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U.S. COURT OF APPEALS

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1 T.W. Arman, owner, & John F. Hutchens, Joint Venturers,
2 grantee's agent; Tenant-in-Chief, Warden of the Gales, Expert
3 P.O. Box 182, Canyon, Ca. 94516,
4 925-878-9167 john@ironmountainmine.com

5 T.W. Arman; *pro se*; sole stockholder: Iron Mountain Mines, Inc. President, Chairman, CEO
6 P.O. Box 992867, Redding, CA 96099 530-275-4550, fax 530-275-4559

7 **INTERVENTION COMPLAINT & CITIZENS' ARREST OF JUDICIAL TAKING**
8 **SUPERSEDEAS BY RIGHT PETITION FOR INJUNCTIVE RELIEF**
9 **INTERLOCUTORY APPEAL IN THE UNITED STATES OF AMERICA**
10 **COURT OF APPEALS FOR THE NINTH CIRCUIT**

11 CITIZENS OF THE UNITED STATES OF) CIRCUIT No. 09-17411
12 AMERICA STATE OF CALIFORNIA,) related cases USDC-CES -91-0768 DFL/JFM,
13 EX REL. ARMAN & HUTCHENS, aka:)2:10-cv-232 FCD CMK PS, USCFC No. 09-207 L
14 TWO MINERS & 8000 ACRES OF LAND;) CIRCUIT Nos. 09-70047, 09-71150 ABSOLUTE
15 T.W. ARMAN and JOHN F. HUTCHENS;) & IMMEDIATE INJUNCTIVE RELIEF:
16 IRON MOUNTAIN MINES, INC. ET AL) *Writ of error, coram vobis damnum absque injuria;*
17 FREEMINERS' STATE OF MINNESOTA) *stare decisis & supersedeas intervention;*
18 Grantees, Patentees; Owner & Operator.) *de Quibus Commote Alodium & Alodarii,*
19 v. *Quilento*) *Quia tria sequuntur defamatorem;*
20 USDC-CES respondent & DEFENDANT) *Quando Dominus Conscientiae detrimentum;*
21 UNITED STATES OF AMERICA) *Quae clamat tenere de te per liberum seruitium*
22 STATE OF CALIFORNIA; Grantors) *& difficillimum est invenire authorem infamatoriae*
23 WRONGFUL TAKING UNDER A FALSE) *scripturae; Breve Capitalis Justiciarius noster and*
24 PRETENSE OF OFFICIAL RIGHT.) *ad placita coram nobis tenenda; BREVE SOKE!*

25 **§ 807. The law of natural flow**

26 **In conducting mining operations, water, as was said by Lord Tenterden, is a sort of common**
27 **enemy, against which each man must defend himself. Yet while this property right of defense**
28 **is a natural one, it must be so exercised as not to endanger the lives or property of others.**

writ of error, coram vobis damnum absque injuria; petition for order to show cause.

1 Each mine owner has all the rights of property in his mine, and, among them, the right to ex-
2 tract all minerals therefrom, provided he works with skill and in the usual manner; and if,
3 while the occupier of a higher level exercises that right, nature causes water to flow to a lower
4 mine, he is not responsible for this operation of nature.

5 Land on a lower level owes a natural servitude to that on a higher, in respect of receiving,
6 without claim to compensation, the water naturally flowing down upon it.

7 From the necessity of the case, every owner of a mine must submit to the inconvenience of
8 having water of an adjoining mine upon a higher level descend upon his land so long as it de-
9 scends in the natural course of drainage.

10 If the owner of the servient heritage wishes to guard against this operation, he must leave
11 barriers "to bay back the water of his higher neighbor."

