

1 Mr. T.W. Arman & John F. Hutchens joint venture  
2 Two Miners, Owner/Operator, grantee & agent.  
3 P.O. Box 182, Canyon, Ca. 94516  
4 925-878-9167  
5 john@ironmountainmine.com  
6  
7

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

10 **Ex rel. HUTCHENS**  
11 **TWO MINERS & 360, 2744, 4400, 8000,**  
12 **52,000, 88,000, 103 million ACRES of LAND**

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

13 **T.W. ARMAN and IRON MOUNTAIN**  
14 **MINES, INC. et al, OWNER & OPERATOR**

**PETITION FOR EMERGENCY REVIEW**

15 and on behalf of all others similarly situated

**ABSENCE OF *DELECTUS PERSONAE* IN**  
**MINING, *QUI TAM CON DOMINO REGE QUAM***  
***INTERVENTION IN CAMERA STELLATA***

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

**APPLICATION OF THE MONROE DOCTRINE**

v.

18 **UNITED STATES**

**WITH VERIFICATION BY AFFIDAVIT,**

v.

19 **BAYER CROP SCIENCE FKA AVENTIS**

**DANGER TO OUR PEACE AND SAFETY.**

20 **FRAUDULENT DELECTUS PERSONAE**

**REMISSION & REVERSION, VOID, VACATE**

21 **ABSOLUTE SUPERSEDEAS BY RIGHT**

**AUTHORITY OF JUSTICE JAY**

22 **WRIT DE EJECTIONE FIRMAE; WASTE**

**AUTHORITY OF JUSTICE MARSHALL**

23 **PETITION FOR ADVERSE CLAIMS WRITS**

**AUTHORITY OF JUSTICE BRANNON**

24 **OF POSSESSION & EJECTMENT; FRAUD**

**AUTHORITY OF JUSTICE MENDOZA**

25 **& DECLARED DETRIMENT & NEGLECT**

**AUTHORITY OF JUSTICE TANEY**

26 **& FAILURE: TREBLE DAMAGES**

**GIVE US OUR LIBERTY! EVACUATE.**

27 **JOINT AND SEVERAL TRESPASSERS,**

**APEX LAW ACT OF REPROBATION**

28 **SURRENDER & EJECTMENT, TRUST**

1                   **INTERVENTION BY RIGHT, REINSTATEMENT AND CONSOLIDATION**

2 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  
3 from the settling PRP? We join the Eighth and Tenth Circuits in holding that the answer is “yes.”

4                   **QUI TAM**

5  
6 1 (Slip Opinion) OCTOBER TERM, 2009

7                   **SUPREME COURT OF THE UNITED STATES**

8                   **GRAHAM COUNTY SOIL AND WATER CONSERVA-TION DISTRICT ET AL . v . UNITED**  
9                   **STATES EX REL .WILSON - CERTIORARI TO THE FOURTH CIRCUIT**

10                   No. 08–304. Argued November 30, 2009—Decided March 30, 2010

11 The False Claims Act (FCA) authorizes both the Attorney General and private *qui tam* relators to  
12 recover from persons who make false orfraudulent payment claims to the United States, but it bars  
13 *qui tam* actions based upon the public disclosure of allegations or transactions in, *inter alia*, “a  
14 congressional, administrative, or Government Accounting Office [(GAO)] report, hearing, audit, or  
15 investigation.” 31

16 *Held:* The reference to “administrative” reports, audits, and investigations in §3730(e)(4)(A) en-  
17 compasses disclosures made in state and local sources as well as federal sources. Pp. 4–21.

18                   **FROM CONGRESSMAN WALLY HERGER’S WEBSITE**

19 America 's veterans have served our nation with great honor and courage. It is only right for the  
20 nation to repay their sacrifices by providing them with appropriate benefits and access to the best  
21 possible medical care. Since 2001, Congress has boosted funding for veterans' health care by more  
22 than 50%, allowed “concurrent receipt” of retirement pay and disability benefits for severely dis-  
23 abled veterans, and expanded the TRICARE program to cover military retirees over the age of 65.  
24 Although there has been a great deal of progress, more remains to be done. In particular, we must  
25 ensure that we provide sufficient care for veterans suffering from traumatic brain injury and post-  
26 traumatic stress disorder, the signature conditions of the current Global War on Terror.  
27 One of my top priorities in Congress has been to provide additional services for veterans in the  
28 North State . Historically, the Department of Veterans Affairs (VA) has not had a large presence in

1 rural areas like ours. Over the past 20 years, the VA outpatient clinic in Redding has expanded  
2 from 15 to over 100 staff and added a number of new services, while the Chico clinic has also  
3 enlarged significantly since its opening in 1997. I have also worked to secure the first veterans  
4 cemetery in the North State , which was dedicated on Veterans Day 2005, and a veterans extended-  
5 care home in Redding , scheduled to begin construction later in 2010.

