecutor is held to a standard higher than that imposed on other attorneys because of the unique function he or she performs in representing the interests, and in exercising the sovereign power, of the state. ... the prosecutor represents “a sovereignty whose obligation to govern impar-

tially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall 'win a case,' but that justice shall be done." (Berger v. United States (1935) 295 U.S. 78, 88.)' " (People v. Hill (1998) 17 Cal.4th 800, 820.)

"Prosecutors have a special obligation to promote justice and the ascertainment of truth. ... 'The duty of the attorney general is not merely that of an advocate. His duty is not to obtain convictions, but to fully and fairly present... the evidence...' " (People v. Kasim (1997) 56 Cal.App.4th 1360, 1378.)

"The prosecutor's job isn't just to win, but to win fairly, staying well within the rules." (United States v. Kojayan (9th Cir. 1993) 8 F.3d 1315, 1323.) "As an officer of the court, the prosecutor has a heavy responsibility… to the court and to the defendant to conduct a fair trial …" (United States v. Escalante (9th Cir. 1980) 637 F.2d 1197, 1203.)

Federal decisions addressing void state court judgments include (Kalb v. Feuerstein (1940) 308 US 433, 60 S Ct 343, 84 L ed 370; Ex parte Rowland (1882) 104 U.S. 604, 26 L.Ed. 861:) "A judgment which is void upon its face, and which requires only an inspection of the judgment roll to demonstrate its wants of vitality is a dead limb upon the judicial tree, which should be lopped off, if the power to do so exists." (People v. Greene, 71 Cal. 100 [16 Pac. 197, 5 Am. St. Rep. 448].) "If a court grants relief, which under the circumstances it hasn't any authority to grant, its judgment is to that extent void." (1 Freeman on Judgments, 120-c.) An illegal order is forever void. Decision is void on the face of the judgment roll when from four corners of that roll, it may be determined that at least one of three elements of jurisdiction was absent: (1) jurisdiction over parties, (2) jurisdiction over subject matter, or (3) jurisdictional power to pronounce particular judgment that was rendered, (B & C Investments, INc. v. F &amp ; M Nat. Bank &amp ; Trust , 903 P.2d 339 (Okla. App.Div 3, 1995). "Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted." (Latana v. Hopper, 102 F. 2d 188; Chicago v. New York 37 F Supp. 150)

When judges act when they do not have jurisdiction to act, or they enforce a void order (an order issued by a judge without jurisdiction), they become trespassers of the law, and are engaged in treason. (The Court: Yates v. Village of Hoffman Estates , Illinois , 209 F.Supp. 757 (N.D. Ill. 1962)

"The most obvious misconduct is to present false testimony or false evidence." Napue v. Illinois (1959) 360 U.S. 264; United States v. Young (9th Cir. 1993) 17 F.3d 1201; United States v. Valen-

tine (2nd Cir. 1987) 820 F.2nd 565; SEE: Bus. & Prof. Code § 6068(d); Penal Code § 1473(b), and Rule 5-200, Rules Prof. Conduct of State Bar.)

Due process is violated when false evidence is presented, whether offered intentionally or inadvertently. “Under well-established principles of due process, the prosecutor cannot present evidence it knows is false and must correct any falsity of which it is aware… even if the false evidence was not intentionally submitted.” (Giles v. Maryland (1967) 386 U.S. 66… Napue v. Illinois (1959) 360 U.S. 264… People v. Sakarias (2000) 22 Cal.4th 596, 33 …” People v. Seaton , 26 Cal.4th 598, 647; see People v. Bolton (1979) 23 Cal.3d 208, 213-214; People v.Morales (2003) 112 Cal.App.4th 1176, 1192-1196.) “Rulings made in violation of Due Process are void.” (Sabariego v Maverick , 124 US 261, 31 L Ed 430, 8 S Ct 461)

:" Rules of Professional Conduct - 3-200, Prohibitive Objectives -- Rules of Professional Conduct - 5-200 Deception to Court -- Business and Profession Code Section 6068 – SEE: Model Rule of Professional Conduct Rule 1.1, cmt. 5 (1983) (amended 1998) “…competent handling of a particular matter involves inquiry into analysis of the factual and legal elements of the problem and use of methods and procedures meeting the standards of competent practitioner."

When a breach of ethics, and a duty of omission results in a wrong of commission, it is often because of ignoring empirical evidence, i.e., then the abused victim and the laws that protect the victim -- even though it is relatively easy to know that a crime has, or has not been committed through empirical evidence, and the law -- but if the agents turn a blind eye to both evidence and the law, justice is lost .

This is NOT “harmless error,” rather it is unethical, blatant, deliberate and willful misconduct, and may be moral turpitude, malum in se, (State v. Stiffler , 788 P.2 2205 (1990); Bus & Professional Code 6107-6109).

. Obviously a judgment, though final and on the merits, has no binding force and is subject to collateral attack if it is wholly void for lack of jurisdiction of the subject matter or person, and perhaps for excess of jurisdiction, or where it is obtained by extrinsic fraud. [Citations.]" 7 Witkin , Cal. Procedure, Judgment, § 286, p. 828.). (Burns v. Municipal Court (1961) 195 Cal.App.2d 596, 599 .)

A void judgment or proceeding founded on a void judgment is void: 30A Am Jur Judgments

ABUSE OF DISCRETION : A failure to take into proper consideration the facts and law relating to a particular matter; an Arbitrary or unreasonable departure from precedent and settled judicial custom.

The human condition, which can be ignorance and fallibility -- especially for those in authority, perhaps deceived by their own, as Shakespeare says, "insolence of office" -- is what makes the presumption of innocence a good principle, if it is put into practice, for it is the basis for the protection of the innocent, allowing for the lay citizen to have the protection of the law beyond their own familiarity or understanding of it.

A judge is mandated to report attorneys for misconduct: Cal. Bus. & Prof. Code § 6086.7(a)(2). The State Bar sends out a letter each year reminding judges of the statutory requirements. California Code of Judicial Ethics: Currently, the code directs a judicial officer to "take appropriate corrective action whenever information surfaces that a lawyer has violated ethical duties." (Cal. Canons of Jud. Ethics, Canon 3D(2).) and, ABA Model Rule 3.8, covers the conduct of prosecutors.

Judges have the option to hold those responsible in prosecutorial misconduct in contempt of court -- and to impose upon them fines, or even temporary imprisonment.

“Attorneys should be disciplined for conduct that violates clearly established law, or conduct so outrageous that its illegality is obvious,”

Watchdog: Treasury, Fed Failed in AIG Oversight

Neil Barofsky, the special inspector general for TARP says that Treasury Secretary Timothy Geithner is “ultimately responsible”

Geithner Acting Director of Consumer Bureau During Transition

July 29 (Bloomberg) -- Treasury Secretary Timothy F. Geithner is acting director of the Consumer Financial Protection Bureau, the Treasury said in a statement today.

Treasury Cuts Backing for Fed Program After Loans Lag Capacity

July 20 (Bloomberg) -- The U.S. Treasury Department reduced by 79 percent its support for a Federal Reserve program designed to spur consumer and business lending to reflect the under- capacity use of the plan.

The Treasury's credit protection for the Fed's Term Asset- Backed Securities Loan Facility, which closed to new loans June 30, will now be $4.3 billion on the $43 billion of loans outstanding, the Fed said in a statement in Washington. That's down from $20 billion of protection taken from the $700 billion financial-rescue fund for the original $200 billion of authorized loans under the Fed program known as TALF.

The TALF extended $70 billion of loans during its 16-month life, many of which have been repaid early, the central bank said. The program has had no losses, and remaining loans are “well collateralized,” the Fed said. The loans have initial maturities of as long as five years.

“A patent to land, issued by the United States under authority of law, is the highest evidence of title, something upon which its holder can rely for peace and security in his possession. It is conclusive evidence of title against the United States and all the world. ..” 2 The American Law of Mining, § 1.29 at 357. Nichols v. Rysavy, (S.D. 1985) 610 F. Supp. 1245.

"Congress has the sole power to declare the dignity and effect of titles emanating from the United States … and [Congress] [D]eclares the patent the superior and conclusive evidence of legal title." Langdon v. Sherwood, 124 U.S. 74 (1888).

The “general rule” at least is, “that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking.” [Pennsylvania Coal Co. v. Mahon , 260 U.S. 393, 415, 67 L. Ed. 322, 43 S. Ct. 158 (1922).]

The Court stated, “Takings jurisprudence balances the competing goals of compensating landowners on whom a significant burden of regulation falls and avoiding prohibitory costs to needed government regulation. Citing Dolan v. City of Tigard , 512 U.S. 374, 384 (1994), “TheTakings Clause assures that the government may not force 'some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.'"

In the history of the United States , no Land Patent has ever lost an appellate review in the courts. In Summa Corp. v. California ex rel. State Lands Comm'n 466 US 198, the United States Supreme Court ruled that the Land Patent would always win over any other form of title. In that case, the land in question was tidewater land and California 's claim was based on California 's constitutional right to all tidewater lands. The patent stood supreme even against California 's Constitution, to wit:

[The patent] "[P]assing whatever interest the United States has in the premises and thereby settling any question of sovereign ownership…." Pueblo of Santa Ana v. Baca (CA10 NM) 844 F2d 708; Whaley v. Wotring (Fla App D1) 225 So 2d 177; Dugas v. Powell, 228 La 748, 84 So 2d 177. [quote at 28 Am. Jur. 2D, F. 2 § 49].

With the title passes away all authority or control of the executive department over the land and over the title which it has conveyed. Moore v. Robbins, 96 U.S. 530, 533, 24 L. Ed. 848.

There is no license from the United States or the state of California to miners to enter upon private lands of individuals for the purpose or extracting the minerals in the soil. (Biddle Boggs v Merced Min. Co.) 14 Cal. 279.)

The United States , like any other PRIVATE PROPRIETOR, with the exception of exemption from state taxation, having no municipal sovereignty or right of eminent domain within the limits of the state-cannot, in derogation of the rights of the local sovereign to govern the relations of the citizens of the state, and to prescribe the rules of property, and its mode of disposition, and its tenure, enter upon, or authorize an entry upon, private property, for the purpose of extracting minerals. The United States , like any other proprietor, can only exercise their rights to the mineral in private property, in subordination to such rules and regulations as the local sovereign may prescribe. Until such rules and regulations are established, the landed proprietor may successfully resist, in the courts of the state, all attempts at invasion of his property, whether by the direct action of the United States or by virtue of any pretended license under their authority. (Biddle Boggs v Merced Min. Co,,) 14 Cal. 279.)

"A valid and subsisting location of mineral lands, made and kept in accordance with the provisions of the statutes of the United States , has the effect of a grant by the United States of the right of present and exclusive possession of the lands located."

U.S. Supreme Court, 1884

With the title passes away all authority or control of the executive department over the land and over the title which it has conveyed. It would be as reasonable to hold that any private owner who has conveyed it to another can, of his own volition, recall, cancel or annul the instrument which he has made and delivered. If fraud, mistake, error, or wrong has been done, the courts of justice present the

only remedy. These courts are as open to the United States to sue for the cancellation of the deed or reconveyance of the land as to individuals, and if the government is the party injured this is the proper course".

