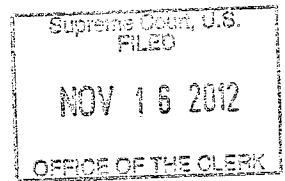


No. 12-289



IN THE SUPREME COURT OF THE UNITED
STATES

THE NEW 49'ERS, INC., *ET AL.*
Petitioners,

v.

KARUK TRIBE OF CALIFORNIA,
Respondent.

On Petition for Writ of *Certiorari* to The United
States Court of Appeals for the Ninth Circuit

PETITIONERS' REPLY TO BRIEF IN
OPPOSITION

Paul M. Murphy
(Counsel of Record)
James L. Buchal
Murphy & Buchal LLP
3425 S.E. Yamhill Street,
Suite 100
Portland, OR 97214
Phone: 503-227-1011
Counsel for Petitioners

November 16, 2012

TABLE OF CONTENTS

Argument	1
Conclusion	2

Argument

Petitioners write very briefly to make but two points. First, the Forest Service is entirely wrong in its repeated suggestions that the ruling below “will have little practical effect”. (Response at 14-15.) The Forest Service argues that there is already a moratorium in California on suction dredge mining. However, in Oregon, environmentalists have already filed a new action against the Forest Service, based on the ruling below, to shut down all suction dredge mining. *Klamath-Siskiyou Wildlands Center et al. v. MacWhorter et al.*, No. 1:12-cv-01800-PA (D. Oregon filed October 22, 2012). Pursuant to Rule 32.3, we have asked the Clerk for leave to lodge a copy of this complaint with the Court.

More importantly, the Ninth Circuit’s jurisdiction covers most of the important mining states in the Nation, and the ruling extends to notices of intent for any type of mining. As a practical matter, the ruling seriously threatens mineral exploration and development throughout the Nation, beyond merely putting one class of miners out of business.

As to the “serious question of justiciability lurking in this case” (Response at 15), it is not “lurking” at all. It is in plain sight. The California moratorium now being permanent, the case can and should be summarily reversed as moot.

Conclusion

For the foregoing reasons, and the reasons stated in the Petition itself, the Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

Paul M. Murphy
(Counsel of Record)
James L. Buchal
Murphy & Buchal LLP
3425 S.E. Yamhill Street,
Suite 100
Portland, OR 97214
Phone: 503-227-1011
Counsel for Petitioners

November 16, 2012.