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

12 We must constantly be on guard against intrusive regulations that chip away at fundamental prop-  
13 erty rights. Too often federal environmental regulations have had this effect - particularly in rural  
14 areas. I'm a strong believer that we should institute commonsense reforms to these regulations that  
15 will both provide for environmental protection but also keep secure private property rights. These  
16 need not be mutually exclusive goals.

17 Like many Americans, I was very disturbed with the Supreme Court's 2005 ruling in *Kelo v. City*  
18 *of New London, Connecticut* where the Court held in a 5-4 decision that local governments could  
19 seize land through eminent domain and transfer it from one private property owner to another. To  
20 me, the Fifth Amendment's takings cause is unambiguous: the government's authority to take pri-  
21 vate property is specifically and clearly limited to instances when it is to be put to a public use,  
22 such as for the development of a public road or other similar infrastructure. That a slim majority of  
23 the Court interpreted "public use" to include the taking of one individual's private property and giv-  
24 ing it to another for the purposes of economic development is a cause for great concern. By the  
25 Court's line of reasoning, states and local governments now have virtual free rein to condemn pri-  
26 vate property if it can be used for a more lucrative purpose. This is a perfect example of why it is so  
27 important to have judges on the federal bench who will interpret the Constitution as it was origi-  
28

1 nally ratified. I'm a strong supporter of legislation that would restore the rights of property owners  
2 in response to this misguided ruling.

3 In an agriculturally rich and growing area like Northern California, reliable access to high quality  
4 water is critically important. Northern California's earliest settlers laid claim to the legal right to  
5 beneficially use water for farms, homes, and businesses. They also invested heavily in water infra-  
6 structure - levees, ditches, pumps, canals, and other facilities - to help meet the needs of Northern  
7 California communities. These early actions laid the foundation for the strong economy and rural  
8 way of life Northern Californians enjoy today, and should, in my view, be preserved at all costs.  
9 California's water supply must be managed in a way that ensures the needs of our region - where  
10 most of California's water originates - are met first, before we look to address the water supply  
11 needs of other areas of the state. I strongly opposed previous Delta conveyance proposals, such as  
12 the original "peripheral canal" and the so-called "isolated facility" developed through the CALFED  
13 process, because Northern California's interests were not being properly protected. In improving  
14 California's water situation, all regions of the state must "get well together," and Northern Califor-  
15 nia's water needs and water rights must be fully respected and protected first before excess re-  
16 sources are permitted to flow south. I would vigorously oppose anything that does not meet this  
17 important test.

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

23 Strategically-placed water storage facilities would hold back peak winter flows and allow our levee  
24 system on the valley floor to function as designed and provide the first layer of defense against  
25 high water. Northern California has a long infamous history of widespread flooding. We must be  
26 vigilant in our efforts to prevent the next major flood. This includes not only investing public re-  
27 sources in upstream reservoirs and levee maintenance and construction, but also commonsense re-  
28

1 forms to our environmental laws to ensure that flood protection efforts are able to proceed in a  
2 timely manner.

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

13 Too often we've seen instances in Northern California where the ESA has been implemented in a  
14 way that simply defies commonsense and in some cases has put community health and safety at  
15 risk. In 1991, the Corps of Engineers issued a report identifying levee sections that protect the  
16 community of Arboga, just south of Marysville, as needing immediate repair. Their analysis in-  
17 cluded a sober assessment that without repair this levee section could fail, and that such a failure  
18 would likely result in, "a loss of human life." Tragically, local efforts to repair the levee were  
19 bogged down by ESA regulations for nearly seven years. The catastrophic flood of January 1997  
20 broke through the weakened levee - just as the Corps had predicted - and three lives and hundreds  
21 of millions of dollars in property and infrastructure were lost.

22 In 2001, over 1,200 small farm and ranch families in Northern California's Klamath Basin were  
23 devastated when federal biologists ruled that the ESA required the federal government to withhold  
24 100 percent of irrigation water from this farming community in order to protect three species of  
25 fish.

26 The federal ESA still does not provide the needed flexibility to properly balance the needs of peo-  
27 ple and species. I do not believe Congress envisioned these kinds of tragic results when it passed  
28 the ESA some 35 years ago. I support commonsense reforms to this law and many of our other en-

1 vironmental laws to ensure they are implemented in a more balanced way, and that they respect the  
2 needs of people along with the environment.

