

1 John F. Hutchens Pro Se; private Warden of the Forest  
2 P.O. Box 182  
3 Canyon, Ca. 94516  
4 925-878-9167

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8 UNITED STATES COURT OF APPEALS  
9 NINTH CIRCUIT

10 TWO MINERS & 8000 ACRES OF LAND  
11 (T.W. ARMAN and IRON MOUNTAIN  
12 MINES, INC. et al)  
13 and on behalf of all others similarly situated  
14 under GOD

15 Defendants

16 v.

17 UNITED STATES OF AMERICA et al

18 Plaintiffs

19 TWO MINERS & 8000 ACRES OF LAND  
20 (T.W. ARMAN and IRON MOUNTAIN  
21 MINES, INC. et al)  
22 and on behalf of all others similarly situated  
23 under GOD

24 Defendants

25 v.

26 (STATE OF CALIFORNIA, On behalf of the  
27 California Department of Toxic Substances  
28 Control and the California Regional Water  
Quality Control Board for the Central Valley  
Region)

Plaintiffs

Civil No. S-91-0768 JFM/JAM

PETITION FOR EMERGENCY REVIEW  
CIRCUIT RULE 27-3 RULE 15

Seymour, 554 F.Supp. at 1340 (urgency of abat-  
ing danger to public must be considered).

PETITION FOR REDRESS OF GREIVENCES

INTERVENTION AND RCRA CITIZEN SUIT,

BREACH OF TITLE BY PATENT DEEDS,

BREACH OF GENERAL MINING LAW,

TRESPASS, DETINUE SUR BAILMENT,

INVERSE CONDEMNATION, DECLARATION OF

ERRORS of IMPUNITY & MISCARRIAGE of JUSTICE

PETITION TO REOPEN CASE, PETITION

FOR JOINDER, PETITION FOR INJUNCTIVE

AND MISCELLANEOUS RELIEF

CAL. PUBLIC RESOURCE CODE 3940-3950

Date:                      Time:                      Courtroom No.  
Hon.

1 **CIRCUIT RULE 27-3 CERTIFICATE**

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3 i. **Telephone Numbers and Addresses of Parties and Attorneys for Parties**

- 4 1. John F. Hutchens, Pro Se: private citizen, miner, joint venturer, landscape  
5 and general building contractor, and private Warden of the Forest at the will and  
6 pleasure of T.W. Arman, Principal and Chairman, President, and CEO of Iron  
7 Mountain Mines, Inc. P.O. Box 182, Canyon Ca. 94516 ph. 925-878-9167  
8 2. T.W. (Ted) Arman, Pro Se: private citizen, miner, joint venturer, Principal  
9 and Chairman, President, and CEO of Iron Mountain Mines, Inc. (sole stock-  
10 holder, no parent corporation) 530-275-4550  
11 3. Sara J. Russell, Deputy Attorney General, California; Phone: **916-324-6058**  
12 4. Edmund G. Brown, Attorney General of the State of California, 455 Golden  
13 Gate Ave., Suite 11000, San Francisco, CA 94102-7004, Phone: (415) 703-5506  
14 5. Margarita Padilla, Deputy Attorney General, 1515 Clay St.  
15 P.O. Box 70550 Oakland, Ca. 94612  
16 6. Michael B. Mukasey, Attorney General of the United States  
17 U.S. Dept. of Justice, 950 Pennsylvania Ave. NW  
18 Washington DC 20530  
19 7. Larry Martin Corcoran, U.S. Department of Justice Counsel  
20 P.O 7611 Washington, DC 20044-7611  
21 8. John Lyons; Assistant Regional Counsel, U.S. EPA  
22 75 Hawthorne Street, San Francisco, Ca. 94105

23 ii. **Facts showing existence and nature of the claimed emergency**

24 The real parties in interest, T.W. Arman and John F. Hutchens, two miners in a  
25 joint venture to re-mine mining wastes at Iron Mountain Mines, Inc. (EPA Super-  
26 fund site), have found the characterization of the treatment wastes from the EPA  
27 lime treatment plant to have been misrepresented by the EPA, and that rather than  
28 being the non-hazardous waste as it is represented by the EPA, it is in fact an acutely  
toxic hazardous waste requiring special care and handling, care and handling that it  
does not receive from the EPA.

It has further been shown that the EPA and other government agencies have per-  
petrated a fraud upon the court to conceal ulterior government motives for their ac-  
tions, actions that have cost over \$250 million in unnecessary costs so far and gener-  
ated over 1 billion lbs. of acutely toxic hazardous waste sludge that has been unlaw-  
fully disposed upon the Iron Mountain Mines, Inc. properties.

