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BOARD OF SUPERVISORS
EL DORADO COUNTY

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To whom it may concern:

Re: Road Closures in the National Forests and Moratorium on Suction Dredge Mining

El Dorado County Board of Supervisor representative, Ray Nutting suggested to me that I might write a brief summary concerning the illegal "Takings" incurred by the passage of SB670 in California. For the past 32 years a significant portion of my income has been derived through gold mining in El Dorado County. For the past 24 years the majority of that business has been conducted on "Private Property" bordering the South Fork American River.

The only economically practical means to profitably recover placer gold from our private property or from most placer claims on federally administered public lands is by "suction dredging". As a matter of fact, it is the only viable use, as no other mining method is practical, economical, or profitable. Accordingly, suction dredging is the "Highest & Best Use" of these private properties. It is absolutely established that a valid, unpatented placer mining claim is in fact a Statutory Federal Grant of "Private Property" derived from 30 U.S.C Sec. 21-54. When the only viable means of producing gold on private property is BY suction dredging, arbitrarily prohibiting that use (even temporarily) effects a complete "taking" of all economic benefit the owner could derive from it, for the indefinite duration of the taking.

The Fifth Amendment to the United States Constitution, made applicable to state and local governments by the Fourteenth Amendment, expressly prohibits the government from taking private property for public use without prior, just compensation. The California Constitution provides, "Private property may be taken or damaged for public use only when just compensation has been FIRST paid to, or into court for, the owner." (Cal. Const. Art.1, sec. 19) THIS IS THE LAW!

By arbitrarily prohibiting many private property and most mining claim owners in California, all beneficial use of their mineral estate for an indeterminate period of time, SB 670 immediately inflicted an illegal compensable private property taking the day it was signed by our former Governor on Aug. 6, 2009.

To date, through 2010, SB 670 has cost me, my family and partners, lost income verified by production logs and tax records, of over \$80,000. Plus, I have over \$30,000 invested in equipment, which is now worth zero. I am just one of tens of thousands of private property and mining claim owners who has been deprived of the beneficial use of their mineral estate which is protected by LAW. This is a "takings" of considerable magnitude for which the Treasury of the State of California will ultimately be held liable.

I really do not want a penny from our government. I merely wish that our public servants would stay within the bounds created by the Constitution and avoid being a club to beat the public with. Unlawful, political agendas, which destroy property rights, must be stopped NOW for our country to survive.

Now as for most road closures in El Dorado National Forest and other forests in the State of California these closures are a taking of private property because they deny the right of ingress and egress to Federally administered lands which almost all contain locatable minerals; gold, silver, etc. United States Court of Appeals 9th Circuit (1980)

“...prospecting, locating and developing of mineral resources in the National Forests may not be prohibited nor so unreasonably circumscribed as to amount to a prohibition...” (See; Weiss, 642 F.2d at 299). There are many other court decisions protecting these rights, which are a grant from the Federal Government. See HR365 1866 and 1872 mining laws.

“Under our form of government, the legislature is not supreme. It is only one of the organs of that absolute sovereignty which resides in the whole body of the People. And like other bodies of government, it can only exercise such powers as have been delegated to it, and when it steps beyond that boundary, its acts are utterly void.” (See; Billings v Hall, 7 California 1.). Furthermore, “An act altering, or destroying the nature, or tenure of estates is void.” (See; Dewey v. Lambier 7 Cal. 347)

The State did not give the Citizen his rights and thus cannot take them away as it chooses. The State did not establish the settled maxims and procedures by which a citizen must be dealt with, and thus cannot abrogate or circumvent them. It thus is well settled that legislative enactments do not constitute the law of the land, but must conform to it.

From the 16th American Jurisprudence, Second Edition. Section 177:

“The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land. The U.S. Constitution is the supreme law of the land, and any statute, to be valid, must be in agreement. It is impossible for both the Constitution and a law violating it to be valid; one must prevail. This is succinctly stated as follows:

The general rule is that an unconstitutional statute, though having the form and name of law is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it. As unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed. Such a statute leaves the question that it purports to settle just as it would be had the statute not been enacted.

Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection, and justifies no acts performed under it...

A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing valid law. Indeed, in so far as a statute runs counter to the fundamental law of the land, it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it.”

Any court, government or government office who acts in violation of, in opposition or contradiction to the foregoing, by his, or her, own actions, commits treason and invokes the self-executing Sections 3 and 4 of the 14th Amendment and vacates his, or her, office. It is the duty of every lawful American Citizen to oppose all enemies of this Nation, foreign and DOMESTIC.

Please let me know if I can be of any help in the restoration of private and public property rights by the proper application of the law guaranteed by the United States Constitution.

Sincerely,

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