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

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

16 Far from the beneficial effects that low to moderate-temperature fires provide forest landscapes,  
17 catastrophic fires consume the whole forest, from floor to canopy, and burn at such high tempera-  
18 tures that the entire area is destroyed. Recent years have seen a significant spike of fires in our area  
19 that have caused significant damage and health issues associated with the smoke. I strongly support  
20 efforts to strategically thin out overgrown forest stands on a pace and scale that adequately address  
21 the serious forest health problem we face. Not only will thinning protect nearby communities, it  
22 will improve forest health, provide a stable source of employment for forested communities, gener-  
23 ate revenue for county schools and roads, and protect local air and water quality.

24 The good news is that an example of how to manage western National Forests in a way that ac-  
25 complishes these important goals already exists. In 1998, Congress enacted legislation I sponsored  
26 with Senator Dianne Feinstein. This bipartisan bill - the Herger-Feinstein Quincy Library Group  
27 (QLG) Forest Recovery Act - is a groundbreaking forest health pilot project developed by a group  
28 of concerned citizens - local environmentalists, timber industry representatives, and county offi-

1 cials and community members. The QLG pilot program is designed to test the effects of a strategic  
2 thinning program on the Plumas, Lassen, and Tahoe National Forests . Though a small group of  
3 activists have thus far prevented its full implementation, QLG thinning projects that have been  
4 completed have shown that treated forest stands reduce the severity of fire and protect forest re-  
5 sources and neighboring communities.

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

14 With the national debt approaching \$11 trillion, our current fiscal situation is alarming enough.  
15 And the projected future growth of entitlement programs, such as Social Security and Medicare,  
16 poses an even greater challenge. The unfunded future liabilities of these programs are more than  
17 five times greater than our current debt. And on their present course, Social Security, Medicare,  
18 and Medicaid will consume an ever-greater share of the federal budget until they crowd out every-  
19 thing else, from national defense, to roads and highways to assistance for the poor. Although solv-  
20 ing this problem will not be easy, I believe Congress has a basic obligation to future generations to  
21 start tackling it now. Otherwise, we will bestow a crushing burden of debt to our children and  
22 grandchildren.

### 23 **LEGAL AUTHORITY**

24 ... “In the mining partnership those occurrences make no dissolution, but the others go on; and, in  
25 case a stranger has bought the interest of a member, the stranger takes the place of him who sold  
26 his interest, and cannot be excluded. If, death, insolvency, or sale were to close up vast mining en-  
27 terprises, in which many persons and large interests participate, it would entail disastrous conse-  
28 quences. From the absence of this *delectus personae* in mining companies flows another result, dis-

1 tinguishing them from the common partnership, and that is a more limited authority in the individ-  
2 ual member to bind the others to pecuniary liability. He cannot borrow money or execute notes or  
3 accept bills of exchange binding the partnership or its members, unless it is shown that he had au-  
4 thority; nor can a general superintendent or manager. They can only bind the partnership for such  
5 things as are necessary in the transaction of the particular business, and are usual in such business.  
6 Charles v. Eshleman, 5 Colo. 107; Shillman v. Lachman, 83 Am Dec. 96, and note; McConnell v.  
7 Denver, 35 Cal. 365; Jones v. Clark, 42 Cal. 181; Manville v. Parks, 7 Colo. 128, 2 Pac. 212;  
8 Congdon v. Olds, 18 Mont. 487, 46 Pac. 261. 29 S.E. 505. In fact, it is a rule that a nontrading  
9 partnership, as distinguished from a trading commercial firm, does not confer the same authority by  
10 implication on its members to bind the firm; as. e.g. a partnership to run a theater or other single  
11 enterprise only. Pease v. Cole, 53 Conn. 53, 22 Atl. 681; Deardorf's Adm'r v. Tacher, 78 Mo. 128;  
12 Smith, Merc. Law, 82; T Pars. Partn. § 85; Pooley v. Whitmore, 27 Am. Rep. 733.

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

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

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

23 In Dalliba v. Riggs, 7 Ida. 779, 82 Pac. 107, it was laid down that while a court of equity can ap-  
24 point a receiver to perfect and preserve mining property, it " has no authority to place its receiver in  
25 charge of such property and operate the same, carrying on a general mining business, and while it  
26 turns out to be at a loss, as is likely to be the result in such cases, charge the same up as a preferred  
27 claim and lien against the property, to the prejudice and loss of the holders of prior recorded liens  
28 on the same property" (82 Pac. At pp. 108-109). In that case the receiver appeared to have carried

1 on the mining operations without any order of court directing him to do so and with reckless ex-  
2 travagance, and in addition was shown not only not to have kept accurate accounts but also to have  
3 made in the account filed “many charges against the estate where no charge whatever should have  
4 been made and none in fact existed.” The court accordingly denied the receiver any allowance for  
5 his own time or services and any allowance for attorney’s fees.

