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Kaitlin N. Vigars

Boston College Law School, kaitlin.vigars@bc.edu

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BURIED BENEATH THE LEGISLATION IT GAVE RISE TO: THE SIGNIFICANCE OF *WOODRUFF v. NORTH BLOOMFIELD GRAVEL MINING CO.*

KAITLIN N. VIGARS*

Abstract: In the mid 1800's, the California gold rush ushered in a new era of industry to the farming communities of the Sacramento Valley. This influx of people, capital, and technological innovation also brought with it significant pollution that nearly destroyed the agricultural value of the region. After decades of being inundated with debris cast off by the gold mining encampments operating upstream, local landowner Edward Woodruff brought suit seeking to enjoin the mining companies from discarding their debris into the area's waterways. The decision that followed brought gold mining in the region to a halt and set the stage for the federal government to enter the field of environmental regulation. Though *Woodruff v. North Bloomfield Gravel Mining Co.* has largely been ignored, it marks a significant step toward the regime of environmental regulation that we know today.

INTRODUCTION

Approximately forty miles north of Sacramento, in the western foothills of the Sierra Nevada Mountains, lies the small city of Marysville, California.¹ Marysville is a little more than three square miles in size and is bordered by the Feather and Yuba Rivers.² This small city played a significant role in the California Gold Rush and earned the nickname "Gateway to the Gold Fields."³ When it was incorporated in 1851, Marysville was a tent city that served as a stopping-off point for settlers hoping to find wealth in Cali-

* Staff Writer, BOSTON COLLEGE ENVIRONMENTAL AFFAIRS LAW REVIEW, 2015–2016.

¹ CITY OF MARYSVILLE, <http://www.marysville.ca.us> [<https://perma.cc/VC4Y-8LZW>].

² *Id.*; *QuickFacts: Marysville City, California*, U.S. CENSUS BUREAU, <http://www.census.gov/quickfacts/table/PST045215/0646170,00> [<http://perma.cc/QT3D-VCZK>].

³ *Welcome to Yuba-Sutter Visitors Center*, YUBA-SUTTER CHAMBER OF COMMERCE, <http://www.visitubasutter.com> [<http://perma.cc/HJ2C-23JX>]. Unlike San Francisco, Marysville was a river port, and the city's position on the Feather River made it easy to ship supplies and a labor force to the city via the Feather River. See ANDREW C. ISENBERG, *MINING CALIFORNIA: AN ECOLOGICAL HISTORY* 55–56 (2005); RODMAN W. PAUL, *CALIFORNIA GOLD* 71 (1947); *Marysville History*, CITY OF MARYSVILLE, <http://www.marysville.ca.us/index.php/city-council/marysville-golden-history> [<http://perma.cc/5UAV-MGJA>].

foria's gold fields.⁴ From that tent city quickly evolved a booming metropolis of nearly 10,000 residents⁵ that Mark Twain once called "the most well built city in California."⁶ Marysville played an integral role in the gold trade;⁷ in 1857 alone, ten million dollars' worth of gold was shipped from the city via steamboat to the U.S. mint in San Francisco.⁸

During the gold rush period in California, mining operations evolved from excavating gold by hand—a process known as placer mining—to more powerful hydraulic mining.⁹ The process of hydraulic mining was chiefly used in California's Sierra Nevada Mountains and involved shooting water through a hose under tremendous pressure to blast away layers of rock and gravel in order to access the gold deposits deep within the mountain range.¹⁰ Water containing the discarded debris was then washed down the mountain via a system of sluices where it eventually settled into bodies of water downstream.¹¹ Over time, technological advances in mining equipment allowed mining companies to develop larger, more powerful guns capable of dislodging significant quantities of rock, debris, and sediment.¹²

⁴ See ISENBERG, *supra* note 3, at 55–56; PAUL, *supra* note 3, at 71; *Marysville History*, *supra* note 3.

⁵ See *Marysville History*, *supra* note 3. At the time, Marysville was one of the main urban centers in California. See ISENBERG, *supra* note 3, at 55; PAUL, *supra* note 3, at 74.

⁶ *Welcome to Yuba-Sutter Visitors Center*, *supra* note 3.

⁷ See ISENBERG, *supra* note 3, at 55; PAUL, *supra* note 3, at 74.

⁸ *Marysville History*, *supra* note 3. From 1853 to 1884, it is estimated that hydraulic mining produced between ten and fifteen billion dollars' worth of gold annually. See POWELL GREENLAND, HYDRAULIC MINING IN CALIFORNIA: A TARNISHED LEGACY 262 (2001).

⁹ ISENBERG, *supra* note 3, at 24; Ronald H. Limbaugh, *Making Old Tools Work Better: Pragmatic Adaptation and Innovation in Gold-Rush Technology*, 77 CAL. HIST. 24, 29, 33 (1998–1999). The technological advances were necessitated by the fact that the early period of placer mining had removed most of the easily accessible gold and hydraulic mining emerged as a way to reach more difficult tracts of the valuable mineral; this new process made it so that one miner could do the work of six or seven. See GROVE KARL GILBERT, DEP'T OF THE INTERIOR, HYDRAULIC MINING DEBRIS IN THE SIERRA NEVADA 11 (1917), <http://pubs.usgs.gov/pp/0105/report.pdf> [perma.cc/NTE5-CGP2]; ISENBERG, *supra* note 3, at 37; Limbaugh, *supra*, at 33; Marilyn Ziebarth, *California's First Environmental Battle*, 63 CAL. HIST. 274, 274 (1984).

¹⁰ See ISENBERG, *supra* note 3, at 26–27; Limbaugh, *supra* note 9, at 33; Don Baumgart, *Farms, Gold Do Not Mix: Hydraulic Mines Caused Havoc Down the River in Marysville, Yuba Sutter*, APPEAL-DEMOCRAT (July 1, 2000, 12:00 AM), http://www.appeal-democrat.com/published-november/article_217d8563-395b-5f69-bc83-d687b416cb21.html [perma.cc/X8JJ-5JFD].

