

Orland Sand & Gravel

Information Release

December 17, 2004

As government has become more and more mismanaged, funding for state and county agencies has become more and more sparse. Some government agencies are now staying afloat by virtue of sending their government agents into business facilities to find 'compliance violations' as a means of assessing greatly increased fines. OSHA comes to mind, but in many ways, regulatory agencies have all began to feel the 'pinch' of funding shortfalls.

In the 1930's, the Chicago Mob levied 'fees' upon business to 'protect' the business from vandalism and similar losses. If a business failed to pay the mob, guess what... the business was vandalized and much of their inventory destroyed or stolen. Therefore, if you wanted to stay in business on a street owned and controlled by the mob, you paid whatever the mob required. It was simply the cost of doing business, and most business owners paid without question. In reality, this criminal activity was just a means of extracting wealth (money) from the local population. When the mob extorted money from the businessman, then the businessman just raised the price of his products and service to cover the increased cost. In the end it was the public who paid for the corruption.

The current attack on Orland Sand & Gravel began when we started removing some vegetation that had cropped up over the years

in an area of our property that our operations again needed to use. Fish & Game officials arrived to inform us that we could not continue. When asked to produce the authority or law preventing our use of the property, they left and we continued. This rejection of 'their authority' led to a phenomena that we refer to as the 'wolf-pack attack'. It appears then when one government agency is denied its demands, and they have no authority to enforce the demand, they call in other governmental agencies with regulatory authority. Thus far, regulatory issues have been placed before us by agencies listed here:

- Fish & Game
- Department of Conservation
- Glenn County Planning Commission
- Department of Water Resources

The problem lies in proving the conspiracy. Logic would suggest with considerable certainty that a conspiracy exists, but we really do not see a way to clearly prove it. So these government agencies sling a ton of regulatory mud on the wall and we are saddled with the task of attempting to clean it up.

In July, Orland Sand And Gravel was threatened with fines, amounting to a possible \$5,000.00 per day, for violations of the Surface Mining And Reclamation Act. This has the appearance of legitimate action on behalf of the government, simply because it is our perception that government is our champion. It is here to

protect our health and safety. Normally we would not think that government is operating to enrich and perpetuate itself. We would not think that some members of staff in local regulatory agencies are operating to take in additional money in an effort to protect and maintain their jobs. No, normally we would not think that. But in recent years there has been a pattern of government behavior that has altered the perception of government held by many. Today, we are seeing a much different government. We now see many local governments charging us fees when the fire department is called, or when the police are called. Services, that at one time were traditional functions of government, are now something for which the government can charge its citizens. Make us wonder why we are paying taxes.

Like all businesses, when government assesses a fine on us, we don't pay it, YOU DO! When government levies additional fees or fines upon us, like all businesses we increase the price of our products and/or services. And even if you do not directly buy gravel or cement from us, you still pay. For example, should we provide the cement for a 'gas station / mini-mart', then when you make a purchase there, you are paying for the levies or fines that government has imposed upon us. You pay for it because those levies went into the price of the cement we delivered for the parking area and for which the 'gas station' owner paid. Now he has to recover his money, just as we did. And it is you from which the money recovery is made. Money that goes to the same government that has been taxing you at every opportunity. Pretty good scam is it not?

But government faces a problem, it is public scrutiny. As long as the public remains unknowing or uneducated, government can

pretty much do what it likes. Government has also painted itself into a corner that has gone mostly unnoticed by the public. It has gone unnoticed primarily because we don't see it, or we don't fully understand it. The problem that government has created for itself is changing its status, from an institution of our Representative Republic, to that of a corporation. Understanding this corporate status problem may require a little review.

Our country, the united States of America, was set up as a 'Representative Republic.' In such a government the sovereign power is held by the people and the government institutions simply administer the power held by the people. The Constitution for our country mandates that government provide a '*Republican Form of Government*' in the States without exception. The constitution does not give government any latitude or discretion in this matter. They must provide it, period.