6 **ABSENCE OF DELECTUS PERSONAE**

7 “The fact remains that AIG's rescue broke all the rules, and each rule that was broken poses a ques-  
8 tion that must be answered.” - Ms. Elizabeth Warren, TARP oversight chairwoman.

9 **SUPERSEDEAS & CONSOLIDATION**

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

12 **CONSPIRACY**

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

18 **ABSOLUTE ORDER FOR TEMPORARY INJUNCTIVE RELIEF FOR CEQA EIS REVIEW**  
19 *CHAPTER X - Of Treaties and Ambassadors, and the Entire Dissolution of States.*

20 I. <Wars in general are settled by treaties>. The chief laws of nature about treaties were explained in  
21 the doctrine of contracts in natural liberty. { \* } But we must remember that the exception of unjust  
22 force and fear cannot be admitted against the obligation of any treaties of peace; otherwise the old  
23 controversies <that occasioned the war> might always be kept a-foot. And yet such exceptions may  
24 justly take place when the war is manifestly and avowedly unjust on one side; or if the terms im-  
25 posed { by the more potent side } are manifestly injurious and contrary to all humanity. In these  
26 cases the party injured may insist upon an arbitration; and if the other side refuse to submit to it,  
27 each side must by force consult its own safety and the maintenance of its rights {, by what aids it  
28 can find}.1

1 Treaties are divided into *real*, and *personal*: the personal, which are less in use, are entered into in  
2 favour of the prince's person, and cease to bind upon his demise. The *real*, respect the body of the  
3 people, or the nation, which is deemed immortal. 2 Treaties are also divided into the *equal*, {such  
4 as bring equal or proportionable burdens on each side,} and *unequal* {which bring unequal bur-  
5 dens}.3 But 'tis not every unequal treaty that any way impairs or diminishes the† majesty and inde-  
6 pendency of the side submitting to the greater burden.

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

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

22 190 See *Lucas v. S.C. Coastal Comm'n*, 505 U.S. 1003, 1031–32 (1992). *Once a mining claim is*  
23 *determined to constitute a valid property interest, then state law will control how it can be sold,*  
24 *transferred, inherited, and the like—unless any particular aspect of that property right is pre-*  
25 *empted by federal law. See *Duguid v. Best*, 291 F.2d 235, 239, 242 (9th Cir. 1961).*

26 191 See *Lucas*, 505 U.S. at 1031–32.

27 192 480 U.S. 470, 519 (1987) (quoting *Webb's Fabulous Pharmacies, Inc. v. Beckwith*, 449 U.S.  
28 155, 161 (1980)) (alterations in original). See also *Palazzolo*, 533 U.S. at 630; *Lucas*, 505 U.S. at

1 1016 n.7; *Preseault v. Interstate Commerce Comm’n*, 494 U.S. 1, 20–24 (1990) (providing a de-  
2 tailed articulation of the principle that state law defines the nature of property rights); *Kinross*  
3 *Copper Corp. v. Oregon*, 981 P.2d 833 (Or. App. 1999) (denying a waste water discharge permit  
4 for mining on federal mining claims not a taking because there is no right to pollute), cert. denied,  
5 531 U.S. 960 (2000).

6 193 See, e.g., *M & J Coal Co. v. United States*, 47 F.3d 1148, 1153 (Fed. Cir. 1995) (discussing  
7 the impact of federal law of navigational servitude and submerged lands on property definitions);  
8 see also *Lucas*, 505 U.S. at 1029 (discussing the submerged lands and navigational servitude);  
9 *Scranton v. Wheeler*, 179 U.S. 141, 163 (1900) (defining property rights in the context of sub-  
10 merged lands); *Palm Beach Isles Assocs. v. United States*, 208 F.3d 1374 (Fed. Cir. 2000) (naviga-  
11 tional servitude), aff’d, 231 F.3d 1354 (Fed. Cir. 2000), reh’g en banc denied, 231 F.3d 1365 (Fed.  
12 Cir. 2000). In *Palm Beach Isles*, the court found that a permit denial for environmental reasons,  
13 rather than navigational reasons, did not invoke the navigational servitude “background princi-  
14 ple.” *Id.* at 1384.

15 194 978 F.2d 1269, 1276 (D.C. Cir. 1992).

16 195 *Id.* at 1275–76.

17 196 *Id.* at 1277–87.