Moore v. Robbins, 96 U.S. 530, 533, 24 L. Ed. 848.

That whenever the question in any court, state or federal, is whether a title to land which has once been the property of the United States has passed, that question must be resolved by the laws of the United States; but that whenever, according to those laws, the title shall have passed, then that property, like all other property in the state, is subject to state legislation, so far as that legislation is consistent with the admission that the title passed and vested according to the laws of the United States".

Wilcox v. McConnell, 13 Pet. (U.S.) 498, 517, 10 L. Ed. 264.

"Title by patent from the United States to a tract of ground, theretofore public, prima facie carries ownership of all beneath the surface, and possession under such patent of the surface is presumptively possession of all beneath the surface.

Lawson v. United States Min. Co. 207 U.S. 1, 8, 28 Sup. Ct. 15, 17, 52, L. Ed. 65.

Grub-stake contracts will be enforced by the courts, but only as other contracts; that is to say, it is not enough for parties to assert that they have rights, in order to secure legal protection, but they must be able to prove in each case a clear and definite contract, and that by the terms and conditions of such contract, and compliance therewith on their part, rights have become vested.

Cisna v. Mallory (C.C.) 84 Fed. 851, 854.

The common-law rule is that the lessee of real property may work already opened mines, but cannot open new ones. But the lease may expressly, or by implication from express powers, give the right to take the minerals, the instrument is a genuine lease.

Oshoon v. Bayaud 123 N.Y. 298. 25 N.E. 376

On the other hand, if an attempt is made by the instrument to pass title to the minerals in place, there is really a sale of the mineral.

Plummer v. Hillside Coal & Iron Co. 104 Fed. 208, 43 C.C. A. 490

Whatever the form of the instrument of conveyance, and even though the parties speak of it in its terms as a lease, if its fair construction shows that the title to the minerals in place is to pass upon the

delivery of the instrument, while the surface is retained, or vice versa, and, of course, for all time, if the fee is granted, except that the fee to the space occupied by the minerals seems to terminate when the mine is exhausted.

McConnell v. Pierce, 210 Ill. 627, 71 N.E. 622., Moore v. Indian Camp Coal Co.,493, 0 N.E. 6.

The relationship among joint venturers was eloquently described by United States Supreme Court Justice Cardozo in the seminal 1928 case of Meinhard v. Salmon - "joint adventurers, like copartners, owe to one another, while the enterprise continues, the duty of the finest loyalty. Many forms of conduct permissible in a workaday world for those acting at arm's length, are forbidden to those bound by fiduciary ties. Not honesty alone, but the punctilio of an honor the most sensitive, is then the standard of behavior. As to this there has developed a tradition that is unbending and inveterate. Uncompromising rigidity has been the attitude of courts of equity when petitioned to undermine the rule of undivided loyalty by the 'disintegrating erosion' of particular exceptions. Only thus has the level of conduct for fiduciaries been kept at a level higher than that trodden by the crowd.")

Artesian Mineral Development & Consolidated Sludge, Inc.& Iron Mountain Mines, Inc.

insitu remediation summary & history of copper cementation and bioleaching

Cementation of copper began with the discovery of silver at the Lost Confidence Mine by 1890 and before the beginning of copper mining at Iron Mountain and Mountain Copper Co. Ltd. around 1896. By 1908 the State Geologist reported that the operation was so extensive that a building was being constructed over and around it. In 1919 copper prices crashed and the mine closed, in 1920 fish kills were reported. In 1921 copper cementation resumed and was thereafter operated continuously until the EPA implemented their High Density Sludge treatment and driven Ted Arman from the business.. After WWII Iron Mountain mines produced sulfur and iron for fertilizers until 1963. Iron Mountain has 20,000,000 tonnes proven and 5,000,000 tonnes probable ore reserves. The naturally occurring archaea living in the Richmond mine are reported to be capable of producing the most acidic natural mine waters on the planet, pH -3.6. Iron Mountain Mines, Inc. bioleaching naturally produces about 8 tons of metals per day. One of the earliest records of the practice of leaching is from the island of Cyprus. Galen, a naturalist and physician reported in AD 166 the operation of in situ leaching of copper. Surface water was allowed to percolate through the permeable rock, and was

collected in amphorae. In the process of percolation through the rock, copper minerals dissolved so that the concentration of copper sulphate in solution was high. The solution was allowed to evaporate until copper sulphate crystallized. Pliny (23-79 AD) reported that a similar practice for the extraction of copper in the form of copper sulphate was widely practiced in Spain. The cementation of copper was also known to the Chinese, as documented by the Chinese king Lui-An (177-122 BC). The Chinese implemented the commercial production of copper from copper sulphate using a cementation process in the tenth century.

TITLE 15 > CHAPTER 1 > § 1§ 1. Trusts, etc., in restraint of trade illegal; penalty

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $100,000,000 if a corporation, or, if any other person, $1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments, in the discretion of the court.

TITLE 15 > CHAPTER 1 > § 2

§ 2. Monopolizing trade a felony; penalty

Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $100,000,000 if a corporation, or, if any other person, $1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments, in the discretion of the court.

TITLE 15 > CHAPTER 1 > § 3

§ 3. Trusts in Territories or District of Columbia illegal; combination a felony

(a) Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is declared illegal. Every person who shall

make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $100,000,000 if a corporation, or, if any other person, $1,000,000, or by imprisonment not exceeding 10 years, or both said punishments, in the discretion of the court. (b) Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce in any Territory of the United States or of the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia, and any State or States or foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $100,000,000 if a corporation, or, if any other person, $1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments, in the discretion of the court.

TITLE 15 > CHAPTER 1 > § 8

§ 8. Trusts in restraint of import trade illegal; penalty

Every combination, conspiracy, trust, agreement, or contract is declared to be contrary to public policy, illegal, and void when the same is made by or between two or more persons or corporations, either of whom, as agent or principal, is engaged in importing any article from any foreign country into the United States, and when such combination, conspiracy, trust, t is intended to operate in restraint of lawful trade, or free competition in lawful trade or commerce, or to increase the market price in any part of the United States of any article or articles imported or intended to be imported into the United States, or of any manufacture into which such imported article enters or is intended to enter. Every person who shall be engaged in the importation of goods or any commodity from any foreign country in violation of this section, or who shall combine or conspire with another to violate the same, is guilty of a misdemeanor, and on conviction thereof in any court of the United States such person shall be fined in a sum not less than $100 and not exceeding $5,000, and shall be further punished by imprisonment, in the discretion of the court, for a term not less than three months nor exceeding twelve months.

TITLE 15 > CHAPTER 1 > § 9

§ 9. Jurisdiction of courts; duty of United States attorneys; procedure

The several district courts of the United States are invested with jurisdiction to prevent and restrain violations of section 8 of this title; and it shall be the duty of the several United States attorneys, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petitions setting forth the case and praying that such violations shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

TITLE 15 > CHAPTER 1 > § 10

§ 10. Bringing in additional parties

Whenever it shall appear to the court before which any proceeding under section 9 of this title may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof.

TITLE 15 > CHAPTER 1 > § 12

§ 12. Definitions; short title

(a) "Antitrust laws," as used herein, includes the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety; sections seventy-three to seventy-six, inclusive, of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," of August twenty-seventh, eighteen hundred and ninety-four; an Act entitled "An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' " approved February twelfth, nineteen hundred and thirteen; and also this Act. "Commerce," as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insu-

lar possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: Provided, That nothing in this Act contained shall apply to the Philippine Islands. The word "person" or "persons" wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country. (b) This Act may be cited as the "Clayton Act".

TITLE 15 > CHAPTER 101 > § 7506

§ 7506. Department of Commerce programs

TITLE 15 > CHAPTER 101 > § 7507

§ 7507. Department of Energy programs

TITLE 15 > CHAPTER 101 > § 7508

§ 7508. Additional centers

(a) American Nanotechnology Preparedness Center The Program shall provide for the establishment, on a merit-reviewed and competitive basis, of an American Nanotechnology Preparedness Center which shall— (1) conduct, coordinate, collect, and disseminate studies on the societal, ethical, environmental, educational, legal, and workforce implications of nanotechnology; and (2) identify anticipated issues related to the responsible research, development, and application of nanotechnology, as well as provide recommendations for preventing or addressing such issues. (b) Center for nanomaterials manufacturing The Program shall provide for the establishment, on a merit reviewed and competitive basis, of a center to— (1) encourage, conduct, coordinate, commission, collect, and disseminate research on new manufacturing technologies for materials, devices, and systems with new combinations of characteristics, such as, but not limited to, strength, toughness, density, conductivity, flame resistance, and membrane separation characteristics; and (2) develop mechanisms to transfer such manufacturing technologies to United States industries. (c) Reports The Council, through the Director of the National Nanotechnology Coordination Office, shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on

Science— (1) within 6 months after December 3, 2003, a report identifying which agency shall be the lead agency and which other agencies, if any, will be responsible for establishing the Centers described in this section; and (2) within 18 months after December 3, 2003, a report describing how the Centers described in this section have been established.

TITLE 15 > CHAPTER 1 > § 21

§ 21. Enforcement provisions

(a) Commission, Board, or Secretary authorized to enforce compliance Authority to enforce compliance with sections 13 , 14 , 18 , and 19 of this title by the persons respectively subject thereto is vested in the Surface Transportation Board where applicable to common carriers subject to jurisdiction under subtitle IV of title 49 ; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Secretary of Transportation where applicable to air carriers and foreign air carriers subject to part A of subtitle VII of title 49 ; in the Board of Governors of the Federal Reserve System where applicable to banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce to be exercised as follows: (b) Issuance of complaints for violations; hearing; intervention; filing of testimony; report; cease and desist orders; reopening and alteration of reports or orders Whenever the Commission, Board, or Secretary vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections 13 , 14 , 18 , and 19 of this title, it shall issue and serve upon such person and the Attorney General a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission, Board, or Secretary requiring such person to cease and desist from the violation of the law so charged in said complaint. The Attorney General shall have the right to intervene and appear in said proceeding and any person may make application, and upon good cause shown may be allowed by the Commission, Board, or Secretary, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission, Board, or Secretary. If

upon such hearing the Commission, Board, or Secretary, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing, in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock, or other share capital, or assets, held or rid itself of the directors chosen contrary to the provisions of sections 18 and 19 of this title, if any there be, in the manner and within the time fixed by said order. Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the record in the proceeding has been filed in a court of appeals of the United States, as hereinafter provided, the Commission, Board, or Secretary may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section. After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the Commission, Board, or Secretary may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the Commission, Board, or Secretary conditions of fact or of law have so changed as to require such action or if the public interest shall so require: Provided, however, That the said person may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate court of appeals of the United States, in the manner provided in subsection (c) of this section. (c) Review of orders; jurisdiction; filing of petition and record of proceeding; conclusiveness of findings; additional evidence; modification of findings; finality of judgment and decree Any person required by such order of the commission, board, or Secretary to cease and desist from any such violation may obtain a review of such order in the court of appeals of the United States for any circuit within which such violation occurred or within which such person resides or carries on business, by filing in the court, within sixty days after the date of the service of such order, a written petition praying that the order of the commission, board, or Secretary be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the commission, board, or Secretary, and thereupon the commission, board, or Secretary shall file in