Without getting into it too deeply, the federal government became a corporation in 1871. The '*Buck Act*' paved the way for the states to become corporations, under the laws of the federal government, making corporate States subject to the jurisdiction of the federal government. The republic still exists, but is mostly ignored by corporate government. This change to corporate status gave law makers a dual character. In one capacity they may make law for the republic, and in the other capacity, they may make law for the corporation. Of course, corporate law almost never meets constitutional muster. That is, corporate law does not meet constitutional limitations and requirements. Corporations can make just about any law they wish. And it is in this power and capacity that corporate government has been able to fleece the American people so effectively.

Herein lies the problem for the American people. The first and most overriding goal of a corporation is to acquire as much wealth as possible. Corporate government agencies would bill themselves as representing *the public interest*, but the truth is that states, counties and cities are corporations, representing their own selfish corporate interests. And while Orland Sand & Gravel is also a corporation, our selfish interest is to make a profit in a competitive market, not as a municipal corporate monopoly who finds that raising additional revenue is as simple as increasing fees and penalties on legitimate business, thus obtaining a back door to extract more wealth and money from the American people. Municipal corporations, posing as government, make any law they wish without any constitutional restrictions, limitations or requirements. As such, corporate government comes into this arena with un-clean hands. The fact that corporate government has unclean hands is clearly recognized in the *Clearfield Doctrine*.

"Governments are corporations." Clearly put forth in **Penhallow v. Doane** 3 Dall 55; and **Clearfield Trust Co. v. U.S.** (1943) 318 US 363. Briefly revisiting *Clearfield Trust Co. v. United States*, the U.S. Supreme Court stated; "Governments descend to the level of a mere private corporation and takes on the character of a mere private citizen (where private corporate commercial paper (& securities) are concerned)". . . . "For purposes of suit, such corporations and individuals are regarded as an entity ENTIRELY separate from government" -

As can be seen, the Supreme Court has determined that these municipal corporations are regarded as an 'ENTITY' entirely separate

from government. Additionally, we see that these municipal corporations descend to the level of a private corporation and take on the character of a mere private citizen where private corporate commercial paper is concerned. "Private corporate commercial paper" are Federal Reserve Notes, what we normally call money. "Securities" are checks or similar financial instrument. Thus, by virtue of abandoning "lawful money in the account of these united States", that is gold and silver, the Supreme Court has determined that corporate government loses its sovereignty administration status and that was clearly set forth when the court stated that these corporations are to be regarded as "*an ENTITY entirely separate from government.*"

Let's stop our technical presentation for a moment and think about what it means when the Supreme Court states that government takes on the character of a "mere private citizen." As a private citizen can I compel you to put up a fence? No, of course not. To compel you to this action I would need a contract with you in order to compel you to such an action. This is what is meant by the Supreme Court. That corporate government, in order to compel you to some action, must be the holder of a contract with you.

Thus, these municipal corporations become bound by the laws governing commerce. In layman's terms this means is that if the corporation known as the STATE OF CALIFORNIA through its corporate agent, known as the COUNTY OF GLENN, is going to compel a specific performance based upon its corporate statutes, then this municipal corporation must be the '*holder in due course*' of a contract or other commercial agreement, properly signed and meeting the six requirements of a valid contract. Furthermore,

they must be willing to enter this contract or commercial agreement into evidence in court in order to enforce their demands in court. The same that would be required for a '*mere private person.*'

At this juncture it is probably prudent that the reader know the six elements of a lawful contract. Lawful contracts consist of these six elements:

1. Offer by a person qualified to make the contract.
2. Acceptance by party qualified to make and accept the contract.
3. Bargain or agreement and full disclosure and complete understanding by both parties.
4. Consideration given. (Conscionable: That is a contract that an individual of sound mind would make)
5. Must have the element of time to make the contract lawful.
6. Both parties must be sui juris; that is, of lawful age, usually 21 years old.

**Contracts*, by John Calamari and Joseph Perillo,
West Publishing Company, St. Paul,
Minnesota 55102

As can be seen, most contracts claimed by corporate government do not meet the standards needed to make them valid and lawful.