¹¹ ISENBERG, *supra* note 3, at 41–42; Limbaugh, *supra* note 9, at 33–34. Sluices are troughs made of wood placed on trestles and arranged on a sloping gradient down the mountain. See ISENBERG, *supra* note 3, at 41–42; Limbaugh, *supra* note 9, at 34. These three-sided boxes allowed for miners to collect gold that was washed away with the mining debris. See GREENLAND, *supra* note 8, at 20–22, 135; ISENBERG, *supra* note 3, at 41–42; Limbaugh, *supra* note 9, at 33–34.

¹² See *Woodruff v. N. Bloomfield Gravel Mining Co.*, 18 F. 753, 756 (C.C.D. Cal. 1884); GILBERT, *supra* note 9, at 11; Limbaugh, *supra* note 9, at 33–34.

These technological advances came at a cost.¹³ The mining operations around Marysville caused the surrounding rivers to become so clogged with debris that they were no longer useful for agricultural or commercial purposes.¹⁴ Additionally, the debris-choked rivers caused frequent flooding and left the surrounding farmland covered in a sediment known as “slickens.”¹⁵ The discarded debris, made up of sand, gravel, and amalgamating chemicals such as mercury, posed a great threat to the livelihood and safety of the people of Marysville by way of the increased flooding that it caused.¹⁶ As the riverbeds rose, the town and its inhabitants responded by building levees to hold back the floodwaters filled with mining debris and formed the Anti-Debris Association in an attempt to deal with the mining detritus.¹⁷ After more than three decades of suffocating beneath the cast-off mining debris, Edward Woodruff, a property owner who owned parcels of land on either side of the Yuba River, sought help from the Federal Circuit Court for the District of California and requested that the mining companies at work in

¹³ ISENBERG, *supra* note 3, at 25; Limbaugh, *supra* note 9, at 34–35. Estimates differ as to how much earth was removed via the hydraulic mining process, but sources speculate that it was somewhere between 885 million and 1.295 billion cubic yards. GREENLAND, *supra* note 8, at 256; ISENBERG, *supra* note 3, at 43; Baumgart, *supra* note 10. *See generally* David Beesley, *The Opening of the Sierra Nevada and the Beginning of Conservation in California 1827–1900*, 74 CAL. HIST. 322 (1996–1997) (linking mining to issues with deforestation and explaining the impact of mining on the deer and grizzly bear population); Limbaugh, *supra* note 9 (discussing the use of mercury in mining); Sarah Strode et al., *Impact of Mercury Emissions from Historic Gold and Silver Mining: Global Modeling*, 43 ATMOSPHERIC ENV'T 2012, 2012, 2016–17 (2009), http://www.atmos.washington.edu/~jaegle/group/Publications_files/Atmos%20Environ%202009%20Str ode.pdf [perma.cc/V9EA-DP9F] (discussing the use of mercury in mining and the present day impact of residual mercury).

¹⁴ *See Woodruff*, 18 F. at 763, 765; GREENLAND, *supra* note 8, at 248; Samuel Knight, *Federal Control of Hydraulic Mining*, 7 YALE L.J. 385, 386 (1898).

¹⁵ ISENBERG, *supra* note 3, at 45; GREENLAND, *supra* note 8, at 331; Beesley, *supra* note 13, at 327; Limbaugh, *supra* note 9, at 35. Slickens was the term the Central Valley farmers used to describe the watery mixture of sand, gravel, and other mining waste that flowed downstream through the rivers into the Central Valley and covered the farmland, rendering it infertile. ISENBERG, *supra* note 3, at 45; Ziebarth, *supra* note 9, at 276. One of the most poignant examples of this destruction is outlined in *Woodruff*; Justice Sawyer gives the example of a former state senator, one of Marysville’s most prominent residents, who lost 1200 acres under the mining debris. *Woodruff*, 18 F. at 760; *see* GREENLAND, *supra* note 8, at 228; ISENBERG, *supra* note 3, at 45; Limbaugh, *supra* note 9, at 35.

¹⁶ *See* GREENLAND, *supra* note 8, at 234; ISENBERG, *supra* note 3, at 45, 69, 73; Limbaugh, *supra* note 9, at 29.

¹⁷ GREENLAND, *supra* note 8, at 228; Ziebarth, *supra* note 9, at 277. Not only were the levees around Marysville costly to build and maintain, they were so tall that it became known as “the walled city,” which exacerbated the problems with flooding. *See* GREENLAND, *supra* note 8, at 228; Ziebarth, *supra* note 9, at 277; *California’s First Environmental Law*, CAL. DEP’T OF PARKS & RECREATION, http://www.150.parks.ca.gov/?page_id=27596 [http://perma.cc/4X3W-6TT5].

the Sierra Nevada Mountains be required to cease disposing of their mining debris into the Yuba, Feather, and Sacramento Rivers.¹⁸

The judgment granting Edward Woodruff's injunction in *Woodruff v. North Bloomfield Gravel Mining Company* is just as applicable today as it was when the case was decided in 1884.¹⁹ Today, historical and modern mining practices continue to pose significant risks to the environment and to human safety.²⁰ In his decision, Justice Sawyer established important precedent that effectively ended hydraulic mining in the state of California.²¹ As the first issuing of an environmental injunction in United States history, the spirit underlying *Woodruff* paved the way for subsequent environmental regulation.²² The *Woodruff* decision and subsequent actions by both farmers and miners living in the Sacramento Valley served as the precursor to the Caminetti Act.²³ The Caminetti Act attempted to create a compromise that would allow for hydraulic mining to resume in the Sierra Nevada Mountains, so long as the mining operations could be conducted without casting debris into the Sacramento Valley.²⁴ Though it has come to be buried beneath the legislation that it gave rise to, the *Woodruff* decision is responsible for ushering the federal government into the field of environmental regulation.²⁵

¹⁸ See *Woodruff*, 18 F. at 756; GREENLAND, *supra* note 8, at 222, 248; ISENBERG, *supra* note 3, at 171; *California's First Environmental Law*, *supra* note 17.

¹⁹ See Caminetti Act of 1893, 33 U.S.C. §§ 661–687 (2012); *Woodruff*, 18 F. at 809; Knight, *supra* note 14, at 388, 390–92.