the court the record in the proceeding, as provided in section 2112 of title 28 . Upon such filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein concurrently with the commission, board, or Secretary until the filing of the record, and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the commission, board, or Secretary, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite. The findings of the commission, board, or Secretary as to the facts, if supported by substantial evidence, shall be conclusive. To the extent that the order of the commission, board, or Secretary is affirmed, the court shall issue its own order commanding obedience to the terms of such order of the commission, board, or Secretary. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, board, or Secretary, the court may order such additional evidence to be taken before the commission, board, or Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission, board, or Secretary may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and shall file such modified or new findings, which if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28 . (d) Exclusive jurisdiction of Court of Appeals Upon the filing of the record with its jurisdiction of the court of appeals to affirm, enforce, modify, or set aside orders of the commission, board, or Secretary shall be exclusive. (e) Liability under antitrust laws No order of the commission, board, or Secretary or judgment of the court to enforce the same shall in anywise relieve or absolve any person from any liability under the antitrust laws. (f) Service of complaints, orders and other processes Complaints, orders, and other processes of the commission, board, or Secretary under this section may be serviced by anyone duly authorized by the commission, board, or Secretary, either (1) by delivering a copy thereof to the

person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2) by leaving a copy thereof at the residence or the principal office or place of business of such person; or (3) by mailing by registered or certified mail a copy thereof addressed to such person at his or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process mailed by registered or certified mail as aforesaid shall be proof of the service of the same. (g) Finality of orders generally Any order issued under subsection (b) of this section shall become final— (1) upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; but the commission, board, or Secretary may thereafter modify or set aside its order to the extent provided in the last sentence of subsection (b) of this section; or (2) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the commission, board, or Secretary has been affirmed, or the petition for review has been dismissed by the court of appeals, and no petition for certiorari has been duly filed; or (3) upon the denial of a petition for certiorari, if the order of the commission, board, or Secretary has been affirmed or the petition for review has been dismissed by the court of appeals; or (4) upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the commission, board, or Secretary be affirmed or the petition for review be dismissed. (h) Finality of orders modified by Supreme Court If the Supreme Court directs that the order of the commission, board, or Secretary be modified or set aside, the order of the commission, board, or Secretary rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the commission, board, or Secretary shall become final when so corrected. (i) Finality of orders modified by Court of Appeals If the order of the commission, board, or Secretary is modified or set aside by the court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the

Supreme Court then the order of the commission, board, or Secretary rendered in accordance with the mandate of the court of appeals shall become final on the expiration of thirty days from the time such order of the commission, board, or Secretary was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the commission, board, or Secretary shall become final when so corrected. (j) Finality of orders issued on rehearing ordered by Court of Appeals or Supreme Court If the Supreme Court orders a rehearing; or if the case is remanded by the court of appeals to the commission, board, or Secretary for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the commission, board, or Secretary rendered upon such rehearing shall become final in the same manner as though no prior order of the commission, board, or Secretary had been rendered. (k) "Mandate" defined As used in this section the term "mandate", in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance thereof, means the final mandate. (l) Penalties Any person who violates any order issued by the commission, board, or Secretary under subsection (b) of this section after such order has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States. Each separate violation of any such order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the commission, board, or Secretary each day of continuance of such failure or neglect shall be deemed a separate offense.

TITLE 15 > CHAPTER 1 > § 37

§ 37. Immunity from antitrust laws

(a) Inapplicability of antitrust laws Except as provided in subsection (d) of this section, the antitrust laws, and any State law similar to any of the antitrust laws, shall not apply to charitable gift annuities or charitable remainder trusts. (b) Immunity Except as provided in subsection (d) of this section, any person subjected to any legal proceeding for damages, injunction, penalties, or other relief of any kind under the antitrust laws, or any State law similar to any of the antitrust laws, on account of set-

ting or agreeing to rates of return or other terms for, negotiating, issuing, participating in, implementing, or otherwise being involved in the planning, issuance, or payment of charitable gift annuities or charitable remainder trusts shall have immunity from suit under the antitrust laws, including the right not to bear the cost, burden, and risk of discovery and trial, for the conduct set forth in this subsection. (c) Treatment of certain annuities and trusts Any annuity treated as a charitable gift annuity, or any trust treated as a charitable remainder trust, either— (1) in any filing by the donor with the Internal Revenue Service; or (2) in any schedule, form, or written document provided by or on behalf of the donee to the donor; shall be conclusively presumed for the purposes of this section and section 37a of this title to be respectively a charitable gift annuity or a charitable remainder trust, unless there has been a final determination by the Internal Revenue Service that, for fraud or otherwise, the donor's annuity or trust did not qualify respectively as a charitable gift annuity or charitable remainder trust when created. (d) Limitation Subsections (a) and (b) of this section shall not apply with respect to the enforcement of a State law similar to any of the antitrust laws, with respect to charitable gift annuities, or charitable remainder trusts, created after the State enacts a statute, not later than December 8, 1998, that expressly provides that subsections (a) and (b) of this section shall not apply with respect to such charitable gift annuities and such charitable remainder trusts.

TITLE 15 > CHAPTER 1 > § 15c Prev | Next

§ 15c. Actions by State attorneys general

How Current is This? (a) Parens patriae; monetary relief; damages; prejudgment interest (1) Any attorney general of a State may bring a civil action in the name of such State, as parens patriae on behalf of natural persons residing in such State, in any district court of the United States having jurisdiction of the defendant, to secure monetary relief as provided in this section for injury sustained by such natural persons to their property by reason of any violation of sections 1 to 7 of this title. The court shall exclude from the amount of monetary relief awarded in such action any amount of monetary relief (A) which duplicates amounts which have been awarded for the same injury, or (B) which is properly allocable to (i) natural persons who have excluded their claims pursuant to subsection (b)(2) of this section, and (ii) any business entity. (2) The court shall award the State as monetary relief threefold the total damage sustained as described in paragraph (1) of this subsection, and the

cost of suit, including a reasonable attorney's fee. The court may award under this paragraph, pursuant to a motion by such State promptly made, simple interest on the total damage for the period beginning on the date of service of such State's pleading setting forth a claim under the antitrust laws and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this paragraph for any period is just in the circumstances, the court shall consider only— (A) whether such State or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay or otherwise acted in bad faith; (B) whether, in the course of the action involved, such State or the opposing party, or either party's representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or other wise providing for expeditious proceedings; and (C) whether such State or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof. (b) Notice; exclusion election; final judgment (1) In any action brought under subsection (a)(1) of this section, the State attorney general shall, at such times, in such manner, and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice given solely by publication would deny due process of law to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case. (2) Any person on whose behalf an action is brought under subsection (a)(1) of this section may elect to exclude from adjudication the portion of the State claim for monetary relief attributable to him by filing notice of such election with the court within such time as specified in the notice given pursuant to paragraph (1) of this subsection. (3) The final judgment in an action under subsection (a)(1) of this section shall be res judicata as to any claim under section 15 of this title by any person on behalf of whom such action was brought and who fails to give such notice within the period specified in the notice given pursuant to paragraph (1) of this subsection. (c) Dismissal or compromise of action An action under subsection (a)(1) of this section shall not be dismissed or compromised without the approval of the court, and notice of any proposed dismissal or compromise shall be given in such manner as the court directs. (d) Attorneys' fees In any action under subsection

(a) of this section— (1) the amount of the plaintiffs' attorney's fee, if any, shall be determined by the court; and (2) the court may, in its discretion, award a reasonable attorney's fee to a prevailing defendant upon a finding that the State attorney general has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

Who is an "owner and operator" for purposes of CERCLA liability?

July 25, 2010

The Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") is a federal statute whose primary purpose is to remedy contamination caused by hazardous substances, by providing for identification of problem sites and applying rigorous cleanup standards. (42 U.S.C. 9601 et seq.). CERCLA liability is joint and several, meaning that a responsible party may be held liable for the entire cost of a cleanup even where other parties were responsible for the majority of contamination. CERCLA's liability provisions apply to four categories of persons who are potentially responsible for cleanup costs. The four categories of persons who may be liable include:

1. Current site owners and operators of the contaminated site (regardless of whether their activities contributed to the contamination);

2. Those who owned or operated the contaminated site at the time of the disposal of hazardous substances;

3. Those "who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances…"; and

4. Those who accepted hazardous substances for transportation to the contaminated site. (42 U.S.C. 9607(a)(1)-(4))

In State of California Department of Toxic Substances Control v. Hearthside Residential Corporation ("Hearthside" opinion available here), the Defendant real-estate developer purchased undeveloped wetlands in Huntington Beach, California that it knew were contaminated with polychlorinated biphenyls ("PCBs"). By 2002 the Defendant had entered into a consent order with the California State Department of Toxic Substances Control ("DTSC") to cleanup the wetlands property. The DTSC also claimed that the PCB contamination had spilled into adjacent residential properties from

the wetlands, but the Defendant refused to take any responsibility for the alleged contamination in the adjacent properties.

The wetlands property was cleaned up by the Defendant by December 1, 2005, and that month the Defendant sold the property to the California State Lands Commission. The adjacent residential properties were cleaned up by the DTSC in 2002 and 2003, and in October 2006 the DTSC filed suit against the Defendant to recover the cost of cleaning up the adjacent residential properties.

The Defendant argued that it was not liable for the cleanup of the adjacent properties because it was not the owner of the offending wetlands at the time the DTSC's lawsuit was filed. Rather, the Defendant argued that the State Lands Commission, which had bought the wetlands 10 months before the lawsuit was filed, was the responsible party under CERCLA.

An issue of first impression, the Ninth Circuit addressed the question of whether current 'owner and operator' status under CERCLA is determined at the time that cleanup costs are incurred or instead at the time that a lawsuit seeking reimbursement of cleanup costs is filed. The Court held that for determining CERCLA liability a current owner/operator is determined at the time that cleanup costs are incurred, and not at the time a lawsuit is filed.

The Court noted that its ruling would deter property owners and operators from delaying in cleaning up a property. If the Court had ruled that an owner/operator was determined at the time a cost recovery lawsuit is filed, then owners would delay cleaning up property until they had found a buyer for their property, as it is unlikely that a cost recovery lawsuit would be filed until after a clean-up was completed, and the costs of cleanup were fixed.

The Court further noted that its ruling would encourage pre-litigation settlements, as a decision setting owner/operator liability at the time of filing a lawsuit would have required parties to wait until a lawsuit was filed to determine and allocate liability, thereby discouraging pre-litigation settlements.

The Ninth Circuit's decision in Hearthside not only provides additional clarity to the complicated CERCLA liability scheme, the Court's decision continues a long line of CERCLA cases that emphasize the need to interpret CERCLA in a manner that leads to expedited contamination remediation.