All of this hullabaloo, that is 'loud confused noise', because corporate government wants us to provide a new 'reclamation plan', i.e. contract. We have refused to enter into a new contract with them, and so, like the Mob's of the 1930's, they are making an attempt to 'vandalize' us through the imposition of fines.

Under the law of the Republic, there must be an 'injured party' when action is taken by government. Who has been injured? Can you see an injury to anyone? Can you see any reason for the implementation of fines or penalties that you will ultimately pay?

For those who may not be certain what is meant by 'reclamation plan', it is simply this. It is a plan with funding assurances that provides for the reclaiming of the property (land) should the Orland Sand & Gravel corporation one day disappear or its owner, D. R. Bogart, die or disappear. It is a plan that would return the property to its former state. The financial assurances are monies deposited by Orland Sand & Gravel, and taken from you, that would provide the necessary funding to accomplish the 'reclamation' of the land. While we have already done this, the corporate government now wants a new plan with additional financial assurances.

In this, we are evidently supposed to believe, that if Orland Sand & Gravel owner, D. R. Bogart, should drop dead, that his heirs would not assume responsibility of the corporation and property and either operate it, or sell it. In which case there is no cause for any government involvement. Unfortunately, this action, like so many actions predicated by corporate government, has no basis or true cause for the action.

Ladies and gentlemen, Orland Sand & Gravel has been at this same location since 1933. We annually harvest some gravel from Stony Creek for our small operation. Each winter, during the high flows, the creek repairs itself and distributes a whole new strata of gravel deposits down its length. During the 71 year history of Orland Sand & Gravel, we have no knowledge of this operation ever causing any

harm to the environment or our community. We should keep in mind that the flows in Stony Creek are artificial due to the man made dam up stream and the releases from the upstream reservoir.

While we are fully aware of the resources we are facing in the powers contained in corporate State and County governments, we have decided to take an honorable stand, not only for ourselves, but for our neighbors and fellow citizens as well. What we are doing affects all of us. It especially affects every business owner who must deal with the municipal corporate alphabet agencies that regulate business, often to the point of putting the business owner OUT OF BUSINESS.

Orland Sand & Gravel recognizes that within government there are many honorable Americans who act to protect freedom and prevent harm to legitimate business and neighbors, and we applaud each and everyone of you who work behind the scenes on behalf of all Americans. Unfortunately there is another segment within government that operates and behaves very dishonorably. We at Orland Sand & Gravel know and understand the proper function of local government. What we do not know is exactly how far certain individuals in corporate government will go to ignore or set aside the foundations clearly put forth in the Clearfield Doctrine.

A municipal corporate government agency accuses us of violations and then schedule's a public hearing in which a municipal corporate board or commission will review the staff report and hear testimony from municipal corporate government staff employees and others. At which conclusion, they will make a determination of fines and penalties. And if we refuse to pay, then we will be hauled into a

municipal corporate government court in which the municipal corporate government agencies will make their case against us. Criminal behavior is criminal behavior, whether committed by the Chicago Mob, or by corporate government acting under the guise of representing the "*public interest*".

As matters now stand there are two positive unknowns on the horizon. The first unknown is the honor of public officials who will sit in judgement of our actions. Will they just rubber stamp the assertions of public officials working in regulatory agencies, or will they will take the time to review the documentation and letters we have put forth in this matter.

The second unknown will be the reaction of the public once they fully understand what has transpired. Most certainly, government officials will feel more empowered to act on behalf of the true public interest, if there is public interest. As stated earlier, this is a matter that affects us all and there will probably not be a lot of opportunities to address it. This event provides a rare opportunity to truly see a problem for what it is and give us all an opportunity to become pro-active rather than just complain later when prices go up. To those of you who do become pro-active on our behalf, we appreciate your support and say thank you.

You may view this information release, in Adobe Acrobat format, at:

<http://osg8.tripod.com/ir01.pdf>

At the moment we are in the process of constructing a web page that will soon be viewable at:

<http://osg8.tripod.com/>

But until that web page is developed, the file is available using the first link above.