²⁰ See generally CHARLES N. ALPERS ET AL., U.S. GEOLOGICAL SURVEY, U.S. DEP'T. OF THE INTERIOR, MERCURY CONTAMINATION FROM HISTORICAL GOLD MINING IN CALIFORNIA (2005) http://pubs.usgs.gov/fs/2005/3014/fs2005_3014_v1.1.pdf [perma.cc/ZYR6-S7YP] (discussing the impact of mercury contamination resulting from its use in 1800s gold mining); Natasha Gilbert, *Mountain Mining Damages Streams*, 466 NATURE 806 (2010) (discussing the impact of coal mining on ecosystems in the Appalachian region); Strode, *supra* note 13 (discussing the modern day impact of mercury used during the gold rush).

²¹ See *Woodruff*, 18 F. at 809; GREENLAND, *supra* note 8, at 255, 257; ISENBERG, *supra* note 3, at 175–76; Ziebarth, *supra* note 9, at 276.

²² See *Woodruff*, 18 F. at 809; Ziebarth, *supra* note 9, at 276; *California's First Environmental Law*, *supra* note 17. See generally Refuse Act of 1899, 33 U.S.C. § 407 (establishing protections for navigable waters on a national scale); *id.* §§ 661–687 (establishing California Debris Commission).

²³ GREENLAND, *supra* note 8, at 263; Ziebarth, *supra* note 9, at 279. The Caminetti Act sought to maintain some of the economic benefits that mining brought to the region while tempering the environmental issues; some of the protections made available in the Caminetti Act were later enacted on a national scale via the Refuse Act of 1899. See GREENLAND, *supra* note 8, at 263; Ziebarth, *supra* note 9, at 279; *California's First Environmental Law*, *supra* note 17. See generally 33 U.S.C. § 407 (prohibiting the deposit of any kind of refuse into the navigable waters of the United States); *id.* §§ 661–687 (creating a federal regulatory structure to permit and monitor hydraulic mining operations in California).

²⁴ GREENLAND, *supra* note 8, at 263; Ziebarth, *supra* note 9, at 279.

²⁵ See 33 U.S.C. §§ 407, 661–687; *Woodruff*, 18 F. at 809; Knight, *supra* note 14, at 387–88; Ziebarth, *supra* note 9, at 276; *California's First Environmental Law*, *supra* note 17.

I. FACTS AND PROCEDURAL HISTORY

During the early part of the 1850s, hydraulic gold mining operations such as the North Bloomfield Gravel Mining Company emerged in the Sierra Nevada Mountains.²⁶ As more sophisticated technology became available, the mining outfits began to use guns as large as eight or nine inches in diameter; these larger guns enabled the mining outfits to clear greater portions of the mountains and increased the volume of the debris cast off.²⁷ Armed with these more efficient tools, the mining operations caused much disruption for the residents of Marysville, California.²⁸ Mining was conducted all day and night, creating a cacophony of light and sound that was, by all accounts, startling.²⁹ Even more troubling, though, was the mining detritus discarded in the course of extracting the gold from the earth.³⁰ The manner in which the mining company discharged its mining debris radically changed the landscape of the area.³¹

The mining operations in the Sierra Nevada Mountains caused significant harm downstream.³² The quantity of debris discharged was so great that it filled in the Feather, Yuba, and Sacramento Rivers and their tributaries at an alarming rate.³³ Debris, or slickens, deposited on the banks of the

²⁶ ISENBERG, *supra* note 3, at 23–24; Beesley, *supra* note 13, at 325. At the operation's inception, the mining company would discharge water into the mountainside using a rubber, rawhide, or canvas hose up to an inch in diameter. GREENLAND, *supra* note 8, at 32–33; Limbaugh, *supra* note 9, at 26–27. The water shot at the mountain would dislodge dirt, rock, and other debris to reveal mineral deposits within the mountains; the discarded water and debris flowed down the mountain to eventually join the Feather, Yuba, and Sacramento Rivers and their tributaries below. *See Woodruff*, 18 F. at 756; GREENLAND, *supra* note 8, at 33–35; ISENBERG, *supra* note 3, at 34–35; Beesley, *supra* note 13, at 326–27; Limbaugh, *supra* note 9, at 26–27.

²⁷ *Woodruff*, 18 F. at 756–57; GREENLAND, *supra* note 8, at 120–22; ISENBERG, *supra* note 3, at 34–35; Limbaugh, *supra* note 9, at 34. The new more powerful guns were called the Monitor and the Little Giant. *Woodruff*, 18 F. at 756–57; *see* GREENLAND, *supra* note 8, at 120–22; ISENBERG, *supra* note 3, at 34–35; Limbaugh, *supra* note 9, at 34.

²⁸ *See Woodruff*, 18 F. at 757; GREENLAND, *supra* note 8, at 227–28; *Marysville History*, *supra* note 3. There had been prior lawsuits brought by landowners who had suffered similar injuries from the mining operations. *Keyes v. Little York Gold Washing & Water Co.*, 53 Cal. 724, 729 (1879); *Wixon v. Bear River Co.*, 24 Cal. 367 (1864).

²⁹ *See Woodruff*, 18 F. at 757; Baumgart, *supra* note 10; Ziebarth, *supra* note 9, at 276. Justice Sawyer himself travelled into the mountains to see the mines and observed the light and sound cast off by the mining operation firsthand. *Woodruff*, 18 F. at 757; *see* GREENLAND, *supra* note 8, at 249; Baumgart, *supra* note 10; Ziebarth, *supra* note 9, at 276.

³⁰ *See Woodruff*, 18 F. at 757–60; GREENLAND, *supra* note 8, at 227–28; Ziebarth, *supra* note 9, at 276–77.

³¹ *See Woodruff*, 18 F. at 757–60; Beesley, *supra* note 13, at 332–33; Ziebarth, *supra* note 9, at 276–77.

³² *See Woodruff*, 18 F. at 765–67; *see also Keyes*, 53 Cal. at 729; *Wixon*, 24 Cal. at 373.