It has also been shown that the EPA and other government agencies actions have  
been contrary to the constitutional rights of the real parties in interest, and contrary

1 to the public interest and public benefit. These actions have resulted in negligent en-  
2 dangerment to these real parties in interest, their private property, the general public,  
3 and the environment.

4 The real parties in interest also believe that a fundamental violation of General Min-  
5 ing Law and Title by Patent Deeds has been perpetrated by agents and agencies of  
6 the governments with malice and by fraud upon the court under color of law.

7 Proper notice was given to the EPA, the DOJ, the Cal. DOJ, and Cal. EPA of a citi-  
8 zen suit and intervention. On December 17, 2008, a status conference was held in  
9 Dept. 6, Eastern District Court, Honorable Judge John A. Mendez presiding.

10 After a brief enquiry with the former counsel for Defendants, and enquiry of T.W.  
11 Arman to verify his intention to represent himself as required in any further proceed-  
12 ings, the Court ordered that the petition for intervention and citizen suit with  
13 counter-claims be stricken, and the proceedings were concluded.

14 The real parties in interest believe the Court erred in striking the pleadings and be-  
15 lieve that the urgency of these matters deserve a hearing and answers before the  
16 Court.

17 Since the counter-claims includes allegations of abuse of discretion and constitu-  
18 tional questions with claims of fundamental injustice from errors of impunity and  
19 miscarriage of justice, and the real parties in interest have a general distrust of ob-  
20 taining fair treatment in the Court that allowed these injustices to happen, a distrust  
21 that was reinforced at the recent status conference, so these real parties in interest re-  
22 quest the Appeals Court for judicial review and injunctive relief.

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iii. **When and how counsel for the other parties were notified and whether  
they have been served with the petition; or, if not notified and served,  
why that was not done.**

This petition was mailed or emailed to opposing counsel on Dec 24, 2008.

iv. **If the relief sought in the motion was available in the district court, the  
motion shall state whether all grounds advanced in support thereof in  
this court were submitted to the district court, and, if not, why the motion  
should not be remanded or denied.**



1 **CERTIFICATE OF SERVICE**

2 I hereby certify that, on December 24, 2008, I caused copies of the following document:

3 PETITION FOR EMERGENCY REVIEW

4 Seymour, 554 F.Supp. at 1340 (urgency of abating danger to public must be considered).

5 PETITION FOR REDRESS OF GREIVENCES, INTERVENTION AND RCRA CITIZEN  
6 SUIT, BREACH OF TITLE BY PATENT DEEDS, BREACH OF GENERAL MINING LAW,  
7 TRESPASS, DETINUE SUR BAILMENT, INVERSE CONDEMNATION, DECLARATION OF  
8 ERRORS of IMPUNITY & MISCARRIAGE of JUSTICE, PETITION TO REOPEN CASE, PETITION  
FOR JOINDER, PETITION FOR INJUNCTIVE AND MISCELLANEOUS RELIEF  
CAL. PUBLIC RESOURCE CODE 3940-3950

9 to be served by first class mail, postage prepaid, upon the following Plaintiff's parties.

10 For the State of California

11 Attorney General Edmund G. Brown Jr. California Department of Justice  
12 944255 Sacramento, CA 94244-2550

13 For the United States of America

14 Attorney General Michael B. Mukasey, U.S. Department of Justice, 950 Pennsylvania Avenue,  
15 NW, Washington, DC 20530-0001

16 By electronic transmission (email)

17 Sara J. Russell, Supervising Deputy Attorney General, P.O. Box 944255  
18 Sacramento, California 94244-2550

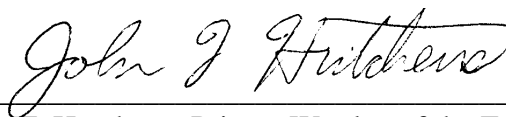
19 Margarita Padilla, Deputy Attorney General, 1515 Clay Street, P.O. Box 70550  
20 Oakland, California 94612

21 Larry Martin Corcoran, U.S. Department of Justice Counsel, P.O. 7611  
22 WASHINGTON, DC 20044-7611

23 John Lyons, Esq., Assistant Regional Counsel, U.S. Environmental Protection Agency  
24 75 Hawthorne Street, San Francisco, California 94105

25 to be served by first class mail, postage prepaid, upon the following Defendant parties:

26 T.W. Arman, President,  
Iron Mountain Mines, Inc.  
P.O. Box 992867, Redding, Ca. 96099



27 Dec. 24, 2008

28 John F. Hutchens, Private Warden of the Forest  
P.O. Box 182,  
Canyon, Ca. 94516