Limits to CERCLA'S Owner/Operator Liability

The United States District Court for the Western District of Washington has ruled that a party cannot be liable under CERCLA as an "owner/operator" for the remediation of impacted soil and water if the impacted soil and water is not located within the party's facility, and is entirely outside of the property limits of the party's facility, even though the contaminants that impacted the soil and groundwater may have originated at the party's facility and migrated off-site to impact down gradient locations. See , United States v. Washington State Dept. of Transportation , Case NO. 08-5722RJB. The United States brought a CERCLA action against the Washington State Department of Transportation (the "DOT") contending that coal tar from the DOT's Tacoma Spur Property had migrated and contaminated the Thea Foss and Wheeler Osgood Waterways (the "Waterways"). The United States sough to impose CERCLA liability on the DOT as an owner/operator and compel the DOT to remediate the Waterways. Although the DOT did not own or operate the Waterways, the Tacoma Spur Property and the Waterways were both located within the large Commencement Bay/Nearshore Tidelands Superfund Site. The United States contended that the entire Superfund Site was one "facility" and, therefore, the DOT was an "owner" of the "facility," as that term is defined in CERCLA. The Court disagreed with this contention. It found that the Superfund Site was comprised of a number of different properties each with a different owner. The different owners had no common purpose and did not conduct common activities on their properties. Therefore, the Court could not accept the United States' argument that the entire Site was one facility. Moreover, the Court concluded that the Waterways and the Tacoma Spur Property "are reasonably divided into multiple parts or functional units." Accordingly, the Court found that they were separate "facilities" under CERCLA and the DOT was not the owner/operator of the Waterways facility and could not be liable under CERCLA for the remediation of the Waterways as an "owner/operator" Potentially Responsible Party ("PRP"), even if the coal tar impacting the Waterways had migrated from the Tacoma Spur Property.

How Federal Judges Violate Our Constitution

1. Read Article III, US Constitution. Article III establishes the federal courts (the 3rd branch of the federal government). Section 2 enumerates the categories of cases which federal courts are allowed

to hear. Section 2 also distributes the "judicial power" (the authority to hear cases) between the supreme Court and the lower federal courts.

Article I, Sec. 8, clause 9, authorizes Congress to create courts inferior to the supreme Court. Accordingly, Congress has set up some 94 federal district courts and 13 circuit courts of appeal (11 numbered circuits plus the DC Circuit & the Federal Circuit). This Chart shows the territorial jurisdiction of the 11 numbered circuit courts. Federal district courts are scattered throughout these united States. Click on your circuit to find the locations of the federal district courts in your State. Most federal cases are tried in the district courts. The loser may appeal to the circuit court of appeal for that district. The supreme Court hears some appeals from the circuit courts of appeal.

2. But in TWO of the categories of cases enumerated in Art. III, Sec. 2, the Constitution grants "original" [i.e., "trial"] jurisdiction to the supreme Court: (1) All cases affecting Ambassadors, other public Ministers & Consuls; and (2) Those in which a State is a Party. For these TWO categories of cases, the supreme Court acts as the trial court.

In all the other enumerated categories of cases, "…the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."

What does the quoted phrase (the so-called "exceptions clause") mean?

a) Alex Glashausser of Washburn University School of Law, says the phrase means that Congress may extend the supreme Court's "original" (trial) jurisdiction to include more cases than just (1) Those affecting Ambassadors, other public Ministers & Consuls, and (2) Those in which a State is a Party. Glashausser's view is COMPLETELY WRONG & UNCONSTITUTIONAL! Congress may not unilaterally amend the Constitution by expanding the supreme Court's "original" jurisdiction!

b) Some conservatives, such as David Barton of Wallbuilders, say the phrase means that Congress may withdraw from the federal courts authority to hear certain types of cases. That is also incorrect. It is true that the federal courts have been hearing cases which they are not authorized by Art. III, Sec. 2, to hear; but the remedy for that is impeachment & removal of the usurping judges. The "exceptions clause" does not permit Congress to diminish the enumerated powers of the federal courts!

c) Alexander Hamilton explains the original meaning of the phrase in Federalist No. 81. When we have sworn to support the Constitution, then we must defend it or we violate our Oaths. If we reject the original intent of the Constitution - the meaning it was understood to have when it was ratified - then we don't have a Constitution. All we have is a pack of judges, law professors & others running around spewing out their own personal evolving opinions as to what they think provisions in Our Constitution mean. But that is the rule of men - and they want to be "the men" making the rules.

3. Let us examine these views:

a) As to Professor Glashausser: The Constitution dictates the categories of cases for which the supreme Court has "original" (trial) jurisdiction, and the categories for which it has appellate jurisdiction! Hamilton explains this in Federalist No. 81:

"…Let us now examine in what manner the judicial authority is to be distributed between the supreme and the inferior courts of the Union. The Supreme Court is to be invested with original jurisdiction, only "in cases affecting ambassadors, other public ministers, and consuls, and those in which A STATE shall be a party." Public ministers of every class are the immediate representatives of their sovereigns. All questions in which they are concerned are so directly connected with the public peace, that, as well for the preservation of this, as out of respect to the sovereignties they represent, it is both expedient and proper that such questions should be submitted in the first instance to the highest judicatory of the nation. Though consuls have not in strictness a diplomatic character, yet as they are the public agents of the nations to which they belong, the same observation is in a great measure applicable to them. In cases in which a State might happen to be a party, it would ill suit its dignity to be turned over to an inferior tribunal…" (at para 13) [boldface added, caps in original]

"…Let us resume the train of our observations. We have seen that the original jurisdiction of the Supreme Court would be confined to two classes of causes, and those of a nature rarely to occur. In all other cases of federal cognizance, the original jurisdiction would appertain to the inferior tribunals; and the Supreme Court would have nothing more than an appellate jurisdiction, 'with such EXCEPTIONS and under such REGULATIONS as the Congress shall make.' "(at para 15) [boldface added, caps in original]

Congress may not unilaterally amend the Constitution by adding categories of cases for which the

supreme Court will have "original" jurisdiction! Someone, please! Send Professor Glashausser a copy of The Federalist Papers! He is teaching our future lawyers & judges!

b) As to David Barton: The Constitution lists the categories of cases which federal courts may hear. In Federalist No. 80, Hamilton explains each category of case. ANY RESTRICTIONS OR EXPANSIONS OF THAT LIST CAN ONLY BE DONE BY AMENDMENT TO THE CONSTITUTION! Look at the Eleventh Amendment (ratified 1795). It withdrew from federal courts the power to hear a certain category of case. So! Congress may NOT make a law diminishing the constitutionally granted powers of the federal courts.

Now, listen up: It is true that federal judges have long been hearing cases which they have no constitutional authority to hear. Such judicial usurpation is explained in a previous paper: What Are the Enumerated Powers of the Federal Courts? But the best remedy for federal judges hearing cases which they have no constitutional authority to hear is to impeach them & remove them from the bench (Federalist No. 81, 8th para).

What are some cases which federal judges have been hearing which they have no constitutional authority to hear? For starters, they have no constitutional authority to hear cases seeking to overturn State laws criminalizing abortion & sodomy. Those cases do not fall within any of the categories enumerated at Art. III, Sec. 2. Judges on the supreme Court know they have no constitutional authority to hear such cases! So! This is what they did to get around Our Constitution:

Article III, Sec. 2 permits federal courts to hear [among other enumerated categories] "all Cases…arising under this Constitution…". So! In order to claim authority to hear cases seeking to overturn State laws criminalizing abortion and sodomy, federal judges looked at the word, "liberty" in Sec. 1 of the 14th Amendment, and found hiding under that word a constitutional right to kill babies and another constitutional right to engage in sodomy! They fabricated "constitutional rights" so that they could then overturn State laws criminalizing those practices. Once baby-killing & sodomy were elevated to the status of "constitutional rights", they then could be said to "arise under this Constitution". Do you see? And we have to stand up when these people walk into a room!

The federal courts also have no constitutional authority to hear cases involving prayer in public places throughout the States. The 1st Amendment restricts only the powers of CONGRESS. We The

People may do whatever We like respecting prayer in public places, and the federal courts have no authority whatsoever to interfere. How the supreme Court usurped power to ban religious speech in Our Country is explained in The TRUTH about "Separation of Church and State". Does the Supreme Court have constitutional authority to ban religion from the public square?

As stated above, the proper remedy for judicial usurpations is to impeach & remove federal judges who demonstrate such contempt for Our Constitution. Others might say that Congress could make a law, perhaps under the "necessary & proper" clause (Art. I, Sec. 8, last clause), specifying that federal courts may NOT hear cases involving abortion, sodomy, prayer at high school football games, etc. But what would be the result? One possibility is that federal judges would see the list as a blank check to hear every case which was not listed. So Congress would need to keep amending the law to add new categories of off-limits cases. Or, perhaps the federal judges would do as they have done with Our Constitution: just ignore the list altogether.

4. So, then, what does the following phrase at Art. III, Sec. 2, clause 2, actually mean?

"In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."

Hamilton tells us (in his usual exhaustive detail) in the last five paragraphs of Federalist No. 81. The quoted phrase merely addresses technical issues respecting the mode of doing appeals: Will the appeal be heard by a jury, or by judges? Will the appellate court be able to revisit matters of Fact, or will it be restricted to reviewing rulings on matters of Law? Will the mode of doing appeals be the same for cases involving the "common law" and the "civil law",

(1) This subpart does not establish any preconditions to enforcement action by either the federal or state governments to compel response actions by potentially responsible parties.

(2) While much of this subpart is oriented toward federally funded response actions, this subpart may be used as guidance concerning methods and criteria for response actions by other parties under other funding mechanisms. Except as provided in subpart H of this part, nothing in this part is intended to limit the rights of any person to seek recovery of response costs from responsible parties pursuant to CERCLA section 107.

(3) Activities by the federal and state governments in implementing this subpart are discretionary

governmental functions. This subpart does not create in any private party a right to federal response or enforcement action. This subpart does not create any duty of the federal government to take any response action at any particular time. [55 FR 8839, Mar. 8, 1990, as amended at 59 FR 47447, Sept. 15, 1994]

FROM CONGRESSMAN WALLY HERGER'S WEBSITE

America 's veterans have served our nation with great honor and courage. It is only right for the nation to repay their sacrifices by providing them with appropriate benefits and access to the best possible medical care. Since 2001, Congress has boosted funding for veterans' health care by more than 50%, allowed "concurrent receipt" of retirement pay and disability benefits for severely disabled veterans, and expanded the TRICARE program to cover military retirees over the age of 65. Although there has been a great deal of progress, more remains to be done. In particular, we must ensure that we provide sufficient care for veterans suffering from traumatic brain injury and post-traumatic stress disorder, the signature conditions of the current Global War on Terror.

One of my top priorities in Congress has been to provide additional services for veterans in the North State . Historically, the Department of Veterans Affairs (VA) has not had a large presence in rural areas like ours. Over the past 20 years, the VA outpatient clinic in Redding has expanded from 15 to over 100 staff and added a number of new services, while the Chico clinic has also enlarged significantly since its opening in 1997. I have also worked to secure the first veterans cemetery in the North State , which was dedicated on Veterans Day 2005, and a veterans extended-care home in Redding , scheduled to begin construction later in 2010.

Private property ownership is a fundamental right. Indeed, the ability to own and use property spurs innovation and entrepreneurship and is a cornerstone of our prosperity and high standard of living. The Fifth Amendment famously protects our property rights from undue government interference stating, property shall not "be taken for public use, without just compensation." This amendment is also joined by the Fourteenth Amendment which together protects citizens from government's taking of private property "without due process of law."