³³ *Woodruff*, 18 F. at 761–62; GREENLAND, *supra* note 8, at 244; Beesley, *supra* note 13, at 327. During the period that the mining company was in operation the riverbed was raised fifteen feet. *Woodruff*, 18 F. at 761–62; *see also* GREENLAND, *supra* note 8, at 244; Beesley, *supra* note 13, at 327.

rivers covered the fertile valley soil.³⁴ In an effort to stop the frequent flooding and destruction caused by the changes to the river, the city and its residents built an elaborate system of levees to hold back the river.³⁵ The levees were costly to build, expensive to repair, and susceptible to frequent failure.³⁶

During the early years of the mining operation, Edward Woodruff purchased three parcels of land from the federal government.³⁷ Woodruff used the land for various commercial and agricultural purposes.³⁸ The accumulation of sediment and debris cast off by the mining operations nearly rendered Woodruff's land completely useless.³⁹

In 1884, twenty years after the purchase of these parcels of land, Woodruff brought suit in federal court asking that the mining companies be enjoined from depositing mining debris in the waterways of the Sacramento Valley.⁴⁰ Woodruff alleged that the companies' upstream mining operations constituted a public nuisance that caused him, and others on adjacent properties, significant harm in the form of injuries to his land, as well as by impairing the navigability of the waterways.⁴¹ He also alleged that, conducted as they were, the mining operations posed a continuous and increasing threat of further devastation.⁴²

For years, farmers in the Sacramento Valley had made similar claims against the mines.⁴³ These claims failed or were limited in scope by state

³⁴ See *Woodruff*, 18 F. at 761; *ISENBERG*, *supra* note 3, at 46.

³⁵ See *Woodruff*, 18 F. at 760; *GREENLAND*, *supra* note 8, at 57, 228; *ISENBERG*, *supra* note 3, at 45.

³⁶ *Woodruff* 18 F. at 766–67. The levees also exacerbated the damage caused by flooding as they created a basin that held the floodwaters in the city. See *Woodruff*, 18 F. at 766–67; *GREENLAND*, *supra* note 8, at 228; *ISENBERG*, *supra* note 3, at 73; *Ziebarth*, *supra* note 9, at 277; *California's First Environmental Law*, *supra* note 17.

³⁷ *Woodruff*, 18 F. at 764.

³⁸ *Id.* *Woodruff* did not actually live in Marysville, but was a resident of New York who derived income from these properties; one parcel of land was in a developed area of the city known as the Empire Block and the other two parcels were located on the banks of the Feather River; all three parcels were located near steamboat landings, which were used to receive people and goods into the city. See *id.* at 764–65; *GREENLAND*, *supra* note 8, at 248; *ISENBERG*, *supra* note 3, at 171.

³⁹ *Woodruff*, 18 F. at 762–63, 765; see *GREENLAND*, *supra* note 8, at 248; *ISENBERG*, *supra* note 3, at 171. The water in the river itself was so full of debris that it could not be used to water crops or livestock and the change in the river depth made it so that the rivers were too shallow to be navigable by steamboats; in addition to the damage to the rivers themselves, the debris that was deposited along the riverbanks completely covered the fertile soil on Woodruff's land. See *Woodruff*, 18 F. at 762–63, 765; *GREENLAND*, *supra* note 8, at 248; *ISENBERG*, *supra* note 3, at 171.

⁴⁰ See *Woodruff*, 18 F. at 756; *GREENLAND*, *supra* note 8, at 248; *ISENBERG*, *supra* note 3, at 171; *Ziebarth*, *supra* note 9, at 278.

⁴¹ *Woodruff*, 18 F. at 756, 764.

⁴² *Id.* at 756, 769; see *GREENLAND*, *supra* note 8, at 248.

⁴³ *GREENLAND*, *supra* note 8, at 233; *ISENBERG*, *supra* note 3, at 174–75; see *Keyes v. Little York Gold Washing & Water Co.*, 53 Cal. 724, 734 (1879); *Wixon v. Bear River Co.*, 24 Cal. 367

court precedent that prohibited suing miners jointly.⁴⁴ Citing this precedent, the defendant-miners in *Woodruff* sought to have the case dismissed for failure to state a legally cognizable claim.⁴⁵ On this issue, Justice Sawyer ruled that in the interest of justice and efficiency, it was appropriate to join multiple defendants in cases where money damages were not sought.⁴⁶ This early ruling in *Woodruff*'s favor was critical to the final disposition of the case because it was the collective actions of the miners that gave rise to the public nuisance.⁴⁷ Within this framework, Justice Sawyer recognized the gravity of harm that the mining operation posed to the plaintiff, specifically, and to the Sacramento Valley area, in general.⁴⁸ The final disposition of the case, in 1884, rejected arguments by the mining company that would have allowed hydraulic mining to continue to decimate the area; and, for all intents and purposes, the court's decision ended the hydraulic mining industry in California.⁴⁹

II. LEGAL BACKGROUND

In 1872, the state of California codified the common law doctrine of nuisance.⁵⁰ According to section 3479 of the California Civil Code:

Anything which is injurious to health, including . . . an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.⁵¹

Contemporaneously enacted, the statutory scheme set up by section 3480 of the California Civil Code states that a public nuisance is “one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflict-

(1864) (asking for money damages and that upstream mining companies be restrained depositing mining debris in the Bear River).

⁴⁴ Compare *Woodruff v. N. Bloomfield Gravel Mining Co. (The Debris Case)*, 16 F. 25, 27–28 (C.C.D. Cal. 1883) (ruling that, because the collective actions of the mining companies as a group caused the injury alleged, they can be joined in a single suit), with *Keyes*, 53 Cal. at 734 (ruling that mining companies cannot be joined because they are not acting together).

⁴⁵ *The Debris Case*, 16 F. at 27; *Keyes*, 53 Cal. at 734.

⁴⁶ *The Debris Case*, 16 F. at 29, 33.

⁴⁷ See *id.* at 33–34; Ziebarth, *supra* note 9, at 278.