12 Otherwise the resulting damage, if any, is *damnum absque injuria*; (damages without injury).

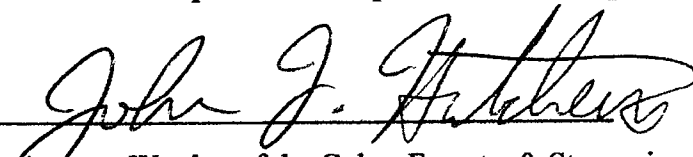
13 In July of 1983, (before Iron Mountain Mine was placed on the NPL in Sept.), the U.S. Dept.
14 of the Interior Bureau of Reclamation completed its SPRING CREEK HEAVY METAL
15 POLLUTION STUDY. See: [http://www.ironmountainmine.com/iron mountain/DOI STUDY.pdf](http://www.ironmountainmine.com/iron%20mountain/DOI%20STUDY.pdf)
16 "Optimum protection of Chinook salmon would be achieved by alternative 4b, increasing the
17 size of the Spring Creek Debris Dam to 25,000 acre-feet (an increase of 19,200 acre-feet)".

18 **STATUTORY REMEDY REQUIRED & RELIEF DEMANDED**

19 As this remedy is still needed for Iron Mountain Mine to meet provisions of the CWA (Clean
20 Water Act), we respectfully request this Court to direct to the U.S. Bureau of Reclamation an
21 Order to Show Cause why they should not be compelled to complete this dam improvement.

22
23 February 28, 2010

Signature:



24 /s/ John F. Hutchens, operator, *grantee's agent*; Warden of the Gales, Forests, & Stannaries expert
25 CITIZEN & AGENT OF RECORD for: T.W. Arman & Iron Mountain Mines, Inc.
26 T.W. ARMAN & JOHN F. HUTCHENS, "TWO MINERS", JOINT VENTURERS,
27 UNITED STATES OF AMERICA STATE OF CALIFORNIA AGRICULTURAL COLLEGE
28 FREEMINERS' STATE OF MINNESOTA, SHASTA FLAT CREEK MINING DISTRICT.

writ of error, coram vobis damnum absque injuria; petition for order to show cause.

In the UNITED STATES COURT OF APPEALS for the NINTH CIRCUIT

CERTIFICATE AND PROOF OF SERVICE

I declare under penalty of perjury under the laws of the United States of America that I am above the age of eighteen years and that I am not a party to the action herein.

My name and address is: Michele L. Petti, po box 182, Canyon, Ca. 94516

On the date entered below, I caused to be served on the United States Attorney General:

**INTERVENTION COMPLAINT & CITIZENS' ARREST OF JUDICIAL TAKING
SUPERSEDEAS BY RIGHT PETITION FOR INJUNCTIVE RELIEF
INTERLOCUTORY APPEAL IN THE UNITED STATES OF AMERICA
COURT OF APPEALS FOR THE NINTH CIRCUIT**

**CITIZENS OF THE UNITED STATES OF AMERICA STATE OF CALIFORNIA,
EX REL. ARMAN & HUTCHENS, aka: TWO MINERS & 8000 ACRES OF LAND,
T.W. ARMAN and JOHN F. HUTCHENS, IRON MOUNTAIN MINES, INC. ET AL
FREEMINERS' STATE OF MINNESOTA: *Writ of error, coram vobis damnum absque injuria***

Grantees, Patentees; Owner & Operator. *stare decisis & supersedeas intervention*

v.

USDC-CES respondent & DEFENDANT

**UNITED STATES OF AMERICA STATE OF CALIFORNIA; Grantors
WRONGFUL TAKING UNDER A FALSE PRETENSE OF OFFICIAL RIGHT**

To be served by first class mail, postage prepaid, upon the following party by placing a true and correct copy of the same in a sealed envelope with proper postage affixed thereto and depositing the same in the United States Mail addressed as follows:.

**For the United States of America State of California
c/o EPA, et al, Nancy Marvel & Kathleen Salyer
Office of the Regional Counsel; Superfund/CERCLA
75 Hawthorne St. San Francisco, Ca. 94105**

**For T.W. Arman and IMMI
William Logan, Logan & Giles
2175 North California Blvd.
Walnut Creek, Ca. 94596**

DECLARATION OF SERVICE

I declare under penalty of perjury under the laws of the United States of America that the information contained in the Certificate and Proof of Service is true and correct.

Executed on:

DATE: March 1, 2010 Signature:


/s/ Michele L. Petti