We must constantly be on guard against intrusive regulations that chip away at fundamental property rights. Too often federal environmental regulations have had this effect - particularly in rural areas.

I'm a strong believer that we should institute commonsense reforms to these regulations that will both provide for environmental protection but also keep secure private property rights. These need not be mutually exclusive goals.

Like many Americans, I was very disturbed with the Supreme Court's 2005 ruling in Kelo v. City of New London, Connecticut where the Court held in a 5-4 decision that local governments could seize land through eminent domain and transfer it from one private property owner to another. To me, the Fifth Amendment's takings cause is unambiguous: the government's authority to take private property is specifically and clearly limited to instances when it is to be put to a public use, such as for the development of a public road or other similar infrastructure. That a slim majority of the Court interpreted "public use" to include the taking of one individual's private property and giving it to another for the purposes of economic development is a cause for great concern. By the Court's line of reasoning, states and local governments now have virtual free rein to condemn private property if it can be used for a more lucrative purpose. This is a perfect example of why it is so important to have judges on the federal bench who will interpret the Constitution as it was originally ratified. I'm a strong supporter of legislation that would restore the rights of property owners in response to this misguided ruling.

In an agriculturally rich and growing area like Northern California, reliable access to high quality water is critically important. Northern California's earliest settlers laid claim to the legal right to beneficially use water for farms, homes, and businesses. They also invested heavily in water infrastructure - levees, ditches, pumps, canals, and other facilities - to help meet the needs of Northern California communities. These early actions laid the foundation for the strong economy and rural way of life Northern Californians enjoy today, and should, in my view, be preserved at all costs. California's water supply must be managed in a way that ensures the needs of our region - where most of California's water originates - are met first, before we look to address the water supply needs of other areas of the state. I strongly opposed previous Delta conveyance proposals, such as the original "peripheral canal" and the so-called "isolated facility" developed through the CALFED process, because Northern California's interests were not being properly protected. In improving California's water situation, all regions of the state must "get well together," and Northern Califor-

nia's water needs and water rights must be fully respected and protected first before excess resources are permitted to flow south. I would vigorously oppose anything that does not meet this important test.

A critical aspect of this issue is the need for additional water storage in the state. The State Water Project was completed at a time when California's economy was significantly smaller with roughly half of today's population. While water conservation and water use efficiency must continue to be pursued, new surface storage is equally, if not more, important and would bring additional benefits such as hydropower, recreational opportunities, and critically needed flood control.

Strategically-placed water storage facilities would hold back peak winter flows and allow our levee system on the valley floor to function as designed and provide the first layer of defense against high water. Northern California has a long infamous history of widespread flooding. We must be vigilant in our efforts to prevent the next major flood. This includes not only investing public resources in upstream reservoirs and levee maintenance and construction, but also commonsense reforms to our environmental laws to ensure that flood protection efforts are able to proceed in a timely manner.

I believe that environmental protection and economic prosperity need not be mutually-exclusive goals. A clean and healthy environment is critically important, and with sustained economic prosperity comes enhanced environmental protection. But in some cases the implementation of our nation's environmental laws has moved beyond this goal and has begun to risk public health and safety, strain rural economies, and infringe upon private property rights. In addition, at least one of these laws - the Endangered Species Act (ESA) of 1973 - has achieved a mere 1 percent success rate. 99 percent of species on the ESA list have not recovered to healthy populations. I believe we can and must strike a better balance. I've supported legislation to improve this outdated law to encourage more accurate scientific decision-making and to re-establish recovery as a central goal of the ESA.

Too often we've seen instances in Northern California where the ESA has been implemented in a way that simply defies commonsense and in some cases has put community health and safety at risk. In 1991, the Corps of Engineers issued a report identifying levee sections that protect the community of Arboga, just south of Marysville, as needing immediate repair. Their analysis included a sober assessment that without repair this levee section could fail, and that such a failure would likely result

in, "a loss of human life." Tragically, local efforts to repair the levee were bogged down by ESA regulations for nearly seven years. The catastrophic flood of January 1997 broke through the weakened levee - just as the Corps had predicted - and three lives and hundreds of millions of dollars in property and infrastructure were lost.

In 2001, over 1,200 small farm and ranch families in Northern California's Klamath Basin were devastated when federal biologists ruled that the ESA required the federal government to withhold 100 percent of irrigation water from this farming community in order to protect three species of fish. The federal ESA still does not provide the needed flexibility to properly balance the needs of people and species. I do not believe Congress envisioned these kinds of tragic results when it passed the ESA some 35 years ago. I support commonsense reforms to this law and many of our other environmental laws to ensure they are implemented in a more balanced way, and that they respect the needs of people along with the environment.

The Constitution protects the right of the American people to keep and bear arms. As the experience of the District of Columbia clearly demonstrates, restrictive gun control laws are not the cure for violent crime. Instead, I support tough criminal sentencing and better enforcement of existing laws as the best solution to the problem of crime in America. Throughout my service in Congress, I have opposed new gun control measures and supported legislation that restores our Second Amendment rights.

Our Northern California congressional district includes all or part of nine National Forests. These areas are an incredibly valuable asset to our state and nation. But regrettably, this important natural resource is in trouble. Inflexible environmental regulations that limit responsible forest management, have contributed to forests that are badly overgrown. Areas in Northern California that evolved historically to grow 50 or so trees per acre have as many as 10 times that amount today. While more trees might seem like a good thing, in reality it is not. Excessive forest fuels have created ideal conditions for catastrophic wildfire.

Far from the beneficial effects that low to moderate-temperature fires provide forest landscapes, catastrophic fires consume the whole forest, from floor to canopy, and burn at such high temperatures that the entire area is destroyed. Recent years have seen a significant spike of fires in our area

that have caused significant damage and health issues associated with the smoke. I strongly support efforts to strategically thin out overgrown forest stands on a pace and scale that adequately address the serious forest health problem we face. Not only will thinning protect nearby communities, it will improve forest health, provide a stable source of employment for forested communities, generate revenue for county schools and roads, and protect local air and water quality.

The good news is that an example of how to manage western National Forests in a way that accomplishes these important goals already exists. In 1998, Congress enacted legislation I sponsored with Senator Dianne Feinstein. This bipartisan bill - the Herger-Feinstein Quincy Library Group (QLG) Forest Recovery Act - is a groundbreaking forest health pilot project developed by a group of concerned citizens - local environmentalists, timber industry representatives, and county officials and community members. The QLG pilot program is designed to test the effects of a strategic thinning program on the Plumas, Lassen, and Tahoe National Forests . Though a small group of activists have thus far prevented its full implementation, QLG thinning projects that have been completed have shown that treated forest stands reduce the severity of fire and protect forest resources and neighboring communities.

During the eight years I served on the House Budget Committee, we had the only four years of balanced budgets since the 1960s. Unfortunately, over the last several years we have seen a return to large deficits. The budget passed this year by the Democrat-controlled Congress spends too much, borrows too much, and taxes too much. Many federal programs have been proven time and again to be ineffective, duplicative, and wasteful, yet Congress continues to spend the taxpayers' money on them. I believe that in tough times we need a freeze on non-defense, non-veterans spending, stronger budget enforcement tools, and a balanced budget. These are all steps that will make sure that Washington lives within its means.

With the national debt approaching $11 trillion, our current fiscal situation is alarming enough. And the projected future growth of entitlement programs, such as Social Security and Medicare, poses an even greater challenge. The unfunded future liabilities of these programs are more than five times greater than our current debt. And on their present course, Social Security, Medicare, and Medicaid will consume an ever-greater share of the federal budget until they crowd out everything else, from

national defense, to roads and highways to assistance for the poor. Although solving this problem will not be easy, I believe Congress has a basic obligation to future generations to start tackling it now. Otherwise, we will bestow a crushing burden of debt to our children and grandchildren.

LEGAL AUTHORITY

… "In the mining partnership those occurrences make no dissolution, but the others go on; and, in case a stranger has bought the interest of a member, the stranger takes the place of him who sold his interest, and cannot be excluded. If, death, insolvency, or sale were to close up vast mining enterprises, in which many persons and large interests participate, it would entail disastrous consequences. From the absence of this *delectus personae* in mining companies flows another result, distinguishing them from the common partnership, and that is a more limited authority in the individual member to bind the others to pecuniary liability. He cannot borrow money or execute notes or accept bills of exchange binding the partnership or its members, unless it is shown that he had authority; nor can a general superintendent or manager. They can only bind the partnership for such things as are necessary in the transaction of the particular business, and are usual in such business. Charles v. Eshleman, 5 Colo. 107; Shillman v. Lachman, 83 Am Dec. 96, and note; McConnell v. Denver, 35 Cal. 365; Jones v. Clark, 42 Cal. 181; Manville v. Parks, 7 Colo. 128, 2 Pac. 212; Congdon v. Olds, 18 Mont. 487, 46 Pac. 261. 29 S.E. 505. In fact, it is a rule that a nontrading partnership, as distinguished from a trading commercial firm, does not confer the same authority by implication on its members to bind the firm; as. e.g. a partnership to run a theater or other single enterprise only. Pease v. Cole, 53 Conn. 53, 22 Atl. 681; Deardorf's Adm'r v. Tacher, 78 Mo. 128; Smith, Merc. Law, 82; T Pars. Partn. § 85; Pooley v. Whitmore, 27 Am. Rep. 733.

PETITION TO RELOCATE AND SURVEY; THE "OWL" ET AL, LODE MINING CLAIMS.

A mining partnership is a nontrading partnership, and its members are limited to expenditures necessary and usual in the particular business. Bates, Partn. , § 329. Members of a mining partnership, holding the major portion of the property, have power to do what may be necessary and proper for carrying on the business, and control the work, in case all cannot agree, provided the exercise of such power is necessary and proper for carrying on the enterprise for the benefit of all concerned. Dougherty v. Creary, 89 Am. Dec. 116.

These principles settle much of this case. The demurrer was properly overruled, because there was a partnership, and equity only has jurisdiction to settle partnership accounts. 5 Am. & Eng. Dec. Eq. 74; 17 Am. & Eng. Enc. Law, 1273. * * * **Justice Brannon**

In Dalliba v. Riggs, 7 Ida. 779, 82 Pac. 107, it was laid down that while a court of equity can appoint a receiver to perfect and preserve mining property, it " has no authority to place its receiver in charge of such property and operate the same, carrying on a general mining business, and while it turns out to be at a loss, as is likely to be the result in such cases, charge the same up as a preferred claim and lien against the property, to the prejudice and loss of the holders of prior recorded liens on the same property" (82 Pac. At pp. 108-109). In that case the receiver appeared to have carried on the mining operations without any order of court directing him to do so and with reckless extravagance, and in addition was shown not only not to have kept accurate accounts but also to have made in the account filed "many charges against the estate where no charge whatever should have been made and none in fact existed." The court accordingly denied the receiver any allowance for his own time or services and any allowance for attorney's fees.

ABSENCE OF DELECTUS PERSONAE

"The fact remains that AIG's rescue broke all the rules, and each rule that was broken poses a question that must be answered." - Ms. Elizabeth Warren, TARP oversight chairwoman.