⁴⁸ *Woodruff v. N. Bloomfield Gravel Mining Co.*, 18 F. 753, 769 (C.C.D. Cal. 1884); see ISENBERG, *supra* note 3, at 172, 174; Ziebarth, *supra* note 9, at 279.

⁴⁹ See *Woodruff*, 18 F. at 809; GREENLAND, *supra* note 8, at 250; ISENBERG, *supra* note 3, at 172; Ziebarth, *supra* note 9, at 279.

⁵⁰ CAL. CIV. CODE §§ 3479, 3480, 3493 (West 2015).

⁵¹ *Id.* § 3479.

ed upon individuals may be unequal.”⁵² Public nuisance, as defined by this statute, must have an extensive impact, though that impact does not need to be felt equally.⁵³ Together with California Civil Code section 3493, the statute requires private persons to assert a special injury to successfully bring a claim for public nuisance.⁵⁴

In evaluating claims of public nuisance, it is not the role of the court to weigh the value of a nuisance or the inconvenience of the injunction to the defendant against the rights asserted by property owners.⁵⁵ Instead, the court exists merely to enforce legal rights.⁵⁶ Earlier California case law provided a basis for the court to wash its hands of such a consideration.⁵⁷

In 1860, the Supreme Court of California considered competing claims to lake water for mining purposes in *Weaver v. Eureka Lake Co.*⁵⁸ In this case, the court held that it would be improper and not altogether useful to look to the value of competing rights in order to make a ruling as to which of the competing claims was legally valid.⁵⁹ Similarly, in *Wixon v. Bear River Co.*, a private landowner sought an injunction against a mining company to stop the company from releasing mining debris onto a patch of land where the property owner maintained a small orchard.⁶⁰ A jury awarded damages and granted the permanent injunction.⁶¹ On appeal, the Supreme Court of California explicitly struck down the idea that the economic value of mining claims could somehow supersede the rights of private landowners.⁶² In its ruling, the court refused to assent to the proposition that “in the mineral dis-

⁵² *Id.* § 3480.

⁵³ *See id.*; *Woodruff*, 18 F. at 769; cf. *Donahue v. Stockton Gas & Elec. Co.*, 6 Cal. App. 276, 279–80 (1907) (holding that pollution of private water supply on the plaintiff’s property was not enough for a private person to maintain an action for public nuisance as it did not constitute a special injury).

⁵⁴ CAL. CIV. CODE §§ 3480, 3493; *Woodruff*, 18 F. at 769. Today the doctrine of public nuisance has been used to capture a wide range of conduct from gang violence to global warming. *See Am. Elec. Power Co. v. Connecticut*, 131 S. Ct. 2527, 2540 (2011) (allowing for the possibility that some of the activities of power companies could amount to a public nuisance under state law); *People ex rel. Gallo v. Acuna*, 929 P.2d 596, 620 (Cal. 1997) (concluding that gang activity could amount to a public nuisance under state law); Thomas W. Merrill, *Is Public Nuisance a Tort?*, 4 J. TORT L. 1, 4 (2011) (discussing the evolution of public nuisance law from an obscure cause of action to one that is now used to address a variety of socially undesirable conduct).

⁵⁵ *See Woodruff*, 18 F. at 806.

⁵⁶ *See id.*; *see also Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 168 (1803) (stating that it is the role of the court to enforce individual legal rights).

⁵⁷ *See Woodruff*, 18 F. at 807 (citing *Weaver v. Eureka Lake Co.*, 15 Cal. 271, 274 (1860); *Wixon v. Bear River Co.*, 24 Cal. 367, 373 (1864)).

⁵⁸ *Weaver*, 15 Cal. at 273.

⁵⁹ *See id.* at 274.

⁶⁰ *Wixon*, 24 Cal. at 367–68.

⁶¹ *See id.* at 368.

⁶² *See id.* at 373.

tricts of this State, the rights of miners . . . are paramount to all other rights and interests”⁶³

At the same time, similar questions of law had previously arisen in England and were treated much in the same way by the English courts.⁶⁴ In *Attorney General v. Council of Birmingham*, the court was asked to consider a request for an injunction to stop the city of Birmingham from disposing of its sewage on neighboring property.⁶⁵ Pressing as the issue of municipal waste disposal might be, it is not the function of the court to decide how best to address matters of public health; rather, the court’s function is merely to afford relief to those who are entitled to it under the law.⁶⁶ In this regard, the court acknowledged that while waste disposal may be necessary, the city’s current disposal method nonetheless made the sewage a nuisance and the complainant’s request for relief must be granted.⁶⁷ The English courts took an analogous position eight years later on a similar set of facts when deciding *Attorney General v. Colney Hatch Lunatic Asylum*.⁶⁸ The opinion states that the role of the court is “merely to decide what is the law as it exists, and to see that it is duly administered”⁶⁹

Citing both the American and English case precedent, in *Woodruff v. North Bloomfield Gravel Mining Co.*, the court granted the plaintiff’s request for an injunction against the mining companies.⁷⁰ Although the ruling should have effectively ended hydraulic mining operations in California, the mining companies did not immediately comply.⁷¹ The mining companies had invested significant resources developing their operations and were reticent to abandon their investment.⁷² Mining outfits continued to operate in

⁶³ *Id.*

⁶⁴ See *Woodruff v. N. Bloomfield Gravel Mining Co.*, 18 F. 753, 806 (C.C.D. Cal. 1884) (citing *Attorney Gen. v. Colney Hatch Lunatic Asylum* (1868) 4 LRPC 146 at 155 (Eng.); *Attorney Gen. v. Birmingham* (1858) 70 Eng. Rep. 220, 225).

⁶⁵ *Birmingham*, 70 Eng. Rep. at 224.

⁶⁶ *Woodruff*, 18 F. at 806 (quoting *Birmingham*, 70 Eng. Rep. at 225).

⁶⁷ *Birmingham*, 70 Eng. Rep. at 225.

⁶⁸ See *id.* at 228; *Colney Hatch Lunatic Asylum*, 4 LRPC at 155.

⁶⁹ *Colney Hatch Lunatic Asylum*, 4 LRPC at 155; see *Woodruff*, 18 F. at 806–07; *Birmingham*, 70 Eng. Rep. at 225.