18 197 278 F.2d 842, 847 n.4 (9th Cir. 1960) (citing *United States ex rel. Tenn. Valley Auth. v. Powel-*  
19 *son*, 319 U.S. 266, 279 (1943)); see also *Richmond Elks Hall Ass’n v. Richmond Redevelopment*  
20 *Agency*, 561 F.2d 1327, 1330 (9th Cir. 1977) (holding that federal courts are not bound by state  
21 law but look to it for aid in discerning the scope of property interests). These formulations may be  
22 inconsistent with Justice O’Connor’s dissent in *Preseault*, 494 U.S. at 20–24.

23 198 *Adaman*, 278 F.2d at 847.

24 199 *Id.*

25 200 See *id.*

26 201 *Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1027, 1030 (1992) (quoting *Bd. of Regents of*  
27 *State Colls. v. Roth*, 408 U.S. 564, 577 (1972)).

1 202 See *id.* at 1028–29.

2 203 See, e.g., *Schneider v. Cal. Dep’t. of Corr.*, 151 F.3d 1194, 1200–01 (9th Cir. 1998).

3 *The . . . Court’s recognition of the unremarkable proposition that state law may affirmatively cre-*  
4 *ate constitutionally protected “new property” interests in no way implies that a State may by stat-*  
5 *ute or regulation roll back or eliminate traditional “old property” rights. As the Supreme Court*  
6 *has made clear, “the government does not have unlimited power to redefine property rights.” . . .*  
7 *Rather, there is, we think, a “core” notion of constitutionally protected property into which state*  
8 *regulation simply may not intrude without prompting Takings Clause scrutiny.*

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

11 *I do not understand the Court to suggest that rights of property are to be defined solely by state*  
12 *law, or that there is no federal constitutional barrier to the abrogation of common-law rights by*  
13 *Congress or a state government. The constitutional terms “life, liberty, and property” do not de-*  
14 *rive their meaning solely from the provisions of positive law. . . . Quite serious constitutional ques-*  
15 *tions might be raised if a legislature attempted to abolish certain categories of common-law rights*  
16 *in some general way. Indeed, our cases demonstrate that there are limits on governmental author-*  
17 *ity to abolish “core” common-law rights, including rights against trespass, at least without a com-*  
18 *PELLING showing of necessity or a provision for a reasonable alternative remedy.*

19 447 U.S. 74, 93–94 (1980) (Marshall, J., concurring).

20 *The Ninth Circuit observed:*

21 *“[T]here is, we think, a ‘core’ notion of constitutionally protected property,” and a state’s power*  
22 *to alter it by legislation “operates as a one-way ratchet of sorts,” allowing the states to create new*  
23 *property rights but not to encroach on traditional property rights.” . . . [W]ere the rule otherwise,*  
24 *States could unilaterally dictate the content of—indeed altogether opt out of both the Takings*  
25 *Clause and the Due Process Clause simply by statutorily recharacterizing traditional property-law*  
26 *concepts.*

27 *Wash. Legal Found. v. Legal Found. of Wash.*, 236 F.3d 1097, 1108 (9th Cir. 2001) (quoting  
28 *Schneider*, 151 F.3d at 1200–01), *reh’g*, 271 F.3d 835, 841 (9th Cir. 2001) (*en banc*), *cert.*

1 *granted, 122 S. Ct. 2355 (2002) (No. 01-1325).*

2 *Lawrence H. Tribe writes:*

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

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

20 [http://www.justice.gov/enrd/ENRD\\_2001\\_Lit\\_Accomplishments.html](http://www.justice.gov/enrd/ENRD_2001_Lit_Accomplishments.html)

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

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

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

13 When riparian wetlands are at issue, a relevant inquiry is whether the proposed use of the wetland  
14 interferes with the public trust doctrine. Public trust rights traditionally have included the right to  
15 access navigable waterways for fishing and navigation. Modern commentators argue that the public  
16 trust also includes recreational and ecological values. Thus, any regulation that would restrict the  
17 ability of an individual to utilize a private property interest in a resource subject to the public trust  
18 would not have a cause of action for a taking because in reality the private property interest never  
19 really existed in the first place. In fact, some commentators such as Professor Sax posit that all  
20 property rights should be redefined to make them more akin to water rights and subject to an  
21 analogous “ecological public trust.”

22 The Supreme Court’s recognition of the public trust doctrine dates back to 1892 in *Illinois Central*  
23 *Railroad Co. v. Illinois*. Although it was originally utilized only as a mechanism to protect public  
24 access to navigable waterways, academics in recent years have argued intensely over whether the  
25 public trust doctrine must “evolve” into an all-encompassing ecological easement on all private  
26 property, which would supposedly limit the reach of the takings doctrine. The debate over how far  
27 the public trust doctrine should be used to abrogate traditional and often centuries old understand-  
28

1 ings of private property rights in land and water is in large part a reflection of competing legal phi-  
2 losophies.