SUPERSEDEAS & CONSOLIDATION

"There is no crueler tyranny than that which is exercised under cover of law, and with the colors of justice" - U.S. v. Jannotti, 673 F.2d 578, 614 (3d Cir. 1982)

CONSPIRACY

Here's another possible reason there won't be a prosecution: Our economy was shattered by a syndicate, a ring, a cabal at the top of the financial pyramid. To move against any one of them - AIG's Joe Cassano, the auditors, Goldman Sachs, or even the credit agencies - would trigger a chain reaction of rats turning on one another, summoning each other to testify, and spilling each other's dirty secrets in an attempt to save themselves.

ABSOLUTE ORDER FOR TEMPORARY INJUNCTIVE RELIEF FOR CEQA EIS REVIEW

CHAPTER X - *Of Treaties and Ambassadors, and the Entire Dissolution of States.*

I. <Wars in general are setled by treaties>. The chief laws of nature about treaties were explained in the doctrine of contracts in natural liberty.{* } But we must remember that the exception of unjust force and fear cannot be admitted against the obligation of any treaties of peace; otherwise the old controversies <that occasioned the war> might always be kept a-foot. And yet such exceptions may justly take place when the war is manifestly and avowedly unjust on one side; or if the terms imposed {by the more potent side} are manifestly injurious and contrary to all humanity. In these cases the party injured may insist upon an arbitration; and if the other side refuse to submit to it, each side must by force consult its own safety and the maintenance of its rights{, by what aids it can find}.1 Treaties are divided into *real,* and *personal:* the personal, which are less in use, are entered into in favour of the prince's person, and cease to bind upon his demise. The *real,* respect the body of the people, or the nation, which is deemed immortal. 2 Treaties are also divided into the *equal,* {such as bring equal or proportionable burdens on each side,} and *unequal* {which bring unequal burdens}.3 But 'tis not every unequal treaty that any way impairs or diminishes the† majesty and independency of the side submitting to the greater burden.

Hostages in former ages were securities commonly given for performance of treaties, but they are now gone into disuse; because it would be exceedingly <barbarous and> inhumane to treat the innocent hostages any way harshly because of the perfidy of their country.

II. In making treaties *ambassadors* <or intermediaries> are employed. Their rights are all the same, whatever names are given them, if they are entrusted to transact the affairs of a sovereign state. Their persons should be sacred and inviolable, as we said above. They have a just natural right to demand that their proposals should be delivered. But as to an allowance to reside any time in the state to which they are sent, they may claim it as due out of humanity, but cannot insist on it as a perfect right. Since the business of the more active ambassadors is much the same with that of spies upon the nations where they reside. If they are allowed to reside; the law of nature would give them no higher rights or immunities, than any other foreigner might claim without any publick character.4 But by the voluntary laws of nations, they have many singular privileges and immunities, both for themselves and all their necessary retinue: all which however any state might without any iniquity refuse to grant them, if they give timeous intimation of their design to do so to all concerned.

190 See Lucas v. S.C. Coastal Comm'n, 505 U.S. 1003, 1031–32 (1992). Once a mining claim is determined to constitute a valid property interest, then state law will control how it can be sold, transferred, inherited, and the like—unless any particular aspect of that property right is preempted by federal law. See Duguid v. Best, 291 F.2d 235, 239, 242 (9th Cir. 1961).

191 See Lucas, 505 U.S. at 1031–32.

192 480 U.S. 470, 519 (1987) (quoting Webb's Fabulous Pharmacies, Inc. v. Beckwith, 449 U.S. 155, 161 (1980)) (alterations in original). See also Palazzolo, 533 U.S. at 630; Lucas, 505 U.S. at 1016 n.7; Preseault v. Interstate Commerce Comm'n, 494 U.S. 1, 20–24 (1990) (providing a detailed articulation of the principle that state law defines the nature of property rights); Kinross Copper Corp. v. Oregon, 981 P.2d 833 (Or. App. 1999) (denying a waste water discharge permit for mining on federal mining claims not a taking because there is no right to pollute), cert. denied, 531 U.S. 960 (2000).

193 See, e.g., M & J Coal Co. v. United States, 47 F.3d 1148, 1153 (Fed. Cir. 1995) (discussing the impact of federal law of navigational servitude and submerged lands on property definitions); see also Lucas, 505 U.S. at 1029 (discussing the submerged lands and navigational servitude); Scranton v. Wheeler, 179 U.S. 141, 163 (1900) (defining property rights in the context of submerged lands); Palm Beach Isles Assocs. v. United States, 208 F.3d 1374 (Fed. Cir. 2000) (navigational servitude), aff'd, 231 F.3d 1354 (Fed. Cir. 2000), reh'g en banc denied, 231 F.3d 1365 (Fed. Cir. 2000). In Palm Beach Isles, the court found that a permit denial for environmental reasons, rather than navigational reasons, did not invoke the navigational servitude "background principle." Id. at 1384.

194 978 F.2d 1269, 1276 (D.C. Cir. 1992).

195 Id. at 1275–76.

196 Id. at 1277–87.

197 278 F.2d 842, 847 n.4 (9th Cir. 1960) (citing United States ex rel. Tenn. Valley Auth. v. Powelson, 319 U.S. 266, 279 (1943)); see also Richmond Elks Hall Ass'n v. Richmond Redevelopment Agency, 561 F.2d 1327, 1330 (9th Cir. 1977) (holding that federal courts are not bound by state law but look to it for aid in discerning the scope of property interests). These formulations may be inconsistent with Justice O'Connor's dissent in Preseault, 494 U.S. at 20–24.

198 Adaman, 278 F.2d at 847.

199 Id.

200 See id.

201 Lucas v. S.C. Coastal Council, 505 U.S. 1003, 1027, 1030 (1992) (quoting Bd. of Regents of State Colls. v. Roth, 408 U.S. 564, 577 (1972)).

202 See id. at 1028–29.

203 See, e.g., Schneider v. Cal. Dep't. of Corr., 151 F.3d 1194, 1200–01 (9th Cir. 1998).

The . . . Court's recognition of the unremarkable proposition that state law may affirmatively create constitutionally protected "new property" interests in no way implies that a State may by statute or regulation roll back or eliminate traditional "old property" rights. As the Supreme Court has made clear, "the government does not have unlimited power to redefine property rights." . . . Rather, there is, we think, a "core" notion of constitutionally protected property into which state regulation simply may not intrude without prompting Takings Clause scrutiny.

Id. at 1200 (citing Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982)). Justice Marshall, in his concurrence in Pruneyard Shopping Center v. Robins, noted:

I do not understand the Court to suggest that rights of property are to be defined solely by state law, or that there is no federal constitutional barrier to the abrogation of common-law rights by Congress or a state government. The constitutional terms "life, liberty, and property" do not derive their meaning solely from the provisions of positive law. . . . Quite serious constitutional questions might be raised if a legislature attempted to abolish certain categories of common-law rights in some general way. Indeed, our cases demonstrate that there are limits on governmental authority to abolish "core" common-law rights, including rights against trespass, at least without a compelling showing of necessity or a provision for a reasonable alternative remedy.

447 U.S. 74, 93–94 (1980) (Marshall, J., concurring).

The Ninth Circuit observed:

"[T]here is, we think, a 'core' notion of constitutionally protected property," and a state's power to alter it by legislation "operates as a one-way ratchet of sorts," allowing the states to create new property rights but not to encroach on traditional property rights." . . . [W]ere the rule otherwise,

States could unilaterally dictate the content of—indeed altogether opt out of both the Takings Clause and the Due Process Clause simply by statutorily recharacterizing traditional property-law concepts.

Wash. Legal Found. v. Legal Found. of Wash., 236 F.3d 1097, 1108 (9th Cir. 2001) (quoting Schneider, 151 F.3d at 1200–01), reh'g, 271 F.3d 835, 841 (9th Cir. 2001) (en banc), cert. granted, 122 S. Ct. 2355 (2002) (No. 01-1325).

Lawrence H. Tribe writes:

To the degree that private property is to be respected in the face of republican and positivist visions, it becomes necessary to resist even an explicit government proclamation that all property acquired in the jurisdiction is held subject to government's limitless power to do with it what government wishes. Indeed, government must be denied the power to give binding force to so sweeping an announcement, . . . if we are to give content to the just compensation clause as a real constraint on [government] power . . . . [E]xpectations protected by the clause must have their source outside positive law.

Record Settlement to Cleanup One of the Nation's Most Toxic Waste Sites. The United States and California reached an agreement with Aventis CropSciences USA, Inc. that will fund cleanup costs that could approach $1 billion at the Iron Mountain Mine Superfund Site near Redding, California. The settlement is one of the largest settlements with a single private party in the history of the federal Superfund program. Through the creation of a unique funding vehicle that will generate $200-300 million over 30 years with a $514 million balloon payment in year 30, the settlement assures that money is available each year for long-term operation of a pollution treatment and control system needed to prevent toxic discharges from the site. This site has been one of the largest point sources of toxic metals in the United States, and the source of the most acidic mine drainage in the world. Aventis will also pay federal and state trustees $10 million for natural resource restoration projects.

http://www.justice.gov/enrd/ENRD_2001_Lit_Accomplishments.html

In virtually every instance where a government has suggested that ordinary environmental regulations that prohibit ordinary development activities can be insulated from the Takings Clause because the prohibited activity is alleged to be a "nuisance," the government has lost. The Court of Federal Claims and the Federal Circuit Court of Appeals, the courts with the most experience in examining takings claims in the context of federal wetland regulations, have expressly rejected this notion in every case where it has considered the idea Other courts have agreed as well. Most importantly, the United States Supreme Court in *Lucas* was highly skeptical of the idea that building a home in a residential subdivision could constitute a common law nuisance.

In Just v. Marinette County, the Wisconsin Supreme Court held that "[a]n owner of land has no absolute and unlimited right to change the essential natural character of his land so as to use it for a purpose for which it was unsuited in its natural state and which injures the rights of others." Just was cited with approval by the Washington Supreme Court in Orion Corp. v. Washington: "Orion never had the right to dredge and fill its tidelands." A similar result was reached by the New Hampshire Supreme Court.216 However, in Florida Rock Industries, Inc. v. United States, the Federal Circuit found housing to be a more valuable use than swampland, while the court in Loveladies Harbor, Inc. v. United States expressly rejected the Just formulation as illogical. More significantly, after Lucas was decided, some courts have begun to expressly reject the notion that a prohibition on filling wetlands can constitute a background principle of state law. This makes some sense, as for many years it was public policy to fill wetlands.

2. Is the Public Trust Doctrine a Relevant Background Principle?

When riparian wetlands are at issue, a relevant inquiry is whether the proposed use of the wetland interferes with the public trust doctrine. Public trust rights traditionally have included the right to access navigable waterways for fishing and navigation. Modern commentators argue that the public trust also includes recreational and ecological values. Thus, any regulation that would restrict the ability of an individual to utilize a private property interest in a resource subject to the public trust would not have a cause of action for a taking because in reality the private property interest never really existed in the first place. In fact, some commentators such as Professor Sax posit that all prop-

erty rights should be redefined to make them more akin to water rights and subject to an analogous "ecological public trust."