⁷⁰ *Woodruff*, 18 F. at 806–07, 809.

⁷¹ GREENLAND, *supra* note 8, at 257; Ziebarth, *supra* note 9, at 279. After the injunction was granted, the Anti Debris Association sent men into the mining encampments to monitor mining activity and report when the mining companies violated Justice Sawyer’s decision. Ziebarth, *supra* note 9, at 279; see GREENLAND, *supra* note 8, at 257–58.

⁷² See GREENLAND, *supra* note 8, at 256, 260; Ziebarth, *supra* note 9, at 279. It is estimated that the total investment in hydraulic mining in California was nearly \$100,000,000.00. See GREENLAND, *supra* note 8, at 260.

spite of the order, causing Woodruff to bring two contempt actions, one in 1886 and another in 1891.⁷³

Against this backdrop, lobbying by the miners and concerns about the California economy led lawmakers to reconsider shuttering the industry that had once been the backbone of the state's economy.⁷⁴ In 1893, Congress passed the Caminetti Act, which strove to revive hydraulic mining by establishing a regulatory framework within which the industry could resume gold mining operations.⁷⁵ This piece of legislation sought to set safety standards for hydraulic mining operations and created a state agency to oversee mining operations.⁷⁶ Two years later the Rivers and Harbors Act of 1899 was enacted, providing some of the protections already enjoyed by California's navigable waterways, via the Caminetti Act, on a national scale.⁷⁷ Also called the Refuse Act, this act made it unlawful to discharge discarded materials into the navigable waterways of the United States, or on the banks of the waterway in a way that would impede their navigation.⁷⁸

III. ANALYSIS

In *Woodruff v. North Bloomfield Gravel Mining Co.*, the Circuit Court for the District of California held that the actions of the North Bloomfield Gravel Mining Company and other mining outfits operating in the Sierra Nevada Mountains amounted to a public nuisance, and as such, Woodruff was entitled to a perpetual injunction.⁷⁹ In this ruling, the court rejected arguments by the defendants that would have allowed the mining operations to continue inflicting injury on the Sacramento Valley until the region was

⁷³ See *Woodruff v. N. Bloomfield Gravel Mining Co.*, 45 F. 129, 129 (C.C.D. Cal. 1891); *Woodruff v. N. Bloomfield Gravel Mining Co.*, 27 F. 795, 797 (C.C.D. Cal. 1886).

⁷⁴ See GREENLAND, *supra* note 8, at 262–63; ISENBERG, *supra* note 3, at 176; Knight, *supra* note 14, at 387–88; Ziebarth, *supra* note 9, at 279.

⁷⁵ See Caminetti Act of 1893, 33 U.S.C. §§ 661–687 (2012); GREENLAND, *supra* note 8, at 263; Ziebarth, *supra* note 9, at 279; *California's First Environmental Law*, *supra* note 17.

⁷⁶ See 33 U.S.C. §§ 661–687; GREENLAND, *supra* note 8, at 263; Ziebarth, *supra* note 9, at 279. In the *Woodruff* decision, Justice Sawyer had alluded to the idea that mining operations could someday be resumed, provided that this could be done without sending such large quantities of debris downstream. See *Woodruff v. N. Bloomfield Gravel Mining Co.*, 18 F. 753, 809 (C.C.D. Cal. 1884).

⁷⁷ See 33 U.S.C. §§ 661–687; Rivers and Harbors Appropriation Act of 1899, ch. 425, § 9, 30 Stat. 1151 (codified as amended at 33 U.S.C. §§ 401, 403, 404, 406–409, 411–416, 418, 502, 687); *California's First Environmental Law*, *supra* note 17; see also *United States v. N. Bloomfield Gravel Mining Co.*, 81 F. 243, 253–54 (C.C.N.D. Cal. 1897) (discussing the validity of Congress's actions in regulating mining debris and navigable waterways); Knight, *supra* note 14, at 390–92 (discussing the legal challenges to the emerging role of the Federal government in regulating mining debris and navigable waterways).

⁷⁸ See 33 U.S.C. §§ 407, 661–687; Andrew Franz, *Crimes Against Water: The Rivers and Harbors Act of 1899*, 23 TUL. ENVTL. L.J. 255, 255–56 (2010).

⁷⁹ See *Woodruff*, 18 F. at 809.

rendered uninhabitable.⁸⁰ Subsequent to the *Woodruff* decision, a legislative landscape has emerged that embodies the principles of Justice Sawyer's decision and recognizes its far-reaching consequences.⁸¹ Rather than making the *Woodruff* decision obsolete, the legislation upholds the spirit of the decision by ensuring that the rights of property owners are protected while also making room for industrial interests.⁸²

In their defense against Woodruff's claims, the defendants asserted that the system of levees holding back the river was the actual cause of much of the damage complained of by Woodruff.⁸³ The court rejected this argument, and in doing so made clear that the problem was the debris itself, not the plaintiff's response to this mining cast-off.⁸⁴

Central to the defendant's argument in favor of continued mining was the assertion that California and federal law, by mentioning hydraulic mining in various statutes, implicitly authorized the disposal of mining refuse into the Feather, Yuba, and Sacramento Rivers.⁸⁵ Under the statutory scheme, the court found that implicit authority was insufficient and, instead, express authority was required.⁸⁶ In this case, there was no such state or federal authority on point to specifically enumerate the authorization of such practices.⁸⁷ Further, Congress lacked the power to authorize miners, or anyone else, to commit such injuries against another's property, or to fill up the navigable waterways so as to hinder their utility.⁸⁸ The court also found that the state's legislative intent in codifying the common law doctrine of nuisance was to "avert not render lawful, these nuisances."⁸⁹

Similarly, the defendants attempted to assert that disposal of mining refuse into these bodies of water had been authorized by the customs of miners.⁹⁰ This assertion relied on the fact that some mining practices had been

⁸⁰ See *id.*; GREENLAND, *supra* note 8, at 250 (quoting an editorial in the local newspaper written by a member of the party who had traveled with Judge Sawyer to the mines).