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

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

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

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

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

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

### 18 **California Health and Safety Code Section 25548**

19 The California legislature, like Congress, took action in 1996 and enacted California Health and  
20 Safety Code section 25548—the California law analogous to CERCLA section 107(n). The stated  
21 intent of section 25548 is “to specify the type of lender and fiduciary conduct that will not incur  
22 liability for hazardous material contamination.” As such, section 25548 provides exemptions and  
23 limitations to potential fiduciary liability under the environmental laws. Thus, section 25548  
24 residually identifies the universe of potential liability for fiduciaries. Specifically, section 25548  
25 addresses the exceptions to and limitations on “the liability of trustees, executors, and other fiduci-  
26 aries for hazardous material contamination involving property that is part of the fiduciary estate.”  
27 Section 25548.3 eliminates personal liability for fiduciaries by confining their potential liability to  
28 the estate assets. The caveats come in section 25548.5, which makes it clear that fiduciaries do not

1 have blanket immunity from liability under the environmental laws.<sup>63</sup> The protection of the limita-  
2 tion of liability in section 25548.3 will not apply where (1) that liability results from the fiduciary's  
3 negligence or recklessness; (2) the fiduciary conducts a removal or remedial action without provid-  
4 ing proper notice to the appropriate agency; (3) the potential liability results from acts outside the  
5 scope of the fiduciary duties; (4) the fiduciary relationship is fraudulent in that its *raison d'être* is to  
6 avoid liability; or (5) the fiduciary is also a beneficiary, or benefits from acting as fiduciary, in a  
7 manner over and above that considered customary or reasonable for a fiduciary. see also: *United*  
8 *States v. Newmont USA Ltd.*, 504 F. Supp. 2d 1050, 1061–69 (E.D. Wash. 2007) (concluding,  
9 without actually adopting the “indicia of ownership” test in *Long Beach Unified Sch. Dist. v. Doro-*  
10 *thy B. Godwin Cal. Living Trust*, 32 F.3d 1364 (9<sup>th</sup> Cir. 1994), that the United States held sufficient  
11 indicia of ownership in an Indian reservation to be held an “owner” under CERCLA);

12 1. The defendant acquired title to the property subsequent to the disposal or placement of the haz-  
13 ardous substance.

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

15 3. The defendant “provides full cooperation, assistance, and facility access to the persons that are  
16 authorized to conduct response actions at the facility (including the cooperation and access neces-  
17 sary for the installation, integrity, operation, and maintenance of any complete or partial  
18 response action at the facility).”

19 4. The defendant “is in compliance with any land use restrictions established or relied on in con-  
20 nection with the response action at a facility.”

21 5. The defendant “does not impede the effectiveness or integrity of any institutional control em-  
22 ployed at the facility in connection with a response action.”

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

28 For purposes of evaluating the potential CERCLA liability of a trust beneficiary based on his or her

1 status as owner, the initial question is whether the equitable interest held by trust beneficiaries is  
2 sufficient to support liability.

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

12 In Tamposi, the Appeals Board rejected petitioner’s argument that a gift from a father to a real es-  
13 tate investment partnership, in which his children were the exclusive partners, should qualify  
14 for the inheritance or bequest defense. Citing Black’s Law Dictionary definitions for “inheritance,”  
15 “bequest,” and “devise,” the Appeals Board found that the text of CERCLA indicated that the in-  
16 heritance or bequest defense was inapplicable to inter vivos transfers, as the defense only applied to  
17 transfers occurring upon death of the prior owner. Since it is the sole authority on point and an  
18 analysis of CERCLA by an arm of the EPA itself, courts considering the issue in the future will  
19 likely find Tamposi highly persuasive and may defer to the agency’s interpretation. Thus, the best  
20 option for settlers wishing to protect beneficiaries from CERCLA liability during the lifetime of the  
21 settlor is to use testamentary trusts and devises in wills to transfer interests in impacted property.

22 They should then provide bequests to beneficiaries that may enjoy limited liability status due to the  
23 form of business (such as an LLC not comprised of beneficiary members). Combining these steps  
24 with thoughtful timing of sales or distributions to occur after cleanup, or in an otherwise protective  
25 manner, are also optional protective measures. However, there is currently no authority as to what  
26 structures will be effective. The most  
27 important fact for beneficiaries to keep in mind is that the estate, and therefore any property in  
28 trust, will always be fully liable if the settlor was personally liable. The question is how to avoid or

1 minimize the personal liability of the beneficiaries. This approach is entirely consistent with the  
2 settlor’s intent and legal status: the settlor owned the property, the settlor was personally liable, and  
3 the settlor intended to give the beneficiary what he possessed during his life. 129 Id.