The Supreme Court's recognition of the public trust doctrine dates back to 1892 in Illinois Central Railroad Co. v. Illinois. Although it was originally utilized only as a mechanism to protect public access to navigable waterways, academics in recent years have argued intensely over whether the public trust doctrine must "evolve" into an all-encompassing ecological easement on all private property, which would supposedly limit the reach of the takings doctrine. The debate over how far the public trust doctrine should be used to abrogate traditional and often centuries old understandings of private property rights in land and water is in large part a reflection of competing legal philosophies.

Adherents to more traditional doctrines of free enterprise and private property rights see the creation of, and strong protection for, private rights in aquatic resources as more efficient and more just than a system that would leave the power of redistributing the wealth in riparian property to a few judges decreeing the latest expansion of the public trust doctrine Professor Cohen cogently argues that there is no basis in economics or legal theory for expanding the public trust doctrine. In fact, to do so would only destroy our best chances of protecting ecological integrity. This is because "the notion of an evolving unbounded set of communal rights strips clarity, certainty, and predictability from the very core of the public trust doctrine." The definition of private property rights depends on "existing rules and understandings," and when we actually rely upon such rules and understandings, there is no place for such a transformation of property rights. The public trust doctrine should logically have no ability to negate the existence of a regulatory taking. As Justice Stewart once opined, if a court redefines such existing rules and understandings, then a judicial taking may occur.

In short, if a property right was initially created without being subject to the modern notions of an expanded public trust, then any later imposition of the newly defined public trust carries with it significant takings implications. Once a government sees fit to create a property right, that right cannot later be abrogated or taken away at whim—unless just compensation is paid and there is due process. As the United States Supreme Court held over a century ago:

"Under every established government, the tenure of property is derived mediately or immediately from the sovereign power of the political body, organized in such mode or exerted in such way as the community or State may have thought proper to ordain. . . . It is owing to these characteristics only . . . that appeals can be made to the laws either for the protection or assertion of the rights of property. Upon any other hypothesis, the law of property would be simply the law of force. Now it is undeniable, that the investment of property in the citizen by the government, whether made for a pecuniary consideration or founded on conditions of civil or political duty, is a contract between the State . . . and the grantee; and both the parties thereto are bound in good faith to fulfil it."

For most property, the issue is even more basic because the origin of property is usually more fundamental than a contract with government; under Lockean principles, it predates the very existence of government.

Thus, even though a government may someday regret that it created or recognized the existence of property rights in the past, and even though those property rights have become inconvenient to the government today, the government is still bound by its prior action of creating and divesting property rights. The future, no doubt, will see much litigation over the extent of the property interests that were originally acquired by individuals and the extent to which they were "reserved" to the "public trust."

In Marsh v. Rosenbloom, ("Marsh") the Second Circuit recently held that once a corporation has closed its doors, dissolved and distributed any remaining assets to the shareholders, the CERCLA liability of its former shareholders is extinguished. The case arose in a cost recovery action filed by New York State against a dissolved corporation and its shareholders more than three years after the wind-up period established by Delaware's corporate dissolution statute. The case examined the tensions between CERCLA and the Delaware General Corporate Law. But because many states have corporate dissolution provisions similar to Delaware's and in light of the sheer number of businesses that are incorporated in Delaware, the case may well have broad application nationwide.

California Health and Safety Code Section 25548

The California legislature, like Congress, took action in 1996 and enacted California Health and Safety Code section 25548–the California law analogous to CERCLA section 107(n). The stated in-

tent of section 25548 is "to specify the type of lender and fiduciary conduct that will not incur liability for hazardous material contamination." As such, section 25548 provides exemptions and limitations to potential fiduciary liability under the environmental laws. Thus, section 25548 residually identifies the universe of potential liability for fiduciaries. Specifically, section 25548 addresses the exceptions to and limitations on "the liability of trustees, executors, and other fiduciaries for hazardous material contamination involving property that is part of the fiduciary estate."

Section 25548.3 eliminates personal liability for fiduciaries by confining their potential liability to the estate assets. The caveats come in section 25548.5, which makes it clear that fiduciaries do not have blanket immunity from liability under the environmental laws.63 The protection of the limitation of liability in section 25548.3 will not apply where (1) that liability results from the fiduciary's negligence or recklessness; (2) the fiduciary conducts a removal or remedial action without providing proper notice to the appropriate agency; (3) the potential liability results from acts outside the scope of the fiduciary duties; (4) the fiduciary relationship is fraudulent in that its raison d'être is to avoid liability; or (5) the fiduciary is also a beneficiary, or benefits from acting as fiduciary, in a manner over and above that considered customary or reasonable for a fiduciary. see also: United States v. Newmont USA Ltd., 504 F. Supp. 2d 1050, 1061–69 (E.D. Wash. 2007) (concluding, without actually adopting the "indicia of ownership" test in Long Beach Unified Sch. Dist. v. Dorothy B. Godwin Cal. Living Trust, 32 F.3d 1364 (9th Cir. 1994), that the United States held sufficient indicia of ownership in an Indian reservation to be held an "owner" under CERCLA);

1. The defendant acquired title to the property subsequent to the disposal or placement of the hazardous substance.

2. The defendant acquired title to the property through inheritance or bequest.

3. The defendant "provides full cooperation, assistance, and facility access to the persons that are authorized to conduct response actions at the facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility)."

4. The defendant "is in compliance with any land use restrictions established or relied on in connection with the response action at a facility."

5. The defendant "does not impede the effectiveness or integrity of any institutional control employed at the facility in connection with a response action."

With respect to beneficiary ownership for CERCLA purposes, creation of an express trust in California historically vested full title of trust property in the trustee or trustees. The California legislature repealed this statute in 1986, so the modern rule may now apply. The modern rule holds that creation of a trust divides title such that the trustee or trustees take legal title, and the beneficiary or beneficiaries take equitable title.

For purposes of evaluating the potential CERCLA liability of a trust beneficiary based on his or her status as owner, the initial question is whether the equitable interest held by trust beneficiaries is sufficient to support liability.

With respect to whether title was acquired via inheritance or bequest, CERCLA defines neither "inheritance" nor "bequest." CERCLA case law also provides no clear rules or definitions for what exactly constitutes an inheritance or bequest. Reasoning from the dictionary definitions of "inheritance," "bequest," and "devise," property taken through testamentary trusts or intestate succession would likely constitute inherited or bequeathed property, as the property interest transfers upon the death of the prior owner. No federal court opinions addressing this issue of whether inter vivos trusts or lifetime gifts constitute an inheritance or bequest for purposes of the inheritance or bequest defense exist. The only authority on point is Tamposi Family Investments, an opinion of the Environmental Protection Agency Appeals Board.

In Tamposi, the Appeals Board rejected petitioner's argument that a gift from a father to a real estate investment partnership, in which his children were the exclusive partners, should qualify for the inheritance or bequest defense. Citing Black's Law Dictionary definitions for "inheritance," "bequest," and "devise," the Appeals Board found that the text of CERCLA indicated that the inheritance or bequest defense was inapplicable to inter vivos transfers, as the defense only applied to transfers occurring upon death of the prior owner. Since it is the sole authority on point and an analysis of CERCLA by an arm of the EPA itself, courts considering the issue in the future will likely find Tamposi highly persuasive and may defer to the agency's interpretation. Thus, the best option for settlers wishing to protect beneficiaries from CERCLA liability during the lifetime of the

settlor is to use testamentary trusts and devises in wills to transfer interests in impacted property. They should then provide bequests to beneficiaries that may enjoy limited liability status due to the form of business (such as an LLC not comprised of beneficiary members). Combining these steps with thoughtful timing of sales or distributions to occur after cleanup, or in an otherwise protective manner, are also optional protective measures. However, there is currently no authority as to what structures will be effective. The most

important fact for beneficiaries to keep in mind is that the estate, and therefore any property in trust, will always be fully liable if the settlor was personally liable. The question is how to avoid or minimize the personal liability of the beneficiaries. This approach is entirely consistent with the settlor's intent and legal status: the settlor owned the property, the settlor was personally liable, and the settlor intended to give the beneficiary what he possessed during his life. 129 Id.

Although extremely persuasive, the decision is not a perfect interpretation of CERCLA. Tamposi's primary flaw is on the issue of inquiry. The Appeals Board cites to the congressional comments on CERCLA as support for the contention that individuals who take impacted property by inheritance or bequest must still conduct "reasonable inquiry" into the contamination, even if they have no knowledge of the inheritance or bequest. Id. at 125. Perhaps this was the intent of certain individual members of Congress, but this failed to make its way into the text of the statue.

Nevertheless, the presence of this language in Tamposi raises the possibility that some level of inquiry, albeit a very low level, will be required of owners who take title by inheritance or bequest. Potential beneficiaries may be able to disclaim property placed in trust for their benefit. See, e.g., CAL. PROB. CODE § 15309 (West 2002) ("A disclaimer or renunciation by a beneficiary of all or part of his or her interest under a trust shall not be considered a transfer under Section 15300 or 15301."). While an enticing theoretical solution, practically this is not a good option where the property value exceeds, or will exceed, the cost of remediation.

The California Code of Regulations addresses taxation rules for changes in ownership in title 18, section 462. Section 462.160 pertains to trusts. Subsection (a) of section 462.160 provides the general rule that transfer of real property interests into trusts, by the settlor or anyone else, is a change in ownership; subsection (b) provides instances excluded from this rule. Subsection (c)

provides the general rule that termination of a trust or any portion of a trust, constitutes a change in ownership, and subsection (d) provides the exceptions to this second general rule. These rules for exclusions and exceptions–for example, those transfers of interests that do not constitute changes in ownership–are complex and are therefore presented in the Appendix in tabular form in an attempt to simplify comparisons. While untested in the courts, would-be settlers and/or beneficiaries may be able to use these rules as a guide for selecting trusts that will make CERCLA owner liability for the beneficiaries less likely, or at least delay such potential liability until such time as the property may be transferred with less or no risk. Given the foregoing, it appears that the best overall strategy is to anticipate transfers in property, to attempt to structure such transfers to fall within the statutory defenses, and to preserve and pursue rights against other potentially responsible parties.

CAMERA STELLATA

EPA, DOJ, AIG, Bayer & AstraZeneca, successor to Stauffer Chemical, & Jardine Matheson

Bayer CropScience is with annual sales of about EUR 6.5 billion one of the world's leading innovative cropscience companies in the area of crop protection (Crop Protection), non agricultural pest-control (Environmental Science), seeds and plant biotechnology (BioScience).

Aventis CropScience formed through merger of AgrEvo and Rhône-Poulenc Agro. Bayer CropScience formed through Bayer's acquisition of Aventis CropScience. AstraZeneca liable for claim by Iron Mountain Mine

AstraZeneca was formed on 6 April 1999 through the merger of Astra AB of Sweden and Zeneca Group PLC of the UK – two companies with similar science-based cultures and a shared vision of the pharmaceutical industry.

Jardine Matheson (original owner of Mountain Copper Co., Iron Mountain Inv. Co.