⁸¹ See *Woodruff*, 18 F. at 809; GREENLAND, *supra* note 8, at 263; Ziebarth, *supra* note 9, at 279; *California's First Environmental Law*, *supra* note 17. Previously in 1881, California had tried to enact legislation at the state level to deal with the problems created by hydraulic mining and flooding in the Sacramento Valley; however, the legislation was unpopular and a year after it was enacted the Supreme Court of California declared the law unconstitutional. See also *People v. Parks*, 58 Cal. 624, 644–45 (1881), Ziebarth, *supra* note 9, at 277–78; GREENLAND, *supra* note 8, at 234, 239; ISENBERG, *supra* note 3, at 169.

⁸² See *Woodruff*, 18 F. at 808–09; GREENLAND, *supra* note 8, at 263; Beesley, *supra* note 13, at 332; *California's First Environmental Law*, *supra* note 17.

⁸³ *Woodruff*, 18 F. at 767–68.

⁸⁴ *Id.*

⁸⁵ *Id.* at 770.

⁸⁶ *Id.* at 771.

⁸⁷ *Id.* at 770–71.

⁸⁸ *Id.* at 778–79.

⁸⁹ *Woodruff*, 18 F. at 781–82.

⁹⁰ *Id.* at 800.

recognized and incorporated into statute by the state and federal government.⁹¹ To the contrary, the court determined that the legislation relied upon merely recognized mining customs amongst miners; mining customs as they appeared in statutory form did not regulate any duties or dealings with private parties.⁹² In this regard, the court's holding rested on the common law principle that one person's rights cannot be asserted to infringe upon the rights of another.⁹³

Defendants further contended that in disposing of their mining refuse this way, they had taken in adverse possession 125 acres of the plaintiff's land.⁹⁴ On this note, the court was not persuaded: "It is not pretended that . . . they have been thus appropriated by the defendants for their own use by virtue of any legal proceedings of any kind, or by virtue of any authority other than their own will and pleasure"⁹⁵ The court, looking to case precedent that held disposing of mining debris is a public use, recognized that allowing this adverse possession claim to be successful would amount to a constitutionally prohibited taking.⁹⁶ Further, the California Code provision that defines adverse possession requires that in order for an adverse possession claim to be successful, a defendant has to enclose the space or improve the land.⁹⁷ The court applied a strict reading of this statute: "[F]or the purposes of acquiring that right nothing short of the conditions prescribed shall be sufficient; and in this case the prescribed conditions do not exist."⁹⁸

In opposition to the plaintiff's request for an injunction, defendants also made the argument that they had obtained a prescriptive right to dispose of their mining refuse in this manner because they had been using the plaintiff's land this way for a period of years.⁹⁹ To this argument, the court maintained that no such right could be acquired because the actions complained of amounted to a public nuisance.¹⁰⁰ Endorsing the defendant's right to operate the mining operation at the expense of others would have amounted to rendering such actions lawful, which could never be appropriate in the case of a public nuisance.¹⁰¹

⁹¹ *Id.*

⁹² *See id.* at 800–01.

⁹³ *Id.* 18 F. at 801. The court used the Latin phrase, *sic utere tuo ut alienum non laedas*, which in English means literally "use your property so as not to damage another's." *Sic utere tuo ut alienum non laedas*, BLACK'S LAW DICTIONARY (10th ed. 2014).

⁹⁴ *Woodruff*, 18 F. at 783, 798.

⁹⁵ *Id.* at 783.

⁹⁶ *Id.* at 784.

⁹⁷ *Id.* 798 (quoting CAL. CIV. CODE § 325 (West 2015)).

⁹⁸ *See id.*

⁹⁹ *Id.* at 787.

¹⁰⁰ *Id.* at 788–89.

¹⁰¹ *Id.*

In its evaluation of the defendant's charge that the plaintiff was not entitled to relief because of the length of time it took to commence legal action, the court held that such delay did not amount to acquiescence to the miners' actions.¹⁰² Within the historical context of how this suit came to be, the court found it reasonable for the plaintiffs to utilize legal action as a last resort and first attempt to alleviate the problem through other means.¹⁰³ It would have been unfair to deprive plaintiffs of legal remedy because they first tried to rely on "milder and more peaceful efforts."¹⁰⁴

The *Woodruff* court was right in declaring that the actions of the North Bloomfield Gravel Mining Company constituted a public nuisance.¹⁰⁵ The mining practices undertaken in the Sacramento Valley caused significant harm to Woodruff, both as an individual landowner and as a member of the general public.¹⁰⁶ When considered collectively, the harm—the flooding, which reduced navigability of waterways, and the tax burden created by the expense of the levees, which directly resulted from the upstream practice of hydraulic mining—left the court with little choice but to enforce the rights of the downstream landowners.¹⁰⁷ In its opinion, the court expressed concern about the economic ramifications of this decision.¹⁰⁸ Gold mining had brought significant profit to the Sacramento Valley and had been the driving force behind much of the growth and development of the area; forcing this industry to abandon their practices threatened the economic stability of the area, which did not go unnoticed by the court.¹⁰⁹ Despite this apprehension, the court properly recognized the role of the judiciary as limited in scope and rightly reserved for the legislature the multifaceted policy inquiry into whether or not the mineral mining industry should be allowed to continue at the expense of California agriculture.¹¹⁰

Hydraulic mining had been an economic driver in the Sacramento Valley since the area was settled in the mid 1800's, and the impact of shuttering

¹⁰² *Id.* at 798.

¹⁰³ *Id.* at 796.

¹⁰⁴ *Id.*

¹⁰⁵ *See id.* at 809; *Woodruff v. N. Bloomfield Gravel Mining Co. (The Debris Case)*, 16 F. 25, 27, 33 (C.C.D. Cal. 1883).

¹⁰⁶ *Woodruff*, 18 F. at 763–65, 809.

¹⁰⁷ *Id.* at 809; *The Debris Case*, 16 F. at 27, 28, 33.

¹⁰⁸ *See Woodruff*, 18 F. at 806.