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

10 Nevertheless, the presence of this language in Tamposi raises the possibility that some level of in-  
11 quiry, albeit a very low level, will be required of owners who take title by inheritance or bequest.  
12 Potential beneficiaries may be able to disclaim property placed in trust for their benefit. See, e.g.,  
13 CAL. PROB. CODE § 15309 (West 2002) (“A disclaimer or renunciation by a beneficiary of all or  
14 part of his or her interest under a trust shall not be considered a transfer under Section 15300 or  
15 15301.”). While an enticing theoretical solution, practically this is not a good option where the  
16 property value exceeds, or will exceed, the cost of remediation.

17 The California Code of Regulations addresses taxation rules for changes in ownership in title 18,  
18 section 462. Section 462.160 pertains to trusts. Subsection (a) of section 462.160 provides the  
19 general rule that transfer of real property interests into trusts, by the settlor or anyone else, is a  
20 change in ownership; subsection (b) provides instances excluded from this rule. Subsection (c)  
21 provides the general rule that termination of a trust or any portion of a trust, constitutes a change in  
22 ownership, and subsection (d) provides the exceptions to this second general rule. These rules for  
23 exclusions and exceptions—for example, those transfers of interests that do not constitute changes in  
24 ownership—are complex and are therefore presented in the Appendix in tabular form in an attempt  
25 to simplify comparisons. While untested in the courts, would-be settlers and/or beneficiaries may  
26 be able to use these rules as a guide for selecting trusts that will make CERCLA owner liability for  
27 the beneficiaries less likely, or at least delay such potential liability until such time as the property  
28 may be transferred with less or no risk. Given the foregoing, it appears that the best overall strategy

1 is to anticipate transfers in property, to attempt to structure such transfers to fall within the statutory  
2 defenses, and to preserve and pursue rights against other potentially responsible parties.

### 3 **CAMERA STELLATA**

4 EPA, DOJ, AIG, Bayer & AstraZeneca, successor to Stauffer Chemical, & Jardine Matheson  
5 Bayer CropScience is with annual sales of about EUR 6.5 billion one of the world's leading in-  
6 novative cropsience companies in the area of crop protection (Crop Protection), non agricul-  
7 tural pest-control (Environmental Science), seeds and plant biotechnology (BioScience).

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

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

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

15 The Group's interests include Jardine Pacific, Jardine Motors, Jardine Lloyd Thompson,  
16 Hongkong Land, Dairy Farm, Mandarin Oriental, Jardine Cycle & Carriage and Astra Interna-  
17 tional. These companies are leaders in the fields of engineering and construction, transport ser-  
18 vices, insurance broking, property investment and development, retailing, restaurants, luxury  
19 hotels, motor vehicles and related activities, financial services, heavy equipment, mining and  
20 agribusiness. The Group also has a minority investment in Rothschilds Continuation, the mer-  
21 chant banking house.

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

### 25 **CURIA REGIS OF THE ARMANSHIRE**

26 The Act of 1487 (3 Hen. VII.) created a court composed of seven persons, the Chancellor, the  
27 Treasurer, the Keeper of the Privy Seal, or any two of them, with a bishop, a temporal lord and  
28 the two chief justices, or in their absence two other justices. It was to deal with cases of "unlaw-

1 ful maintainance, giving of licences, signs and tokens, great riots, unlawful assemblies"; in  
2 short with all offences against the law which were too serious to be dealt with by the ordinary  
3 courts. The jurisdiction thus entrusted to this committee of the council was not supplementary,  
4 therefore, like that granted in 1453, but it superseded the ordinary courts of law in cases where  
5 these were too weak to act. The act simply supplied machinery for the exercise, under special  
6 circumstances, of that extraordinary penal jurisdiction which the council had never ceased to  
7 possess. By an act of 1529 an eighth member, the President of the Council, was added to the  
8 Star Chamber, the jurisdiction of which was at the same time confirmed. At this time the court  
9 performed a very necessary and valuable work in punishing powerful offenders who could not  
10 be reached by the ordinary courts of law. It was found very useful by Cardinal Wolsey, and a  
11 little later Sir Thomas Smith says its object was "to bridle such stout noblemen or gentlemen  
12 who would offer wrong by force to any manner of men, and cannot be content to demand or  
13 defend the right by order of the law."