The Group's interests include Jardine Pacific, Jardine Motors, Jardine Lloyd Thompson, Hongkong Land, Dairy Farm, Mandarin Oriental, Jardine Cycle & Carriage and Astra International. These companies are leaders in the fields of engineering and construction, transport services, insurance broking, property investment and development, retailing, restaurants, luxury hotels, motor vehicles and related activities, financial services, heavy equipment, mining and agribusiness. The Group also has a minority investment in Rothschilds Continuation, the merchant banking house.

Incorporated in Bermuda, Jardine Matheson Holdings Limited has its primary share listing in London, with secondary listings in Bermuda and Singapore. Jardine Matheson Limited operates from Hong Kong and provides management services to Group companies.

CURIA REGIS OF THE ARMANSHIRE

The Act of 1487 (3 Hen. VII.) created a court composed of seven persons, the Chancellor, the Treasurer, the Keeper of the Privy Seal, or any two of them, with a bishop, a temporal lord and the two chief justices, or in their absence two other justices. It was to deal with cases of "unlawful maintainance, giving of licences, signs and tokens, great riots, unlawful assemblies"; in short with all offences against the law which were too serious to be dealt with by the ordinary courts. The jurisdiction thus entrusted to this committee of the council was not supplementary,
therefore, like that granted in 1453, but it superseded the ordinary courts of law in cases where these were too weak to act. The act simply supplied machinery for the exercise, under special circumstances, of that extraordinary penal jurisdiction which the council had never ceased to possess. By an act of 1529 an eighth member, the President of the Council, was added to the Star Chamber, the jurisdiction of which was at the same time confirmed. At this time the court
performed a very necessary and valuable work in punishing powerful offenders who could not be reached by the ordinary courts of law. It was found very useful by Cardinal Wolsey, and a little later Sir Thomas Smith says its object was "to bridle such stout noblemen or gentlemen who would offer wrong by force to any manner of men, and cannot be content to demand or defend the right by order of the law."

In 1661 a committee of the House of Lords reported "that it was fit for the good of the nation that there be a court of like nature to the Star Chamber". Congress in 1989 unanimously passed the WPA. S.372 legislation would allow access to jury trials and would remove the exclusive jurisdiction of the U.S. Court of Appeals. **Application of Supreme Court Rule 4**

At the opening of the United States Circuit Court in Boston on May 16, Judge SPRAGUE delivered a charge to the Grand Jury, in which he defined the state of our laws with reference to the crime of piracy. After citing provisions from the laws of 1790, 1820, 1825, 1846 and 1847, as to what constitutes the general crime, with the different degrees of penalty, the Judge remarks that these enact-

ments were founded upon the clause in the Constitution which gives Congress the power to define and punish piracy. But the constitutional power to regulate commerce also affords a basis for additional penal enactments, covering all possible aggressions and depredations upon our commerce. The Judge then lays down the following important principles, the bearing of which will be sufficiently evident in the present crisis:

"These statutes being enacted pursuant to the Constitution are of paramount authority, and cannot be invalidated or impaired by the action of any State or States, and every law, ordinance and constitution made by them for that purpose, whatever its name or form, is wholly nugatory and can afford no legal protection to those who may act under it. But suppose that a number of States undertake by resolution to throw off the Government of the United States and erect themselves into an independent nation, and assume in that character to issue commissions authorizing the capture of vessels of the United States, will such commissions afford protection to those acting under them against the penal laws of the United States? Cases have heretofore arisen where a portion of a foreign empire -- a colony -- has undertaken to throw off the dominion of the mother country, and assumed the attitude and claimed the rights of an independent nation, and in such cases it has been held that the relation which the United States should hold to those who thus attempt and claim to institute a new Government, is a political rather than a legal question; that, if those departments of our Government which have a right to give the law, and which regulate our foreign intercourse and determine the relation in which we shall stand to other nations, recognize such new and self-constituted Government as having the rights of a belligerent in a war between them and their former rulers, and the United States hold a neutral position in such war, then the judiciary, following the other departments, will to the same extent recognize the new nation. ARBITRARY RECKLESS NEGLIGENT ENDANGERMENT

CONDEMNATION OF THE CHAPPIE-SHASTA OHVA, ADVERSE CLAIMS

Executive Order 11988 requires federal agencies to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of flood plains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. In accomplishing this objective, "each agency shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health, and welfare, and to

restore and preserve the natural and beneficial values served by flood plains in carrying out its responsibilities" for the following actions: acquiring, managing, and disposing of federal lands and facilities; providing federally-undertaken, financed, or assisted construction and improvements; conducting federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulation, and licensing activities**. CONSTITUTIONAL TAKING Ex Post Facto & Bill of Attainder for Crime of Infamy; innocent landowner false claims and fraud upon the court wrongful taking under false pretense of official right under color of law. STRIKE THE CONSENT DECREE, VOID AND VACATE, REMISSION, REVERSION, DETINUE SUR BAILMENT. JURY TRIAL FOR CRIMES AGAINST HUMANITY, TREASONOUS ESTABLISHMENT OF FRAUD; PIRACY; RELIGION; AND SLAVERY.**

All premises having been duly considered, Relators now moves this honorable Court, on behalf of the United States of America State of California as private attorneys general: WRIT OF ERRORS

AIG probably will be able to eventually payoff the 26.5 Million. Their quarterly earnings are at roughly 1BB which means it would take approximately 7 years for the taxpayers to get repaid with a 6% interest rate if all of their earnings were diverted into debt repayment. If only half of their Earnings go to debt repayment, then it will take approximately 15 years.

If we take all earnings and plug back into debt reduction, in seven years we have a company which is approximately worth 56 Billion if we have a discount rate of 10% with a 2% growth rate. The taxpayers aren't getting paid back this way.

As of today we are owed 26.5 in debt and 75 Billion in equity by AIG.

The 55 Billion that is still owed the taxpayers is almost exactly equal to what the company is worth at the end of seven years. However, the assumption which is being made is that the pieces that are being sold off will not materially be affecting earnings. That assumption is highly unrealistic.

So from the companies own financial statements, it should be clear that AIG will begin paying back the money which it is owed. However, that the taxpayer gets paid in full out of this seven headed beast is a pipe dream. Three or four years down the road we will hear that the AIG rescue was effective and the taxpayer received all the money owed. Don`t buy it.

The debt will likely be repaid. The equity will likely never get even half paid down.

Detinue Sur Bailment should be granted immediately, and the EPA & liens void & vacated. "A patent to land, issued by the United States under authority of law, is the highest evidence of title, something upon which its holder can rely for peace and security in his possession. It is conclusive evidence of title against the United States and all the world. .." 2 The American Law of Mining, § 1.29 at 357. Nichols v. Rysavy, (S.D. 1985) 610 F. Supp. 1245. QUIET TITLE "Congress has the sole power to declare the dignity and effect of titles emanating from the United States … and [Congress] [D]eclares the patent the superior and conclusive evidence of legal title." Langdon v. Sherwood, 124 U.S. 74 (1888). JOINT & SEVERAL TRESPASSERS The "general rule" at least is, "that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking." [Pennsylvania Coal Co. v. Mahon , 260 U.S. 393, 415, 67 L. Ed. 322, 43 S. Ct. 158 (1922).] FELONIOUS UNLAWFUL DETAINER The Court stated, "Takings jurisprudence balances the competing goals of compensating land-owners on whom a significant burden of regulation falls and avoiding prohibitory costs to needed government regulation. Citing Dolan v. City of Tigard , 512 U.S. 374, 384 (1994),

"The Takings Clause assures that the government may not force 'some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.'" In the history of the United States , no Land Patent has ever lost an appellate review in the courts. In Summa Corp. v. California ex rel. State Lands Comm'n 466 US 198, the United States Supreme Court ruled that the Land Patent would always win over any other form of title. In that case, the land in question was tidewater land and California 's claim was based on California 's constitutional right to all tidewater lands. The patent stood supreme even against California 's Constitution, to wit: [The patent] "[P]assing whatever interest the United States has in the premises and thereby settling any question of sovereign ownership…." Pueblo of Santa Ana v. Baca (CA10 NM) 844 F2d 708; Whaley v. Wotring (Fla App D1) 225 So 2d 177; Dugas v. Powell, 228 La 748, 84 So 2d 177. [quote at 28 Am. Jur. 2D, F. 2 § 49]. EXTORTION; PRIMA FACIE WRONGFUL TAKING UNDER A FALSE PRETENSE OF OFFICIAL RIGHT With the title passes away all authority or control of the executive department over the land and over the title which it has conveyed. Moore v. Robbins, 96 U.S. 530, 533, 24 L. Ed. 848.

There is no license from the United States or the state of California to miners to enter upon private lands of individuals for the purpose or extracting the minerals in the soil. (Biddle Boggs v Merced Min. Co.) 14 Cal. 279.) LIQUIDATE AIG – OPEN THE MINT *mutatis mutandis* $336,706,450 + $93,590,773 = $430,297,223 PAYABLE TO BEGIN SUPERFUND REMEDY * 9 = $3,872,675,007 NONUPLED DAMAGES FROM AIG – SETTLEMENT EJECTMENT. (10,090 DAYS * $375,000 PER DAY PENALTY = $3,753,375,000 + $119,300,007 RENT) QUIT DECUPLED DAMAGES BY THE UNITED STATES OF AMERICA STATE OF CALIFORNIA $1,074,500,000 PROPERTY DAMAGE, $6,000,000,000 PERSONAL INJURY DEFAMATION 10 * 7,074,500,000 = $70,745,000,000 PIRACY, SLAVERY, RELIGION, TYRANNY, FRAUD SEVENTY FIVE BILLION DOLLARS DAMAGES, COMMISSIONS, AND EJECTMENT QUANTUM DAMNIFICATUS QUARE IMPEDIT – ALL REMEDIES JUST & PROPER

The name of a writ directed by the king to the sheriff, by which he is required to command certain persons by name to permit him, the king, to present a fit person to a certain church, which is void, and which belongs to his gift, and of which the said defendants hinder the king, as it is said, and unless, etc. then to summon, etc. the defendants so that they be and appear, etc. **RELOCATION**

A March 1889 law established a federal court system based at Muskogee, assuming authority and jurisdiction that had been exercised since the 1834 Trade Act by the Western District of Arkansas. Congress has the right to make any law that is 'necessary and proper' for the execution of its enumerated powers (Art. I, Sec. 8, Cl. 18). **ABOLITION AND DEDICATION OF JURISDICTION.**

Date: August 17, 2010 Signature 

/s/ T.W. Arman, parens *patriae, impersona et insidiae*; owner of the Arboretum, Gales & Stannaries

I, T.W. Arman, hereby state that the same is true of my own knowledge, except as to matters which are herein stated on my own information or belief, and as to those matters, I believe them to be true.

Date: August 17, 2010 Signature 

Verified affidavit: /s/ T.W. Arman, owner of Iron Mountain, grantee, patentee, Mayor of Minnesota, Absolute Sovereign Patent Title: Apex of Shasta - Mexican Land Grant - Bounty Warrant Close Hold President, Chairman, and CEO of Iron Mountain Mines, Inc. and Freehold Estate Prior Rights.

I APPOINT THE CONGRESSIONAL SEAT TO