¹⁰⁹ *See id.*; ISENBERG, *supra* note 3, at 175; Ziebarth, *supra* note 9, at 278.

¹¹⁰ *See United States v. Rutherford*, 442 U.S. 544, 555 (1979) ("Under our constitutional framework, federal courts do not sit as councils of revision, empowered to rewrite legislation in accord with their own conceptions of prudent public policy."); *Massachusetts v. Mellon*, 262 U.S. 447, 488 (1923) ("The functions of government under our system are apportioned The general rule is that neither department may invade the province of the other"); *Woodruff* 18 F. at 806, 808–09.

this industry was significant.¹¹¹ In the aftermath of the *Woodruff* decision, state and federal lawmakers grappled to find a legislative solution that would allow the competing industrial and agrarian interests in the Sacramento Valley to coexist.¹¹² The legislation that has grown out of this landscape has displaced, but not diminished, the importance of *Woodruff*.¹¹³ Instead, this legislation has attempted to capture the spirit of *Woodruff* while scaling back its complete moratorium on hydraulic mining.¹¹⁴

In 1893, the passage of the Caminetti Act established the California Debris Commission, tasked with licensing and monitoring hydraulic mining operations.¹¹⁵ Under this regulatory framework, mining operations could resume provided that they were able to comply with the Commission's standards for impounding debris.¹¹⁶ In 1897, *United States v. North Bloomfield Gravel Mining Co.* upheld the validity of the act and affirmed Congress's power to legislate activities impacting the health of the nation's navigable waterways as a means to regulate interstate commerce.¹¹⁷

On a national scale, similar legislation was passed that imposed many of the protections on navigable waterways from the Caminetti Act more broadly.¹¹⁸ The Rivers and Harbors Act of 1899, or the Refuse Act as it is sometimes called, expressly criminalized discharging "any refuse matter of any kind" into navigable waterways.¹¹⁹ As environmental law became forefront in the nation's consciousness in the 1960's and 1970's, the Refuse Act was one of the most significantly utilized tools to reach injurious conduct.¹²⁰

¹¹¹ See ISENBERG, *supra* note 3, at 175–76; Ziebarth, *supra* note 9, at 279; *California's First Environmental Law*, *supra* note 17. During the period that hydraulic mining was in operation, Marysville was a rapidly growing city; however, since the hydraulic mining operations were stopped, the population has remained relatively stagnant. See ISENBERG, *supra* note 3, at 55–56; *QuickFacts: Marysville City, California*, *supra* note 2; *Marysville History*, *supra* note 3.

¹¹² See *Woodruff*, 18 F. at 809; GREENLAND, *supra* note 8, at 262–63; Beesley, *supra* note 13, at 332–33; Ziebarth, *supra* note 9, at 279.

¹¹³ See GREENLAND, *supra* note 8, at 262–63; Beesley, *supra* note 13, at 332–33; Ziebarth, *supra* note 9, at 279.

¹¹⁴ See *Woodruff*, 18 F. at 808–09; GREENLAND, *supra* note 8, at 263; Beesley, *supra* note 13, at 332.

¹¹⁵ See Caminetti Act of 1893, 33 U.S.C. §§ 661–687 (2012); GREENLAND, *supra* note 8, at 263; Ziebarth, *supra* note 9, at 279; *California's First Environmental Law*, *supra* note 17.

¹¹⁶ See 33 U.S.C. §§ 661–687; Ziebarth, *supra* note 9, at 279; *California's First Environmental Law*, *supra* note 17.

¹¹⁷ See *United States v. N. Bloomfield Gravel Mining Co.*, 81 F. 243, 253–54 (C.C.N.D. Cal. 1897).

¹¹⁸ See 33 U.S.C. §§ 407, 661–687; *California's First Environmental Law*, *supra* note 17.

¹¹⁹ 33 U.S.C. § 407; see Franz, *supra* note 78, at 256, 258; *California's First Environmental Law*, *supra* note 17.

¹²⁰ See 33 U.S.C. § 407; Franz, *supra* note 78, at 256–57; William H. Rodgers Jr., *Industrial Water Pollution and the Refuse Act: A Second Chance for Water Quality*, 119 U. PA. L. REV. 761, 766–68 (1971). See generally *United States v. Standard Oil Co.*, 384 U.S. 224, 230 (1966) (affirming validity of prosecution of a company for violating Rivers and Harbors Act); *United States v.*

In this regard, federal legislation has made the case law redundant to modern inquiries, but the spirit of *Woodruff* remains apt as it flows through subsequent legislation.¹²¹ As such, it is not that *Woodruff* is unimportant or of little precedential value, but rather that the decision was so impactful and its repercussions so far-reaching as to capture the attention of lawmakers who, in turn, codified its principles.¹²²

CONCLUSION

From a modern perspective, the conduct enjoined by *Woodruff* represents an extraordinary example of problematic industry practices. It is shocking that the mining industry was allowed to carry on in this way for nearly four decades prior to the decision. Though the case was decided in terms of property rights and predates emergence of present day environmental law, *Woodruff* was significant in that it affirmed the courts' role in disputes between industry and private property owners. In this regard, *Woodruff* stands for the idea that industry cannot be allowed to seek profit unrestrained because of the economic benefit that the industry brings to the area. Rather, there is a need to balance economic growth against the potential for infinite harm to the environment. *Woodruff* and the legislation that followed it recognize that it is not fair to charge the public with their health and safety as a cost of doing business.

Pa. Indus. Chem. Corp., 411 U.S. 655, 662–63 (1973) (affirming ability of government to prosecute a company acting as a polluter under the Rivers and Harbors Act).

¹²¹ See 33 U.S.C. §§ 407, 661–687; *Woodruff v. N. Bloomfield Gravel Mining Co.*, 18 F. 753, 809 (C.C.D. Cal. 1884); *California's First Environmental Law*, *supra* note 17.

¹²² See *Woodruff* 18 F. at 809; GREENLAND, *supra* note 8, at 260–63; Franz, *supra* note 78, at 256–57; Ziebarth, *supra* note 9, at 279; *California's First Environmental Law*, *supra* note 17.