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

18 At the opening of the United States Circuit Court in Boston on May 16, Judge SPRAGUE de-  
19 livered a charge to the Grand Jury, in which he defined the state of our laws with reference to  
20 the crime of piracy. After citing provisions from the laws of 1790, 1820, 1825, 1846 and 1847,  
21 as to what constitutes the general crime, with the different degrees of penalty, the Judge re-  
22 marks that these enactments were founded upon the clause in the Constitution which gives  
23 Congress the power to define and punish piracy. But the constitutional power to regulate com-  
24 merce also affords a basis for additional penal enactments, covering all possible aggressions  
25 and depredations upon our commerce. The Judge then lays down the following important prin-  
26 ciples, the bearing of which will be sufficiently evident in the present crisis:

27 "These statutes being enacted pursuant to the Constitution are of paramount authority, and can-  
28 not be invalidated or impaired by the action of any State or States, and every law, ordinance

1 and constitution made by them for that purpose, whatever its name or form, is wholly nugatory  
2 and can afford no legal protection to those who may act under it. But suppose that a number of  
3 States undertake by resolution to throw off the Government of the United States and erect  
4 themselves into an independent nation, and assume in that character to issue commissions au-  
5 thorizing the capture of vessels of the United States, will such commissions afford protection to  
6 those acting under them against the penal laws of the United States? Cases have heretofore  
7 arisen where a portion of a foreign empire -- a colony -- has undertaken to throw off the domin-  
8 ion of the mother country, and assumed the attitude and claimed the rights of an independent  
9 nation, and in such cases it has been held that the relation which the United States should hold  
10 to those who thus attempt and claim to institute a new Government, is a political rather than a  
11 legal question; that, if those departments of our Government which have a right to give the law,  
12 and which regulate our foreign intercourse and determine the relation in which we shall stand  
13 to other nations, recognize such new and self-constituted Government as having the rights of a  
14 belligerent in a war between them and their former rulers, and the United States hold a neutral  
15 position in such war, then the judiciary, following the other departments, will to the same ex-  
16 tent recognize the new nation.

17 **REMEDY DEMANDED**

18 **CONDEMNATION OF THE CHAPPIE-SHASTA OHVA, ADVERSE CLAIMS**

19 Executive Order 11988 requires federal agencies to avoid to the extent possible the long and  
20 short-term adverse impacts associated with the occupancy and modification of flood plains and  
21 to avoid direct and indirect support of floodplain development wherever there is a practicable  
22 alternative. In accomplishing this objective, "each agency shall provide leadership and shall  
23 take action to reduce the risk of flood loss, to minimize the impact of floods on human safety,  
24 health, and welfare, and to restore and preserve the natural and beneficial values served by  
25 flood plains in carrying out its responsibilities" for the following actions:  
26 acquiring, managing, and disposing of federal lands and facilities;  
27 providing federally-undertaken, financed, or assisted construction and improvements;

1 conducting federal activities and programs affecting land use, including but not limited to water  
2 and related land resources planning, regulation, and licensing activities.

3 **STRIKE THE CONSENT DECREE, VOID AND VACATE, REMISSION, REVERSION,**  
4 **DETINUE SUR BAILMENT. JURY TRIAL FOR CRIMES AGAINST HUMANITY,**  
5 **TREASONOUS ESTABLISHMENT OF PIRACY, RELIGION AND SLAVERY.**

6 All premises having been duly considered, Relator now moves this honorable Court, on behalf of  
7 the United States of America State of California as private attorneys general:

8 **QUANTUM DAMNIFICATUS QUARE IMPEDIT**

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

13 "I believe that banking institutions are more dangerous to our liberties than standing armies.  
14 Already they have raised up a moneyed aristocracy that has set the government at defiance. The  
15 issuing power should be taken from the banks and restored to the people, to whom it properly be-  
16 longs." – Thomas Jefferson

17 "History records that the money changers have used every form of abuse, intrigue, deceit, and vio-  
18 lent means possible to maintain their control over governments by controlling money and its issu-  
19 ance." - James Madison

20 Congress has the right to make any law that is ‘necessary and proper’ for the execution of its enu-  
21 merated powers (Art. I, Sec. 8, Cl. 18). Signature: \_\_\_\_\_

22 /s/ John F. Hutchens, parens patriae Tenant in-Chief, Warden of the Arboretum, Gales & Stannaries

23 I, John F. Hutchens, hereby state that the same is true of my own knowledge, except as to matters  
24 which are herein stated on my own information or belief, and as to those matters,

25 I believe them to be true.

26 Date: June 3, 2010 Signature: \_\_\_\_\_

27 Verified affidavit: /s/ John F. Hutchens, Mormaer of the Armanshire, Minister of Natural Resources  
28 Grantees Agent for Mr. T.W. Arman, Confidential Secretary, & Deputy Levying Officer of Record.